



## **Regulation Best Interest**

An Enhanced Standard of Conduct for Broker-Dealers

## Regulation Best Interest

### Overview and History

On June 5<sup>th</sup> 2019, the SEC passed its much anticipated Regulation Best Interest rule by 3-1. The intent is to improve the quality and transparency of relationships while retaining access to a variety of advice relationships and investment products. The rule will impact the current practice of how advice is delivered to retail customers.

In April 2016, the DOL published a regulation setting a new standard for advice given to retirement investors where any individual receiving compensation for providing advice in making a retirement investment decision would be considered a “fiduciary”. In March 2018, the US Court of Appeals ruled that the DOL had overstepped its statutory authority placing the future of the rule in jeopardy. The DOL is working with the SEC and is expected to publish a revised proposal in December 2019.

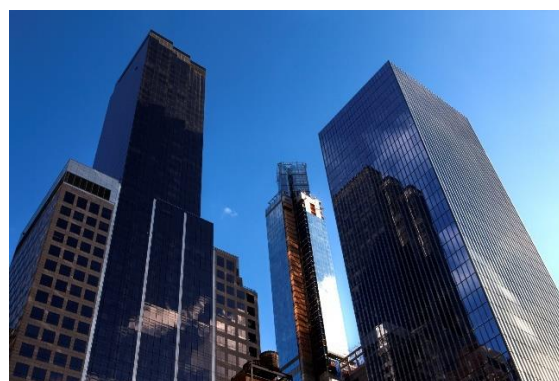
Some states such as Nevada, New Jersey, and Massachusetts believe the SEC did not go far enough with Reg BI are calling for increased action which could result in additional regulatory requirements with some brokers held to a fiduciary standard and others not.

### Summary

Regulation Best Interest is comprised of two main pillars - Regulation Best Interest Obligation and Form Client Relationship Summary (CRS). The package also includes the Standard of Conduct for Investment Advisors, and a new interpretation of “Solely Incidental”.

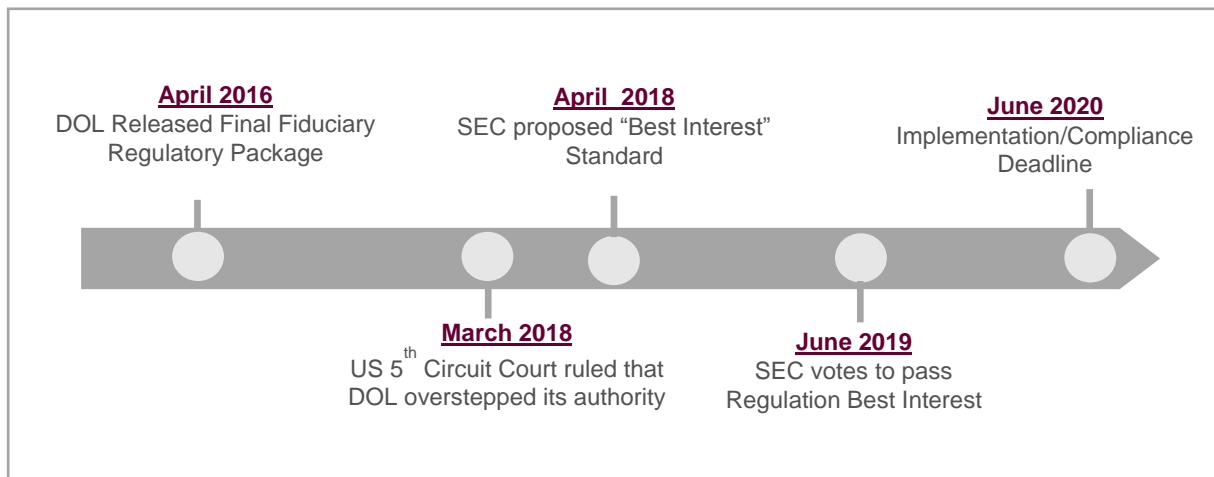
Regulation Best Interest will require broker-dealers and investment advisors to make recommendations that are in the best interest of the retail client, as well as disclose and/or mitigate any and all potential conflicts of interest the broker-dealer has concerning the recommendation of a financial product. This regulation aims to protect the interests of retail customers and prevent broker-dealers and advisors from placing their own financial interest above the retail customer.

Form CRS will require firms to provide retail customers with information at the beginning of the relationship which will include a disclosure of fees, costs, standard of conduct and conflicts of interest, as well as a clear understanding of the firm’s services, among other things. Form CRS is aimed at reducing common confusion of retail customers over the terms and details of the relationship with their broker-dealer or investment advisor.



Source : <https://www.sec.gov/rules/final/2019/34-86032.pdf>

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## Regulation Best Interest Obligations

Regulation Best Interest applies to investment recommendations, including recommendations concerning **account types** and **IRA rollovers**. The Regulation Best Interest obligation is satisfied when complying with the following obligations: Disclosure, Care, Conflict of Interest, and Compliance:

### 1. Disclosure Obligation

Prior to a recommendation, broker-dealers must provide a full and fair disclosure of:

- a. All material facts relating to the scope and terms of the relationship.
- b. All material facts relating to any conflict of interest associated with a recommendation.

### 2. Care Obligation

The Care Obligation applies to recommendations of account types and IRA rollovers. The broker-dealer must exercise reasonable care to:

- a. Understand the costs, risks, and rewards of a recommendation.

- b. Have a reasonable basis to believe recommendations or a series of recommended transactions are in the customer's best interest.

