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Aug. 7, 2018

Brent J. Fields
Secretary, Securities and Exchange Commission
100 F Street, NE
Washington DC 20549

Re: S7-08-18:

Ladies and Gentlemen:

Morningstar welcomes the opportunity to comment on the proposed "Regulation Best Interest" and the "Form CRS Relationship Summary." Morningstar's mission is to help investors reach their financial goals. Because we offer an extensive line of products for individual investors, professional financial advisors, and institutional clients, we have a broad view on the proposed rule and its possible effect on the financial advice investors will receive.

This letter starts with: 1) a summary of our views; 2) our economic analysis of the effect of financial conflicts of interest on investment flows and investor's returns as well as the implications of this analysis on the need for, and likely effect of, the Commission's proposal; 3) detailed answers to selected questions posed in the preamble to the proposed rules; and 4) an appendix with results from our econometric analysis.

I. Summary: The Proposal Will Maintain the Momentum Toward "Best Interest" Advice but Needs Further Clarification

- Our econometric analysis reveals that harms from a key financial conflict of interest — load-sharing between mutual funds and intermediaries—appear to have declined since 2010, the last year on which much of the Department of Labor's regulatory impact analysis for its Fiduciary Rule was based. This benefit for investors could be due to regulatory pressure, pre-existing trends away from load-sharing, or a mix of the two. We believe that the preponderance of evidence points to regulatory action accelerating a move toward business models where financial advisors put their clients' interests first.

- In particular, flows into mutual funds paying unusually high excess loads declined after the DOL proposed its Fiduciary Rule in 2015, and this shift was statistically significant. This reduction in the distortionary effect of conflicted payments suggests that firms put in place effective policies and procedures to mitigate conflicts of interest in response to the DOL rule and, further, that the SEC's proposal could maintain this important momentum.

- We support the SEC's principles-based standard of conduct for broker/dealers to both reduce their conflicts of interest and encourage them to act in their clients' best interests. Nonetheless, we suggest ways to better define this standard to ensure that

broker/dealers adequately mitigate financial conflicts of interest and know what their obligations are under the standard of care.

- We believe that the regulation needs to identify rollovers as specifically requiring a prudent process and documentation to ensure they are in retirement investors' best interests. Rollovers, particularly from retirement accounts covered by the Employee Retirement Income Security Act of 1974, require additional scrutiny because most financial professionals have an incentive to recommend that clients roll over their assets. Further, participants in ERISA-covered retirement accounts often enjoy institutional pricing for investments and high levels of protections because of ERISA's strict fiduciary standards. Although the preamble makes it clear that rollover recommendations are covered by the rule, the final regulation should specifically identify broker/dealers' responsibilities when recommending a rollover.

- We support the expansion of disclosures, but we believe publicly available disclosures with a standard taxonomy work best because they empower third parties such as "fintech" and "reg-tech" firms to analyze and contextualize critical information and amplify a call to action for ordinary investors. The Commission is missing a vital opportunity to require more disclosure on key potential conflicts of interest such as load-sharing (data which will be unavailable once the N-SAR is phased out) and revenue-sharing (about which little data is available.)

II. Economic Analysis: Negative Investor Outcomes Associated With Conflicted Advice Have Declined in Recent Years, Likely due to a Mix of Regulatory Pressure and Secular Trends

a. The Department of Labor Focused on Conflicts Caused by Load-Sharing, but Such Payments Have Declined in Recent Years

The Department of Labor's economic analysis of the harms to consumers from advisors' conflicts of interest focused on load-sharing. Load-sharing payments flow from asset managers to intermediaries that sell funds, creating a conflict by giving intermediaries an incentive to sell products for which they collect a higher payment rather than products in the best interest of an investor, all other things equal. In fact, the department's economic analysis incorporated two numbers directly from an academic paper by Susan E. K. Christoffersen, Richard Evans, and David K. Musto that examined the effect of load-sharing on investor's returns—that each 100-basis-point increase in "excess loads" for brokers reduces returns by 50 basis points and 15 basis points among investors working with unaffiliated and captive brokers, respectively.[1] (The authors define *excess load* as the difference between loads predicted by a regression and actual load, given a number of other control variables. We also use the authors' definitions of *captive* and *unaffiliated brokers*: Captive brokers are brokers who are affiliated with a particular fund sponsor and sell only those funds, and unaffiliated brokers are brokers who are independent of a fund sponsor.)

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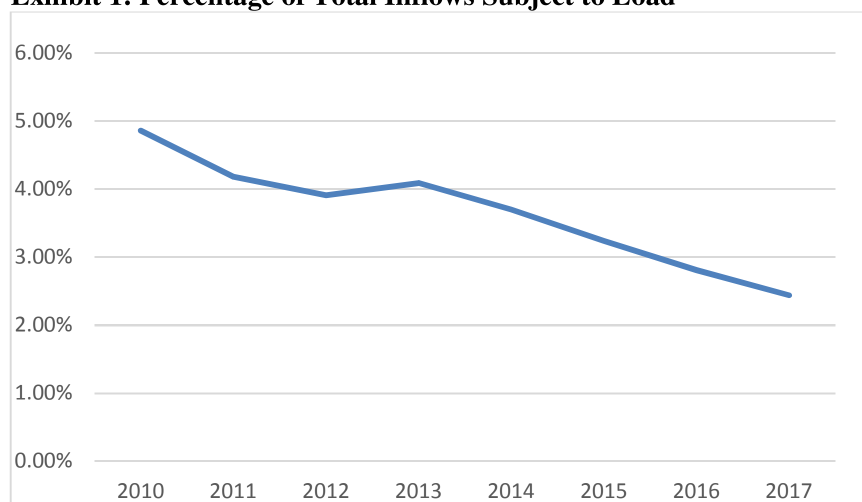
[1] Christofferson, S.E.K., Evans, R., & Musto, D.K. 2013. "What Do Consumers' Fund Flows Maximize? Evidence from Their Brokers' Incentives." *The Journal of Finance*, Vol. 68, No. 1 (February), P. 201. https://www.jstor.org/stable/23324395.

Although the data in the Christoffersen, Evans, and Musto study ends in 2009, loads and, with them, load-sharing payments had been declining for years and continued to decline after 2009. Indeed, the DOL estimated that total loads would continue to fall at approximately 3.2% per year after 2014 when it completed its analysis.[2] Our examination of public filings reveals that this trend of falling loads continued as fewer and fewer flows were subject to loads, as shown in Exhibit 1. Further, the average load shared with intermediaries (weighted by flows) has also continued to decline, except for a brief bounce in 2013 for unaffiliated brokers, as shown in Exhibit 2. However, other potential sources of conflict—particularly revenue sharing paid from a fund's advisor to an intermediary that sells the fund—are harder to measure and may also create deleterious outcomes for investors.[3]

Exhibit 1: Percentage of Total Inflows Subject to Load

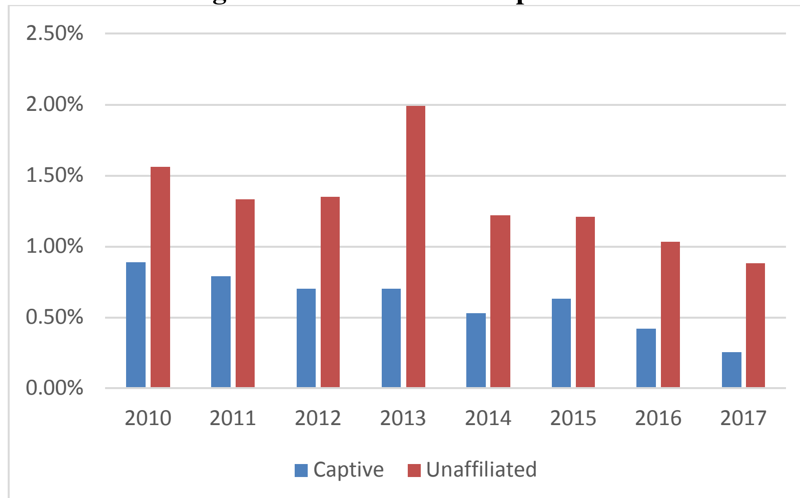


Source: Morningstar analysis of Form N-SAR filings.

