

Panel Agenda
Session VIII(f) BD/IA – Dual Registrant Issues
Wednesday, November 3, 2010
8:00am – 9:15am

Panelists:

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Agenda

- I. Introduction
- II. Fiduciary Duty & The Dodd-Frank Wall Street Reform and Consumer Protection Act¹
 - A. SEC Authority to Mandate Fiduciary Duty for Brokers
 - 1. Conflicting Authorizations
 - 2. Key Components
 - a. “Best Interest” Standard
 - b. Focus on “Personalized Investment Advice” to “Retail Customers”
 - c. Comfort for Dual Registrants on Receipt of Commissions, Offering Limited & Proprietary Products and Non-Continuing Duty
 - B. Prelude to Fiduciary Duty for Brokers – SEC Study
 - 1. Broad Focus – Beyond Fiduciary Duty
 - 2. SEC Outreach for Comments & Industry Feedback²

¹ The full text of The Dodd-Frank Wall Street Reform and Consumer Protection Act is available on the SEC’s website at <http://www.sec.gov/about/laws/wallstreetreform-cpa.pdf>.

² See SEC, Study Regarding Obligations of Brokers, Dealers, and Investment Advisers, Release No. 34-62577 (July 27, 2010), <http://www.sec.gov/rules/other/2010/34-62577.pdf>; Ira D. Hammerman, Senior Managing Director and General Counsel, Securities Industry and Financial Markets Association (August 30, 2010),

3. Possible Realignment of Regulatory & Oversight Authority
- C. Implications for Dual Registrants
- III. Trading Issues for Dual Registrants
- A. SEC's 2-Year Principal Trade/Non-Discretionary Account Sweep
 - B. Sunset of Rule 206(3)-3T (Principal Trades)³
 - C. Possible SEC Principal Trade Exemptive Relief
- IV. Disclosure Issues for Dual Registrants
- A. The Dodd-Frank Wall Street Reform and Consumer Protection Act – SEC Mandate to:
 1. Facilitate clear disclosure to investors of brokerage and advisory relationships, including material conflicts
 2. Issue rules designating “point of sale” disclosures to be provided by broker-dealers to retail investors before purchasing an investment product or service
 3. Issue rules governing sales and compensation practices and conflicts
 - B. Form ADV Part 2 Revamp and the Brochure Supplement⁴
 1. Part 2 – New Subjects & Delivery Requirements
 2. Brochure Supplement
 - a. New Form
 - b. Covered Persons
 - c. Required Topics & Information Needed
 - d. Transition Challenge for Large Firms
 - C. Rule 12b-1 Proposal and Disclosure Implications⁵

<http://www.sec.gov/comments/4-606/4606-2553.pdf>; David G. Tittsworth, Executive Director, Investment Adviser Association (August 30, 2010), <http://www.sec.gov/comments/4-606/4606-2563.pdf>.

³ See Letter from Andrew Donohue to Ira D. Hammerman, Senior Managing Director and General Counsel, Securities Industry and Financial Markets Association (dated August 9, 2010), <http://www.sec.gov/rules/final/2009/ia-2965a-sifma-letter.pdf>

⁴ See Amendments to Form ADV, Release No. IA-3060 (Jul. 28, 2010), <http://www.sec.gov/rules/final/2010/ia-3060.pdf>.

1. Overview of Proposal
2. Confirmation Disclosure
3. Prospectus Disclosure, including on revenue sharing arrangements
4. Implications for Broader Changes in Business Models

V. Other Issues

- A. The SEC's Pay-to-Play Rule – Issues for Dual Registrants
- B. Conflicting Regulatory Regimes, including regarding Advertisements

⁵ See Mutual Fund Distribution Fees; Confirmations, Release No. 33-9128 (July 21, 2010).