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SEC proposal sparks battle on advisor titles, upends fiduciary debate, On Wall Street, ft. Brendan McGarry

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

The 4-1 vote comes eight years after Congress authorized the regulator to craft a fiduciary rule, nearly two years after the Department of Labor put forward its own hotly contested fiduciary regulation, and about a year after Jay Clayton became chairman.

"The framework of our proposal is straightforward," Clayton said at Wednesday's meeting. "It reflects a multi-pronged effort to fill the gaps between investor expectations and legal requirements, thereby increasing investor protection, and the quality of advice, while preserving investor access and investor choice, recognizing that access and choice are driven by what is available and how much it costs."

The proposal creates a best interest standard of conduct for brokers with three obligations: disclose to clients material conflicts of interest; an obligation of care that includes exercising reasonable diligence and having a reasonable basis to believe that an investment product is in a client's best interest; and establish and enforce policies and procedures to identify and mitigate or eliminate material conflicts of interest arising from compensation incentives.

The proposal also sets new rules for when financial professionals can hold themselves out as "advisers" or "advisors." Consumer advocates have cited that issue of titles as another area of confusion for investors.

"What the SEC doesn't want to do is require broker-dealers to change their business models. But obviously there's the push in the investment industry as a whole to make sure that advisor are operating in the best interests of their customers," McGarry says in an interview.

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