[2] DOL. 2017. "Definition of the Term 'Fiduciary'; Conflict of Interest Rule." *Federal Register.* Vol. 82, No. 66, 16902 (April 7) https://www.gpo.gov/fdsys/pkg/FR-2017-04-07/pdf/2017-06914.pdf.

[3] Although Christoffersen, Evans, and Musto attempted to study revenue-sharing, the proxy variable they used—"defensive 12b-1 fees"—does not provide robust or reliable information on revenue sharing.

Exhibit 2: Average Load Shared With Captive and Unaffiliated Brokers



Source: Morningstar analysis of Form N-SAR filings.

b. The Introduction of the Fiduciary Rule Is Associated With a Reduction in the Distortionary Effects of Load-Sharing on Flows

These trends raise important questions: Are load-sharing payments still associated with conflicted advice that harms investors? If not, to what extent is this reduction in harm associated with policies and procedures that intermediaries have put in place to mitigate these conflicts? The answers to these questions could provide critical information for the Commission as it seeks to refine its proposal. To the extent that the deleterious effects of the conflicts of interest these payments create have been declining, the Commission should investigate other potential conflicts and ascertain whether Regulation Best Interest is likely to continue to sustain this progress. To answer these questions, we updated the Christoffersen, Evans, and Musto (hereafter referred to as *CEM*) analysis for years after 2009.

We used Form N-SAR data combined with Morningstar data between 2010 and 2017 to examine the effect of load sharing on inflows to funds. In Exhibit 3 in the appendix, we show the specification utilized by CEM to examine this relationship updated for this more recent period. We can see in this basic specification that excess loads paid by a fund to unaffiliated brokers leads to systematically higher inflows to those funds, even after controlling for fund characteristics, such as returns, performance, and fees.

We found that the excess loads paid to unaffiliated brokers had a positive and statistically significant coefficient for the period from 2010 through 2017 on fund inflows, as shown in Exhibit 3. We interpret these results to estimate that a 100-basis-point increase in excess loads paid to unaffiliated brokers is associated with a 0.0063% increase in monthly inflows to that fund and is statistically significant at a 5% level. In contrast, the CEM paper found a larger effect, estimating a 0.132% increase in monthly inflows given a 100-basis-point increase in excess loads paid to unaffiliated brokers.

We also used the CEM specifications to assess the impact of regulation by running the same specifications before the DOL proposed the Fiduciary Rule in 2015 and after.[4] (The department also proposed a rule in 2010 but quickly signaled that it needed substantial revisions.) In Exhibit 4 in the Appendix, we can see that before the Fiduciary Rule proposal, a 100-basis-point increase in excess loads to unaffiliated brokers is associated with a 0.28% increase in monthly flows to that fund and is also statistically significant at a 5% level. For the regression encompassing the period after the proposal, this relationship is no longer statistically significant. The lack of significance in the post-DOL regression may be the result of a smaller sample size or it may be capturing the effects that the proposed rule had on the business models of advisors.

We further modified the CEM specification to assess and quantify the impact of the proposed DOL Fiduciary Rule. In order to explore this relationship systematically for the entire 2010-17 period, we included a dummy variable indicating when the DOL Fiduciary Rule was released, and we interacted this dummy variable with excess loads and a dummy indicating if the excess load was paid to an unaffiliated broker. Along with this three-way interaction, the specification included all of the relevant two-way interactions and main effects. The full specification can be seen in Exhibit 5 in the Appendix. We see that the three-way interaction variable between the DOL dummy, which indicated when the Fiduciary Rule was released, excess loads, and unaffiliated brokers has a negative coefficient that is significant at a 5% level. This, combined with the positive coefficient for the excess load paid to unaffiliated brokers, is evidence that the DOL rule may have reversed the trend of inflows flowing to funds that paid excess loads to unaffiliated brokers.

Although the rule was technically introduced in April 2015, the department had signaled it would propose such a rule throughout the end of 2014. In any case, the result is generally robust (at 10% significance) given different definitions of the dummy indicating the timing of the DOL rule. We repeated the above specification, making the DOL dummy equal to one starting in March 2015, and repeated this once more but with the DOL dummy starting in April 2015. We find no material differences in the magnitude of the coefficients of interest, which are reported across the different specifications, as shown in Exhibits 6 and 7 in the Appendix.[5]

To test the robustness of these results, we also use alternative definitions of lagged ranked returns, such as specifying excess returns or using Morningstar Ratings (or "star ratings") as proxies for fund performance, and find no significant impact on these findings. In summary, we believe that these results show that the DOL's proposal of the Fiduciary Rule had a statistically significant impact on flows to funds. In particular, funds that paid excess loads to unaffiliated

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[4] DOL. 2015. "Definition of the Term 'Fiduciary'; Conflict of Interest Rule-Retirement Investment Advice." *Federal Register.* Vol. 80, No. 75, 21928 (April 20) https://www.gpo.gov/fdsys/pkg/FR-2015-04-20/pdf/2015-08831.pdf.

[5] We conducted a robustness check to determine the existence of a structural break and when it may have occurred. Our test used each month between 2013 and 2015 as the dummy indicator for the DOL rule. We find anticipatory effects, statistically significant at a 10% level (and often at a 5% level) beginning around October, 2014, and find that these effects persisting through October 2015, which suggests the DOL proposal did indeed impact flows driven by excess loads to funds through the unaffiliated broker channel.

brokers previously saw higher inflows, but the proposal of the Fiduciary Rule appears to have reversed that effect.

While our analysis tells a clear story on the association of DOL's Fiduciary Rule with flows, the association with returns is less visible.[6] We first ran the CEM specification for returns (which is based on performance relative to benchmarks by fund category) on the period 2010-17 and found that the estimator for excess loads is negative and of a similar magnitude as the CEM results but insignificant after accounting for lagged returns.[7] We also interacted excess loads with an indicator for whether the broker is unaffiliated and similarly found that including lagged returns in the regression eliminated the statistical significance of the interaction between excess loads and unaffiliated brokers, as shown in Exhibits 8 and 9 in the Appendix.

