

Here's what investors will learn about their brokers, if the SEC gets its way, MarketWatch, ft. Brendan McGarry

Kaufman Dolowich & Voluck attorney, Brendan P. McGarry, (Chicago) was quoted in an article by Francine McKenna published in MarketWatch.

She wrote:

The Securities and Exchange Commission is proposing that retail investors will receive a new package of disclosures that will help them better pick a financial professional.

The SEC late Wednesday approved a proposal, by a 4 to 1 vote, to require investment advisors and brokers to follow new rules and provide new disclosures when they give advice to retail clients. The agency will now solicit comments for at least 90 days before moving to finish the rules.

The intention, the SEC said, would be to "alert retail investors to important information for them to consider when choosing a firm and a financial professional, and would prompt retail investors to ask informed questions."

The SEC proscribes how the disclosure should look, in an attempt to prevent it from becoming fine print no one reads — and is mandating that the disclosure won't be more than four pages long.

The sections, which would include numeric and narrative information provided in the same order by all firms, would include:

- An introduction;*
- A description of the relationships and services the firm offers to retail investors and the standard of conduct applicable to those services;*
- The fees and costs that retail investors will pay; comparisons of brokerage and investment advisory services; any conflicts of interest;*
- Where to find additional information, including whether the firm and its financial professionals currently have reportable legal or disciplinary events and who to contact about complaints;*
- Suggested questions retail investors can ask the firm's financial professionals to further clarify the nature or scope of the relationship.*

Retail investors would get the new relationship summary, called Form CRS, before or at the time a they enter into an investment advisory agreement or first engage a brokerage firm's services. It would also be provided when the customer switches or adds account types. Investment advisors would also file the summary with the SEC as part of their Form ADV.

SEC Commissioner Kara Stein was the one "no" vote on the proposal saying in remarks delivered at the meeting that she questions "whether we are proposing disclosure that is both too generic and too legalistic such that retail investors won't bother to read it. We are all too familiar with the stilted boiler-plate jargon that riddles today's corporate disclosure documents."

It may be more accurate, said Stein to call the proposal "Regulation Status Quo."

In his statement to fellow SEC members, Chairman Jay Clayton said that the proposal reflects the regulator's effort to "fill the gaps" between investor expectations and legal requirements, in particular by "mandating clear disclosures" about how broker-dealers and investment advisors describe the customer relationship to investors.

Brendan McGarry, an attorney with law firm Kaufman Dolowich Voluck who represents broker-dealers and registered investment advisers, told MarketWatch that the relationship summary requirement would be a big change for customers of broker-dealers, in particular. "Brokers have never had to provide extensive disclosures in this form. The proposal is bound to draw a lot of comments from them." said McGarry.

McGarry said the proposal is also not clear on how often information in the disclosure has to be updated. "Brokers, for example, will have to develop new processes that identify which portions of the new disclosure are static and which are dynamic, and which customer events will require updates or new disclosures," said McGarry.