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SEC proposal leaves big gaps in broker, advisor standards, Financial Planning, ft. Brendan McGarry

Brendan P. McGarry, attorney in the Kaufman Dolowich & Voluck Chicago office, was quoted in an article by Kenneth Corbin published in *Financial Planning.*

For years, the common shorthand in describing any SEC move to set new regulations for brokers was a "uniform fiduciary standard" that would "harmonize" the rules for broker-dealers and investment advisors.

Nearly a decade after the debate began in earnest, the SEC yesterday issued a set of proposed rules that would neither impose a fiduciary standard on brokers nor fully align the standards for all wealth managers serving retail clients.

Instead, the SEC is backing a standard that would require brokers to put their clients' interests ahead of their own, giving it a name that some investor advocates say is fundamentally misleading.

Others are more sympathetic to the brokerage model and take issue with a characterization that equates commissions with pernicious conflicts. When most brokers evaluate whether a product or strategy is suitable for their client, they weigh much the same information as a fiduciary advisor, including the cost of the product and a client's risk tolerance and investment objectives, among other factors, according to Brendan McGarry, a financial-services attorney with the firm Kaufman Dolowich & Voluck.

"The considerations are largely the same," McGarry says in an interview. "I would argue that if you really look at the analysis that goes into determining if something is suitable or in the best interest or what goes into the fiduciary responsibility, when you break it down they're really not all that different."

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