When we look at the period before and after the Fiduciary Rule separately, we do not see a significant effect of excess loads in either period once we control for lagged returns.[8] Similarly, when we ran a pooled specification interacting excess loads with the Fiduciary Rule indicator dummy, we also did not see a statistically significant effect. We believe that the lack of statistical significance likely derives from the fact that Dodd-Frank Section 913, which empowered the SEC to promulgate a new standard of conduct for broker/dealers, and the proposal of the DOL Fiduciary Rule had already influenced the culture around performance accountability. Brokers likely had already been given incentive to direct clients toward higher quality—or at least higher performing—funds because of the increased scrutiny of their choices. We believe that it is important for the SEC to calibrate the final Regulation Best Interest so that it continues to foster a culture of performance accountability, and the proposal is a good step in this direction.

III. Answers to Selected Questions

a. Disclosure Obligation

- *Would the Disclosure Obligation cause a broker-dealer to act in a manner that is consistent with what a retail customer would reasonably expect from someone who is required to act in his or her best interest? Why or why not?*

Research shows that disclosures can help improve broker/dealer behavior by deterring them from engaging in transactions with embedded conflicts of interest, thus improving investor welfare. However, this is only true to the extent that there is an alternative way for financial professionals to earn money while mitigating the conflict. For this reason, the effectiveness of the Disclosure Obligation is tied to the effectiveness of conflict-of-interest obligations. To the extent that those obligations are clear and firms comply with them by putting in place strong

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[6] We plan to extend this analysis on the degree to which the DOL rule caused these changes and to investigate the period prior to 2009 in an upcoming white paper.

[7] The estimator for excess loads was negative and statistically significant at a 5% level if lagged returns were not included in the model.

[8] We found that the estimator for excess loads was negative and statistically significant at a 5% level pre-DOL rule proposal if lagged returns were not included in the model.

enforceable policies and procedures, we expect the Disclosure Obligation will complement the conflict-of-interest obligation and encourage broker/dealers to act in their clients' best interests.

Previous experimental studies that purported to show that disclosures are ineffective and may even have the potential to backfire were conducted in the context that conflicts of interest were unavoidable.[9] But when advisors are given the opportunity to accept or reject conflicts of interest, disclosures—both mandatory and voluntary—significantly deter advisors from accepting conflicts of interest.[10] In fact, the results also show that advisees trusted the recommendation of their advisors more when they were aware that their advisors rejected, rather than accepted, payments that cause a conflict of interest.

- *Should the Commission require new disclosure, beyond that which is currently required pursuant to common law, and Exchange Act and SRO rules? Should the Commission promulgate more specific disclosure requirements such as written account disclosure akin to Form ADV Parts 2A and 2B?*

In the Best Interest Release, the Commission noted that a material conflict of interest that generally should be disclosed would include material conflicts associated with recommending: "Proprietary products, products of affiliates, or limited range of products; one share class versus another share class of a mutual fund; securities underwritten by the firm or a broker-dealer affiliate; the rollover or transfer of assets from one type of account to another (such as recommendations to rollover or transfer assets in an ERISA account to an IRA, when the recommendation involves a securities transaction); and allocation of investment opportunities among retail customers (e.g., IPO allocation)." We agree that all of these conflicts are material and, therefore, should either be eliminated or mitigated and disclosed along with the steps taken for mitigation. The Commission later noted that a broker/dealer should also mitigate conflicts of interest that arise from financial incentives. The Commission indicated that "financial incentives associated with a recommendation generally would include, but are not limited to, compensation practices established by the broker-dealer, including fees and other charges for the services provided and products sold; employee compensation or employment incentives (e.g., quotas, bonuses, sales contests, special awards, differential or variable compensation, incentives tied to appraisals or performance reviews); compensation practices involving third-parties, including both sales compensation and compensation that does not result from sales activity, such as compensation for services provided to third-parties (e.g., sub-accounting or administrative services provided to a mutual fund); receipt of commissions or sales charges, or other fees or financial incentives, or differential or variable compensation, whether paid by the retail customer or a third-party; sales of proprietary products or services, or products of

[9] Cain, D.M., Loewenstein, G., & Moore, D.A. 2005. "The Dirt on Coming Clean: Perverse Effects of Disclosing Conflicts of Interest." *Journal of Legal Studies,* Vol. 34, No. 1, P. 1.; Sah, S., G. Loewenstein, & Cain, D.M. 2013. "The Burden of Disclosure: Increased Compliance With Distrusted Advice." *Journal of Personality and Social Psychology*, Vol. 104, No. 2, P. 289; Dana, J., Cain, D.M., & Dawes, R.M. 2006. "What You Don't Know Won't Hurt Me: Costly (but Quiet) Exit in Dictator Games." *Organizational Behavior and Human Decision Processes*, Vol. 100, No. 2, P. 193.
[10] Sah, S. & Loewenstein, G. 2014. "Nothing to Declare: Mandatory and Voluntary Disclosure Leads Advisors to Avoid Conflicts of Interest." *Psychological Science*, Vol 25, No. 2, P. 575.

affiliates; and transactions that would be effected by the broker-dealer (or an affiliate thereof) in a principal capacity."

We agree that such conflicts should be either eliminated or disclosed and mitigated. The Commission could suggest that broker/dealers could mitigate such conflicts by implementing policies and procedures addressing compensation and separating compensation from recommendations as suggested as a best practice in the Finra Report on Conflicts of Interest.[11] We agree with Finra that broker/dealers should take measures to mitigate biases that differences in compensation by product may create and that firms should have surveillance strategies to detect when broker/dealers are providing recommendations in order to meet a certain bonus target or other compensation threshold. The current web of common law and Finra recommendations has offered some protection to investors but has led to inconsistent interpretation and implementation, putting investors at risk for an individual firm's application of the law. The protections in place also fall behind what we observed in the 2017 Morningstar Global Fund Investor Experience Study.[12] Approximately half of the 25 countries in this study do not allow incentives such as accelerating volume bonuses, gifts, and sales competitions. In the markets that do allow these practices, the regulations and disclosure requirements governing them tend to be stricter than what exists in the U.S. securities market today.

It is extremely important for investors and third-party aggregators working on behalf of investors to know how these conflicts are being mitigated, which is not currently required. For instance, a broker/dealer may acknowledge receiving revenue-sharing for selling a given fund. If such revenue-sharing arrangements are unconnected to the bonuses and other compensation and rewards of individual broker/dealer personnel working with retail customers, then this conflict-mitigation measure is relevant information for investors. Investors and third-party aggregators should be able to easily compare conflict-mitigation steps across broker/dealers based on the broker/dealer disclosures.

Further, it is extremely important for conflict-mitigation disclosures to be standardized. We believe that the fee information provided in Form ADV is helpful but neither standardized nor specific enough to optimize its use. We believe that broker/dealer disclosures should also include a discussion of fees, perhaps both in tabular and narrative form, to make it feasible for investors and third parties to compare fees across broker/dealers. The Commission could require a table, as we discuss below, for the Client Relationship Summary that standardizes how all broker/dealers list their relevant fees, making the costs of opening and maintaining an account transparent and comparable.

In terms of specific disclosures that the Commission could require from broker/dealers with regard to conflicts of interest with mutual fund distribution, we suggest that the most important data elements that should be disclosed in a standardized format including amounts and percentages on an assets-under-management basis are:

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[11] Finra Report on Conflicts of Interest. October 2013. http://www.finra.org/sites/default/files/Industry/p359971.pdf

[12] Serhan, A. 2017. "Global Fund investor Experience." Morningstar White Paper. https://corporate1.morningstar.com/ResearchLibrary/article/828149/morningstar-global-fund-investor-experience-study-2017/

1) Any load-sharing payments from asset managers to broker/dealers,
2) Any revenue-sharing, platform, or technology fees broker/dealers charge to asset managers to distribute their funds and the amounts, and
3) The subtransfer agent or recordkeeping fees broker/dealers charge asset managers.

We note that other securities, such as variable annuities, contain similar embedded conflicts of interest about which the Commission should require similar disclosure.

- *Do commenters believe that the Disclosure Obligation requires disclosure of information that investors would not find useful? If so, please specify what information and why. Is there additional information that investors would find useful? If so, please specify what information and why.*

One key disclosure the SEC could require would be an analysis of the reasons a broker/dealer is recommending a rollover from an ERISA-covered retirement plan to an IRA and why that rollover is in a participant's best interest. From our experience analyzing such rollovers, to generally justify a rollover, the increased fees many investors will pay must be offset by the value of advice. Showing prospective clients such analysis will make them better informed about the services they should expect from their broker/dealer. Such a requirement should be more specific than the guidance in Finra Regulation Notice 13-45. We would also suggest incorporating these requirements into the interpretive guidance for RIAs.

In addition, we think that disclosure is most effective if it can be easily aggregated by third parties. Over the past few decades, new financial technology and regulatory technology firms have started to use disclosures to contextualize financial information for ordinary investors, but regulators have not allowed for the full optimization of this important trend in the industry. Regulators, such as the SEC, continue to focus on ensuring individual investors get disclosures that could help the most sophisticated among them make decisions. However, publicly available disclosures about fees and conflicts are not as robust as they should be, impeding third parties' abilities to help average investors contextualize and compare this information and even impeding regulators from identifying harmful conflicts of interest at financial services institutions.

In general, the disclosure regimen in the United States is insufficient to help broad swaths of retail investors because millions of investors have low levels of financial literacy and do not understand the basics of investing. The most comprehensive review of ordinary investors' levels of financial literacy comes from a 2012 SEC study that concludes from a meta-analysis of existing literature "that investors have a weak grasp of elementary financial concepts and lack critical knowledge of ways to avoid investment fraud." In fact, another influential meta-study found that interventions to improve financial literacy have limited impact on financial behaviors, accounting for only 0.1% of the variance. Moreover, the same study also found a decaying effect—that is, the effect of improving financial literacy through education diminishes over time, having negligible effects on behavior, on average, 20 months or more from the time of intervention.[13] Morningstar's research shows that many people are still unresponsive to fee

[13] Fernandes, D., Lynch Jr., J.G. & Netemeyer, R.G. 2014. "Financial Literacy, Financial Education, and Downstream Financial Behaviors." *Management Science*, Vol. 60, No. 8, P. 1861

disclosures for exchange-traded funds, even when these fees are prominently featured as part of the decision-making process.[14]

The new disclosures the SEC is proposing cannot be aggregated by third parties—except for the new Form CRS—because they are sent to individual investors only, reducing their effectiveness. At present, an individual would have to shop around and get detailed proposals from many different brokers to find a broker mitigating conflicts in a way they found acceptable. Most investors would prefer to have third parties help them contextualize what disclosures mean, such as whether their fees are high or low relative to other options. Further, one of the few sources of information that third parties have on the loads that fund companies collect and, in turn, pay out in commissions, will disappear on June 30, 2018, as the SEC replaces form N-SAR with form N-CEN (Investment Company Reporting Modernization, 2016). Although this form contained out-of-date information, limiting its usefulness, it did allow researchers to see which funds paid the most in commissions to get distribution.

- *Should retail investors be defined for purposes of Form CRS to include all natural persons, as proposed? Should we instead exclude certain categories of natural persons based on their net worth or income level, such as accredited investors, qualified clients, or qualified purchasers?*

We believe that all retail investors, regardless of net worth, should receive the CRS. We believe that any unequal distribution of this information would be arbitrary.

- *Would the Relationship Summary achieve the goal of the Disclosure Obligation of facilitating the retail customer's awareness of the material facts relating to the scope and terms of the relationship with the retail customer and all material conflicts of interest associated with the recommendation without the additional Disclosure Obligation? Should the Commission consider permitting broker-dealers to satisfy their obligations under this requirement solely by delivering the proposed Relationship Summary? Do commenters believe the Relationship Summary would ever fulfill the Disclosure Obligation? When would it? When would it not?*

The Client Relationship Summary is useful for investors but is just a start. Because of its brevity and timing—at account opening—we believe that broker/dealer disclosures are necessary as well. Investors should be provided the CRS at account opening, and broker/dealer disclosures should accompany recommendations. Broker/dealer disclosures are most effective if provided as just-in-time disclosures. For instance, providing information about how selling during a sudden downturn can have negative effects on an investor's long-term portfolio is potentially most effective if provided before executing a sell transaction. Similarly, disclosures regarding the benefits of diversified assets are effective when discussing the trade-offs of putting the majority of or all of a client's portfolio into a particular nondiversified, popular, speculative security.

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[14] Sin, R., Murphy, R.O., Fontes, A., & Lush, M. 2018. Expensive Choice: What Wall Street Can Learn From Costco. https://www.morningstar.com/lp/expensive-choice

The example recommendations described above may negatively affect a broker's compensation as they would discourage trading and, thereby, reduce compensation earned through commissions for trading. In this way, such disclosures mitigate conflicts and allow financial professionals to distinguish themselves through their expertise and skills relating to client relationship management. Similarly, when recommending a fund, a broker could show comparable funds and the implications of differing costs for an investor's long-term portfolio. Such comparisons can be generated through a variety of software available in the marketplace and would also serve as a conflict-mitigation mechanism. We believe that these are the types of broker/dealer disclosures that firms should consider formalizing in their policies and procedures in order to mitigate conflicts under Regulation Best Interest.

The CRS should make clear what services investors are and are not receiving from the broker/dealer. While every service that is not provided does not have to be listed, it is important to note if significant services, such as the lack of ongoing advice and account oversight, are not provided in a brokerage account but would be provided in an advisory account. For clients of dual registrants, this is particularly important because investors are already confused about the implications of working with an investment advisor or a broker/dealer. At present, this service difference between transaction-based and fee-based accounts is only lightly implied by the description of account-based services. Once the account is open and the investor receives specific recommendations, broker/dealer disclosures need to indicate what conflicts may affect those recommendations and what steps mitigate these conflicts. In addition to the examples provided above, broker/dealers could reference policies and procedures that govern their recommendations and third-party software utilized in validating recommendations. They could also disclose how often these tools are reviewed and updated.

- *The Commission proposes to provide flexibility to a broker-dealer that is a dual-registrant to determine how to disclose that it is acting in a broker-dealer capacity. How do commenters anticipate that dual-registrants will meet this obligation? Specifically, how do commenters expect dual-registrants to meet the obligation to provide such disclosure "prior to or at the time of" a recommendation in their capacity as a broker-dealer? Should a broker-dealer be required to make a customer-specific or recommendation-specific disclosure about the capacity in which it is acting? Should that disclosure be made on a one-time or ongoing basis? Should the Commission mandate the form or method of delivery of that disclosure? For example, should the Commission require broker-dealers to include the disclosure in account opening forms or periodic statements or in other documents?*

The CRS provides an important place for broker/dealers to note what services they are and are not providing in a broker/dealer capacity and what could be otherwise received from the investment-advisor side of the business. This would be provided at account opening so that investors understand what they are receiving and what they are not receiving. Reminders of cost and services when a recommendation is offered may also be appropriate if the recommendation constitutes investment advice.

At account opening, a standardized table of services and fees for the broker/dealer and investment-advisor side in the CRS would be very helpful in informing investors as to the distinctions between the services provided. Such a table would also allow third-party

aggregators to provide investors with objective comparisons of the differences between broker/dealers and investment advisors across firms. Such a table should list all advisory fees, commissions, loads, and any other relevant fees, indicating when these fees are negotiable and when they are within a range instead of fixed. We recommend that the Commission prescribe a template for the industry to use. In this way, the information is most likely to be submitted in a standardized comparable format.

- *Should the Commission mandate the form, specific content or method for delivering fee disclosure? Why or why not? Do commenters believe that disclosure of fees in a uniform manner would be beneficial for investors? If so, what would be the preferred style of such disclosure in order to facilitate investor comprehension of such fees?*

As we have stated previously, fees should be in a standardized comparable format. Investors and third parties should be able to easily discern which fees are for trade execution and which are for advice. For a fund portfolio, the asset-weighted average expense ratio should be provided in addition to fund-specific expenses. If there is a management fee or load, it should also be disclosed. The CRS should provide this information in a standard table with a couple of brief examples to illustrate how the fees are applied. These should be filed in the Edgar system in a standardized data format facilitating analysis and comparison.

Fee disclosure should also be grouped into three clear areas: investment fees, advice fees, and platform or administration fees. Intuitively, there is a cost for accessing financial advice, a cost for physically investing the money, and a cost for the provision of reporting and custodial services through a platform. Where additional payments are being made to the advisor from the investment or platform fee either through commissions or other payments, these should each be disclosed separately. In shaping these disclosure standards, there should also be efforts to maintain consistency between what is reported at the time of investment, what is reported on an ongoing basis, and disclosures made within relevant product offering documents.

The Commission can look abroad for good examples. Under the European Union's Markets in Financial Instruments Directive, or MiFID II, four categories of costs must be disclosed, in percentage and monetary terms, to investors for both the investment service cost component and the underlying investments component. The disclosures must be provided on 1) an ex-ante basis before their investment is affected and 2) on an individualised, ex-post basis at least annually. See Exhibit 10 for a summary of the MiFID requirements.

Exhibit 10: Summary of Costs Under MiFID

Cost items to be disclosed	Description	Examples
One-off charges related to the provision of an investment service	All costs and charges paid to the investment firm at the beginning or at the end of the provided investment service(s)	Deposit fees, termination fees, switching costs (costs that can be incurred by investors by switching from one investment firm to another investment firm)
On-going charges related to the provision of an investment service	All on-going costs and charges paid to investment firms for their services provided to the client	Management fees, advisory fees, custodian fees
All costs related to transactions initiated in the course of the provision of an investment service	All costs and charges that are related to transactions performed by the investment firm or other parties.	Broker commissions (costs that are charged by investment firms for the execution of orders), entry- and exit charges paid to the fund manager, platform fees, markups (embedded in the transaction price), stamp duty, transactions tax, foreign exchange costs
Any charges that are related to ancillary services	Any costs and charges that are related to ancillary services that are not included in the costs mentioned above	Research costs, custody costs
Incidental costs		Performance fees

Source: Morningstar analysis of MiFID II requirements.

- *Should the disclosure requirements include quantification of conflicts of interest, the economic benefits from material conflicts of interest to firms and their associated persons, or the costs of such conflicts to retail customers or clients?*

As we have argued throughout this comment letter, firms should have to disclose the specifics of their conflicts of interest and how they mitigate them if they do not eliminate them. Disclosing the costs of such conflicts to retail investors seems at odds with the language in Regulation Best Interest, for if there were quantifiable costs from the conflicts, the advice would not be in investors' best interests. Further, firms that simply do not make certain funds available because of conflicts would have a hard time quantifying the costs of these conflicts to investors. Nonetheless, the specifics around revenue-sharing, subtransfer agency fees, load-sharing, and 12b-1 fees could help investors, third parties, and regulators assess the extent to which firms successfully mitigated conflicts of interest.

- *Given the number of dually-registered representatives, would the existence of written disclosure in Form ADV Part 2B, including disclosure about financial incentives such as conflicts from compensation received in association with a broker-dealer, in the absence of comparable written disclosure expressly relating to other conflicts that may affect the same representative's recommendations in a broker-dealer capacity, create a misleading impression about the representative's conflicts or their potential impact on advice in a broker-dealer rather than an adviser capacity?*

Yes, this mismatch is a key reason we believe the Commission should take this opportunity to enhance the publicly filed disclosures on conflicts of interest for broker/dealers as part of this rulemaking effort. However, we believe this is a golden opportunity for the Commission to require meaningful disclosures to help investors understand the conflicts financial professionals may have and to help the Commission evaluate whether Regulation Best Interest is working effectively.

- *Are there particular material conflicts arising from financial incentives or other material conflicts that the Commission should specifically require a broker-dealer to disclose to a retail customer? If so, which ones and why? If not, why not? Are there any for which the Commission should specifically require advance customer written consent? If so, which and why?*

We believe any recommendations to roll money from an ERISA plan to an IRA require specific disclosures. These recommendations create a special kind of conflict for all broker/dealers or registered investment advisors because all financial professionals have an incentive to recommend a rollover. In the absence of a clear standard in the regulation to assess whether a rollover should occur from an ERISA plan, which is subject to some of the highest standards of care in law, to a non-ERISA plan, many financial professionals will naturally want to use as lax a standard as possible.

This rollover conflict deserves additional attention because the investments and fee disclosures for 401(k) plans are not publicly available and are difficult even for a financial professional to track down. In those cases, may the financial professional rely on a benchmark or other third-party data to complete his analysis of whether a rollover is in a client's best interest? Must the financial professional require a prospective client to bring in the documentation of the fee and investment disclosures, required by the Department of Labor under regulation 404a-5? Regulations calling out rollovers as a unique kind of conflict and guidance addressing these questions would serve to better protect investors who are considering leaving 401(k)s.

Finally, we do not believe it is sufficient for broker/dealers to disclose that they have these conflicts. As discussed previously, we believe that broker/dealers should disclose in a standard taxonomy how they mitigate these conflicts. For example, the Commission could require that broker/dealers disclose whether they "levelize" these charges, credit excess above a certain level back to investors, or take another approach.

Further, to the extent that a broker/dealer as an intermediary restricts certain funds from joining the platform or recommends preferred funds more often because of different revenue-sharing

arrangements, they should disclose how they monitor these relationships to ensure they continue to make “best interest” recommendations.

b. Care Obligation

- *Should the Commission require broker-dealers to document their efforts to collect investment profile information? Relatedly, should broker-dealers be required to document why they believe one or more factors in a customer’s investment profile are not relevant to a determination regarding whether a recommendation is in the best interest for a particular customer? Why or why not?*

The Commission should require broker/dealers to document their efforts, and this requirement should be particularly spelled out for clients executing rollovers from an employer-sponsored 401(k) to a broker-advised IRA, when broker/dealers need to consider an investor’s complete profile.

In our view, to evaluate whether a rollover is in a retirement-plan participant’s best interest, advisors must perform sophisticated analyses including 1) modeling their ideal asset allocation based on their age, retirement income needs, desired retirement date, and other sources of income among other variables; 2) determining how to allocate the funds or investment alternatives in their plan to this ideal allocation, given the fees and other attributes of those underlying options and 3) assessing whether another defined-contribution plan or an IRA could deliver the same asset allocation with higher-quality or lower-fee funds, accounting for the value of the advice a participant will get in an IRA. We believe that this kind of analysis should be documented to ensure recommendations are in a client’s best interest.

Similarly, we believe the Commission should add additional details around what kinds of information the broker/dealer must collect to substantiate the reason a rollover was in a client’s best interest. (For example, 401(k) investment lineup data may be hard to get, so we would recommend that the SEC provide guidance that broker/dealers must at least use a benchmark to judge the quality of the potential customer’s defined-contribution plan.) This could be a good opportunity for interagency coordination because the Department of Labor proposed adding transparency to 401(k) plans in a 2016 proposal. Right now, it can be difficult for a financial professional to ascertain what investment options are available to a client in his or her 401(k) unless the client provides a copy of his or her fee-disclosure notice.

For other recommendations, we believe that part of a best-interest solution should be a requirement to document and keep the records of why a recommendation made sense for a given participant. New technology developed to help firms address the DOL Fiduciary Rule could even help home offices monitor whether or not regional offices or even particular financial professionals are consistently giving best-interest advice in line with a home office’s approach and philosophy. If the Commission embraced these approaches, it could even use such monitoring as part of its sweeps to assess compliance with Regulation Best Interest.

- *Should the interpretation of what it means to make a recommendation in the “best interest” for purpose of paragraph (a)(2)(ii)(B) be different from the interpretation of*

the best interest obligation under paragraph (a)(1)? Why or why not? Please be specific regarding any alternative suggestions and what they would or would not require. If the standard were different, should the Commission change the provision in the proposed rule that the obligation under paragraph (a)(1) is satisfied only by compliance with the elements of paragraph (a)(2)? If so, should the obligation in paragraph (a)(1) be an independent obligation, for violation of which a broker-dealer and associated person could be liable even if they complied with the elements of paragraph (a)(2)?

Only one consistent standard for "best interest" should be utilized throughout Regulation Best Interest. Otherwise, the Commission will create confusion and unnecessary complexity for broker/dealers and investors alike. We believe that the Commission should reframe the regulatory text to define "best interest."

Within the proposed rule text, the Commission has the elements of a definition. "Best interest" could be defined as acting in an investor's financial interest, taking into account age, income, risk, liquidity profile, and other factors the Commission has identified in Regulation Best Interest and as identified by Finra.[15] In other words, we believe that elements A, B, and C under a(2)(ii), the Care Obligation, should be incorporated in the definition of "best interest" in a(1). Best interest should require a broker to act in a client's financial interest, exercising a duty of care to understand the risks and rewards associated with a recommendation and having a reasonable basis to believe that the recommendation or a series of recommendations could be in the best interest of a customer based on that customer's investment profile. Additionally, the Commission should clarify that the terms "reasonable diligence, care, skill, and prudence" in the Care Obligation require a prudent process with clear documentation in generating recommendations, within the scope of the services the broker/dealer offers pursuant to the CRS. It should be particularly clear to what extent "reasonable diligence, care, skill, and prudence" requires documentation on the reasons a rollover was in a client's best interests and to what extent this requirement differs from the similar language in DOL's Fiduciary Rule. Finally, it should continue to be clear that, in doing so, the broker/dealer should not put his personal interests ahead of those of the customer. We believe that restating the regulatory text as a definition will lead to a more uniform application of the standard, thereby better serving investors.

- *Do commenters agree with our view that recommending a more expensive or more remunerative alternative for identical securities would be inconsistent with Regulation Best Interest? Are there any additional practices that the Commission should specifically identify as consistent or inconsistent with Regulation Best Interest? Please identify any such practices and why they should be viewed as consistent or inconsistent with this obligation.*

[15] See Finra Regulatory Notice 12-25, Additional Guidance on FINRA's New Suitability Rule (2012) at page 2 (discussing factors such as a customer's age, investment experience, time horizon, liquidity needs, and risk tolerance that should be taken into account for suitability).

The Commission indicates that where a broker/dealer is choosing among "identical securities" available to the broker/dealer, it would be inconsistent with the Care Obligation to recommend the more expensive alternative for the customer.[16]

We believe that "identical" is too stringent a requirement. Securities can be substantially similar—for example, two index funds tracking the same index, both from similarly situated fund managers, yet not "identical" in all of their aspects. Funds will differ in liquidity, tracking error, and a host of other variables. While a broker/dealer should consider these different components of a product, a broker/dealer should be obligated to consider cost as a significant factor when products are substantially similar.

c. Conflict-of-Interest Obligations

- *Would the Conflict of Interest Obligations cause a broker-dealer to act in a manner that is consistent with what a retail customer would reasonably expect from someone who is required to act in their best interest? Why or why not?*

For firms that have actively worked to comply with the DOL's rule and embraced a new approach to delivering best-interest advice, we believe the proposal will reinforce that they should maintain that same approach. However, the definition does not have clear lines, nor does it plainly spell out obligations when a broker/dealer recommends someone roll over from an employer-sponsored retirement plan to a broker/dealer-advised account. As such, firms that wish to maintain a business model built on financial incentives may try to test where those lines are by doing the minimum.

- *Are there any specific interactions or relationships between the disclosure requirements under the Conflict of Interest Obligations and the Relationship Summary that should be addressed? Are there any specific interactions or relationships between the disclosure requirements under the Conflict of Interest Obligations and the Disclosure Obligation that should be addressed? If so, please explain.*

As noted earlier, we believe the Commission should require firms to disclose *how* they mitigate conflicts in cases where they disclose and mitigate rather than eliminate. Indeed, failure to do this creates a perverse incentive to do as little mitigation as possible because a firm with a robust mitigation program will have the same disclosures as one with a minimal mitigation program.

In addition, as conflicts shift from load-sharing to revenue-sharing, the Commission should require much more robust disclosures of both types of payments from asset managers (or their advisors) to intermediaries. In particular, this is a golden opportunity to bring back data that will be lost with the transition from the N-SAR to N-CEN reporting forms for load-sharing,

[16] Regulation Best Interest at page 21612.

which we used heavily in our analysis of the costs of load-sharing to investors, as a proxy for other kinds of conflicts.

- *Are the situations identified in this proposal those where conflicts of interest are present, the most prevalent or have the greatest potential for harm or both? To what extent are retail customers harmed by these types of conflicts? For example, do certain types of conflicts and/or recommendations result in systematically lower net returns or greater degrees of risk in retail customers' portfolios relative to other similarly situated investors in different relationships (e.g., investment adviser, bank and trust company, insurance company accounts)? Are there steps the Commission should take to identify and address these conflicts? Can they be appropriately addressed through disclosure or other means? How would any such steps to address potential conflicts of interest benefit retail customers currently and over time? What costs or other consequences, if any, would retail customers experience as a result of any such steps? For example, would broker-dealers be expected to withdraw from or limit their offerings or services in certain markets or certain products?*

One way that the Commission can monitor the effects of conflicts over time is to continue collecting data on arrangements, such as revenue sharing. Since the elimination of Form N-SAR, the Commission has no source for information on load sharing. The Commission also does not collect data on revenue sharing, and broker/dealers currently display that information on their websites to the extent they feel it is necessary based on their interpretation of common law and Finra standards. We believe that both revenue-sharing arrangements, including 12b-1 fees and sub-TA fees, as well as load sharing affect the recommendations made by broker/dealers. We have some information about how these arrangements have affected investors.

As discussed by the Department of Labor in its final Fiduciary Rule, the work of Christofferson, Evans, and Musto (2013) shows that load sharing had a positive impact on inflows to funds and a negative impact to returns for investors from 1993 to 2009. As discussed in section II, we have conducted an updated analysis examining the effects of load sharing from 2010-17.

- *Do commenters agree with the scope of the Commission's proposed requirement related to disclosure and mitigation, or elimination, of all material conflicts of interest arising from financial incentives? Do commenters agree with the proposed interpretation of such financial incentives? Why or why not? Please explain. Do commenters believe any financial incentives could be adequately addressed through disclosure or elimination (and do not require mitigation)? If so, which ones? Why or why not? Which material conflicts of interest do commenters believe must be mitigated? Why?*

Our concern with the language in the proposal is that it is not clear how far mitigation measures must go. The DOL's rule was much clearer, particularly with the unambiguous lines in the warranty section of the best-interest contract exemption. The warranties prohibited, for example, differential compensation for similar products. We appreciate the Commission's

concern for maintaining flexibility in how firms comply, but it is difficult to answer whether this approach will be effective without a clear sense of what types of mitigation will be acceptable to the Commission.

- *Do commenters believe that retail customers recognize and understand material conflicts of interest presented by broker-dealer compensation arrangements, including the incentive to seek to increase broker-dealers' compensation at the expense of the retail customers they are advising?*

It seems unlikely given the results from the RAND study the Commission requested; however, the ongoing media coverage of the DOL's Fiduciary Rule probably has elevated some of the ideas for the average American.

- *Do commenters believe neutral compensation across certain products (e.g., equities, mutual funds, variable annuities, ETFs) is an appropriate mitigation measure? Why or why not?*

"Levelizing" compensation (for similar products as opposed to products that differ in complexity or can otherwise be distinguished by neutral factors) is certainly one way to mitigate certain conflicts of interest. However, if compensation is "levelized" for financial professionals, there may still be firm-level conflicts that cause harm to investors. For example, firms might drop funds that do not pay as much in revenue-sharing or load-sharing, or they might design the advisors' recommendation-generating software to give privilege to funds that generate more profit for a firm. Additionally, the DOL rule allowed differential compensation between products differentiated by "neutral" factors; however, we never got a clear definition of these factors because the rule was never fully applicable. Clear guidance on neutral factors would be an important part of such an approach.

- *Is the proposed disclosure discussing fees and expenses useful to investors?*

There are many pathways to helping investors make better financial decisions, and disclosures are often viewed as one of the many avenues.[17] However, research suggests that the disclosures may not be as effective in helping investors make better decisions. For example, Beshears et al (2009) found that disclosures, even if presented in a simplified form, do not help investors make better decisions, such as in minimizing cost.[18] In a recent study, Sin et al (2017) found that changing how fees are displayed (percentages versus current dollar amount versus

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[17] Examples of other pathways include nudging investors toward making more rational decisions, see Thaler, R.H. & Sunstein, C.R. 2008. *Nudge: Improving Decisions About Health, Wealth and Happiness* (New Haven: Yale University Press), or implementing industry best practices such as default options, see Beshears, J., Choi, J.J., Laibson, D., & Madrian, B.C. 2009. "The Importance of Default Options for Retirement Saving Outcomes: Evidence from the United States." In *Social Security Policy in a Changing Environment* (Chicago: University of Chicago Press).

[18] Beshears, J., Choi, J.J., Laibson, D., & Madrian, B.C. 2009. How Does Simplified Disclosure Affect Individuals' Mutual Fund Choices? http://www.nber.org/papers/w14859.

accumulated cost in dollars over 20 years) did not, on average, nudge investors away from investing in overpriced investment options, even though there were cheaper near-identical alternatives made available to them.[19]

This does not mean that disclosures should be eliminated in their entirety. As mentioned earlier, disclosures, if targeted toward advisors, can deter advisors from engaging in transactions with embedded conflicts of interest, which, in turn, helps to improve the quality of advice that investors receive. In addition, disclosures provide important data that financial-services firms, like Morningstar, use to contextualize, distill, and (re)present pertinent information to investors to empower them to make better decisions. In short, disclosures are necessary but insufficient.

A promising direction is to not focus on *how* information should be displayed but on *when* information is presented. A recent study by Hayes et al (2018) from the Financial Conduct Authority in the United Kingdom found that just-in-time interventions, such as warning prompts either reminding people to go review the selected funds' fees or showing them the drag that high fees have on returns, do steer investors away from investing in overpriced investments.[20]

A just-in-time approach to disclosure may be a more effective way to help investors make better decisions. Instead of advisors disclosing their conflicts of interest upfront, they could instead be required to disclose any applicable conflicts just before investors sign off on their investment plans. The current layered disclosures help in that regard, but they should be required to use similar language to that which will be found on the CRS.

- *Should firms be permitted or required to include in the relationship summary a detailed fee table or schedule? Should we permit or require firms to create a fee schedule as separate disclosure, and then include it as an attachment (or cross reference it with a website address and hyperlink) to the relationship summary? What should be included in such a fee table or schedule? Should it include compensation received by the firm and financial professionals, even if such compensation is not paid directly or indirectly by the retail investor, such as commissions or fees from third parties?*

Such a required fee schedule disclosure could provide a huge benefit to investors because it would allow them to more easily compare different types of options. Further, third parties would likely be able to aggregate and analyze various options. However, we caution that similar disclosures on Form ADV often have fee ranges that are so wide as to make comparisons across firms meaningless. To that end, such a fee schedule should include typical breakpoints and other information on the likely fees and the maximum fees.

- *Our intent in using layered disclosure for conflicts (i.e., short summaries of certain types of conflicts of interest with information later in the relationship summary on*

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[19] *Supra* note 1.
[20] Hayes, L., Lee, W. & Thakrar, A. 2018. Now You See It: Drawing Attention to Charges in the Asset Management Industry. https://www.fca.org.uk/publications/occasional-papers/occasional-paper-no-32-now-you-see-it-drawing-attention-charges-asset-management-industry

where retail investors can find more information) is to highlight these conflicts and encourage retail investors to ask questions and seek more information about the firm's and its financial professionals' conflicts of interest. Do our proposed requirements achieve this goal? In light of our objective of keeping the relationship summary short, should we instead prescribe general language concerning the importance of understanding conflicts, while simply requiring cross-references to the relevant sections of Form ADV Part 2 brochure or brochure supplement (for investment advisers) and relevant disclosures typically included in account opening documents or websites (for broker-dealers)? Should we provide wording to encourage retail investors to ask questions about conflicts, including advising customers to go through all of the firm's and financial professional's conflicts with the financial professional? Are there other modifications or alternatives we should consider?

We believe that the CRS should be kept concise and standardized. We believe that firms should follow generally the same format—one prescribed by the Commission—in presenting fee information on the CRS. We think that the questions the Commission suggests are helpful. We would add one more question: To what extent do you validate your recommendations with third-party models and analysis?

We would urge the Commission to avoid making the CRS a document that intimidates investors to the point of discouraging investment altogether. We believe that statements such as "Other firms could offer a wider range of choices, some of which might have lower costs" [21] to be unhelpful. Just like when shopping for other products, customers are aware that prices vary based on where they shop and that merchants are not typically required to flag this potential variation in price. If all broker/dealers have to make this disclosure, it is meaningless and unhelpful. Instead, the CRS should present objective, easily comparable information, such as fees and services provided and conflicts at a high level. It can reference other disclosures for greater detail on how conflicts are mitigated through various policies and procedures.

- *Should we instead require firms to make the conflicts of interest disclosure more detailed, even if it results in a lengthier relationship summary?*

We believe that the Client Relationship Summary should be kept within the Commission's recommended four pages and that the Commission should prescribe a template format for this document. A supplement with greater detail regarding conflicts-of-interest mitigation could be made available for interested investors and third-party aggregators. Broker/dealers should be strongly discouraged from having fee structures that are so complicated as to not be adequately described in the CRS.

Thank you for the opportunity to comment on the proposed "Regulation Best Interest." Should you wish to discuss any of the analysis in this letter, please do not hesitate to contact me at [redacted] or [redacted].

[21] See Form CRS Relationship Summary, Appendix D, Is a Brokerage Account Right For You? (2018) at page 1.

Sincerely,

Aron Szapiro
Director of Policy Research
Morningstar, Inc.

IV. Appendix: Regression Results From Morningstar's Analysis of N-SAR Filings

Exhibit 3: Regressions on Inflows for 2010 to 2017

	Coefficient	**P-value**
Lag inflows	0.9159	< 0.01
Excess load paid to captive brokers	0.0074	0.811
Excess load paid to unaffiliated brokers	**0.0063**	**0.042**
Front load	-0.1972	< 0.01
Lagged rank returns high	0.0000	0.037
Lagged rank returns low	-0.0010	0.479
Log(family size)	0.0043	0.029
Log(fund size)	0.0009	0.679
Category inflows	-0.0015	0.025
Net expenses	0.0003	0.607
Proportion A shares	0.0000	0.388

Exhibit 4: Regressions on Inflows for 2010 to 2017, Pooled Results Before and After the Fiduciary Rule Proposal

	Pre-2015		**Post-2015**	
	Coefficient	**P-value**	**Coefficient**	**P-value**
Lag inflows	0.9190	0.0000	0.9145	0.0000
Excess load paid to captive brokers	0.0766	0.3980	0.0102	0.7760
Excess load paid to unaffiliated brokers	**0.2805**	**0.0260**	0.0020	0.1940
Front load	0.0882	0.7620	0.0000	0.7860
Lagged rank returns high	-0.0005	0.8370	0.0001	0.9530
Lagged rank returns low	0.0030	0.3270	0.0015	0.4370
Log(family size)	0.0027	0.4080	0.0013	0.5890
Log(fund size)	-0.0020	0.0940	-0.0016	0.3280
Category inflows	0.0018	0.0470	0.0011	0.2890
Net expenses	0.0000	0.0200	0.0000	0.9530
Proportion A shares	-0.0002	0.6400	-0.0001	0.6840

Exhibit 5: Regressions on Inflows for 2010 to 2017 With Fiduciary Rule Dummy Variable for Flows After January 2015

Independent Variable	Coefficient	P-value
Lagged flows subject to load	0.9295	< 0.01
Front load * captive	-0.0018	< 0.01
Front load * unaffiliated	0.0000	0.009
Redemption fee	-0.0005	0.675
Log(family size)	-0.0012	0.024
Log(fund size)	-0.0001	0.875
Category inflows	0.0000	0.505
Net expenses	0.0000	0.946
Proportion A shares	0.0188	< 0.01
Excess loads * captive	0.0011	0.964
Excess loads * unaffiliated	0.1096	0.026
Excess loads	0.0016	0.57
Unaffiliated	0.0013	0.259
Lagged rank returns	0.0020	0.008
January DOL * unaffiliated	0.0022	0.035
January DOL * excess loads	-0.0029	0.34
January DOL * excess loads * unaffiliated	**-0.1037**	**0.038**

Exhibit 6: Regressions on Inflows for 2010 to 2017 With Fiduciary Rule Dummy Variable for Flows After March 2015

Independent Variable	Coefficient	P-value
Excess loads * captive	0.0083	0.733
Excess loads * unaffiliated	0.1017	0.04
Excess loads	0.0038	0.272
Unaffiliated	-0.0002	0.889
March DOL * unaffiliated	0.0058	< 0.01
March DOL * excess loads	-0.0062	0.092
March DOL * excess loads * unaffiliated	**-0.0930**	**0.062**

Exhibit 7: Regressions on Inflows for 2010 to 2017 with Fiduciary Rule Dummy Variable for Flows After April 2015

Independent Variable	Coefficient	P-value
Excess loads * captive	0.0067	0.782
Excess loads * unaffiliated	0.1008	0.041
Excess loads	0.0029	0.348
Unaffiliated	0.0002	0.866
April DOL * unaffiliated	0.0050	< 0.01
April DOL * excess loads	-0.0050	0.133
April DOL * excess loads * unaffiliated	**-0.0926**	**0.062**

Exhibit 8: Regressions on Returns for 2010 to 2017, Including the Unaffiliated Broker Dummy

	Coefficient	P-value
Inflows	0.0005	0.177
Redemptions	-0.0009	0.138
Log(family size)	-0.0033	0.032
Log(total assets)	-0.0112	< 0.01
Category redemptions	0.0000	0.567
Excess loads	-0.5958	0.336
Excess loads * unaffiliated	**-0.3924**	**0.001**
Excess loads * captive	-0.0671	0.613

Exhibit 9: Regressions on Returns for 2010 to 2017, Including the Unaffiliated Broker Dummy and Lagged Returns

	Coefficient	p-value
Inflows	0.0001	0.542
Redemptions	-0.0002	0.571
Log(family size)	-0.0026	0.021
Log(total assets)	-0.0041	< 0.01
Category redemptions	0.0000	0.792
Excess loads	-0.2086	0.347
Excess loads * unaffiliated	**-0.0587**	**0.841**
Excess loads * captive	-0.2031	0.437
Lagged rank returns	0.1038	< 0.01