### 3. Conflict of Interest Obligation

Broker-dealers must have policies and procedures to:

- a. **Disclose** any and all conflicts of interest associated with a recommendation.
- b. **Mitigate** any conflict that incentivizes a broker dealer to place their interest above the customer.
- c. **Disclose and Mitigate** material limitations on a recommended product or security, and prevent these limitations from causing the broker-dealer to favor their interest above the customer.
- d. **Eliminate** sales contests, bonuses, sales quotas, and non-cash compensation based on the sale of a security.

### 4. Compliance Obligation

Broker-dealers must have policies and procedures to comply with Regulation Best Interest as a whole.

The implementation and compliance deadline for Regulation Best Interest Obligation is June 30, 2020

Source: <https://www.sifma.org/wp-content/uploads/2019/06/Preliminary-Summary-Reg-BI-Final-Rules-Guidance-06-10-2019.pdf>

## Form Client Relationship

The Form CRS component of Regulation Best Interest will require a detailed disclosure of a firm's advisory services and terms be provided to each retail customer in simple and easily understandable language. This form applies to every broker dealer that provides services to a retail investor.

### Disclosure Items

1. The form can be distributed in paper or electronic form.
2. A broker-dealer may provide a single Form CRS to clients that have both retail and advisory accounts.
3. The CRS form distributed to a retail customer must include the following:
  - o Introduction, Relationships and Services, Fees/Costs/Conflicts of Interest and Standards of Conduct, Disciplinary History of the Firm and/or Financial Advisor, and Additional Information.

## Summary (CRS)

### Delivery Requirements

1. Form CRS must be provided upon request and posted on the firm website
2. Broker-dealers must provide a relationship summary to each retail investor at or before the earliest of:
  - o A recommendation of an account type, securities transaction, or investment strategy.
  - o Placing an order or opening a brokerage account.

### Recordkeeping

1. The broker-dealer must hold a record of the date every CRS form was provided to a retail customer, including any CRS form provided to a retail customer before they open an account.

Form CRS must be implemented and filed in a text searchable format with the SEC by June 30, 2020

Source: <https://www.sifma.org/wp-content/uploads/2019/06/Preliminary-Summary-Reg-BI-Final-Rules-Guidance-06-10-2019.pdf>

## Key Differences Between the DOL Fiduciary and Regulation Best Interest

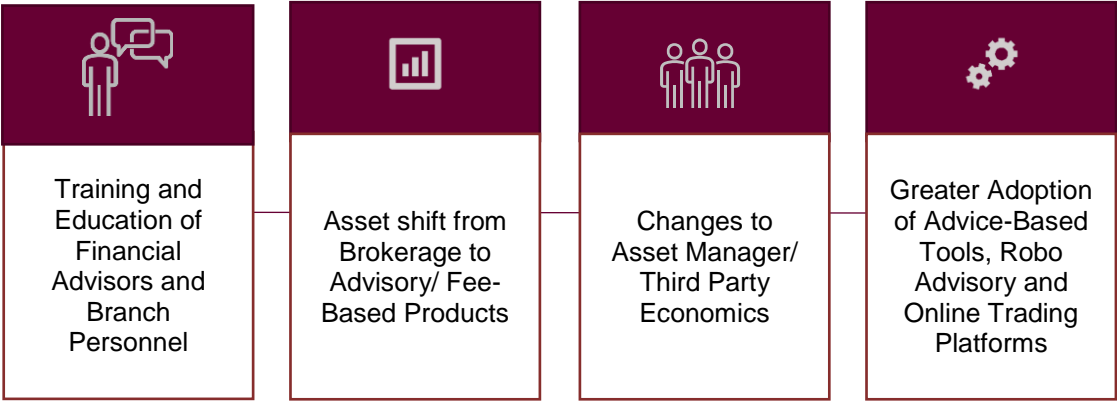
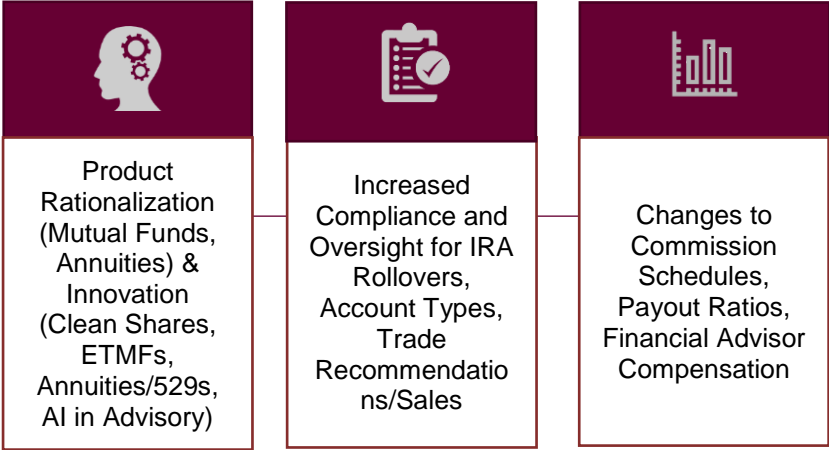
The DOL Fiduciary proposal and SEC Investment Advice Rule retain common elements, but also bear key differences as outlined below.

Key Requirement	DOL	Reg BI
Account Coverage	Non-Taxable	All Accounts (Excluding ERISA)
Fiduciary Standard	✓	RIA's only*
Best Interest Standard	✓	✓
BICE & Principal Trading Exemption	✓	X
Disclosures	Point of Sale Disclosure Website Disclosure Annual Disclosure Data Disclosure	Point of Sale Disclosure Form CRS
Record Keeping and Retention	✓	✓
Prohibited/Permitted Assets	✓	X
Liability-Private Right of Action	✓	X

\*As defined by the Investment Adviser Act of 1940

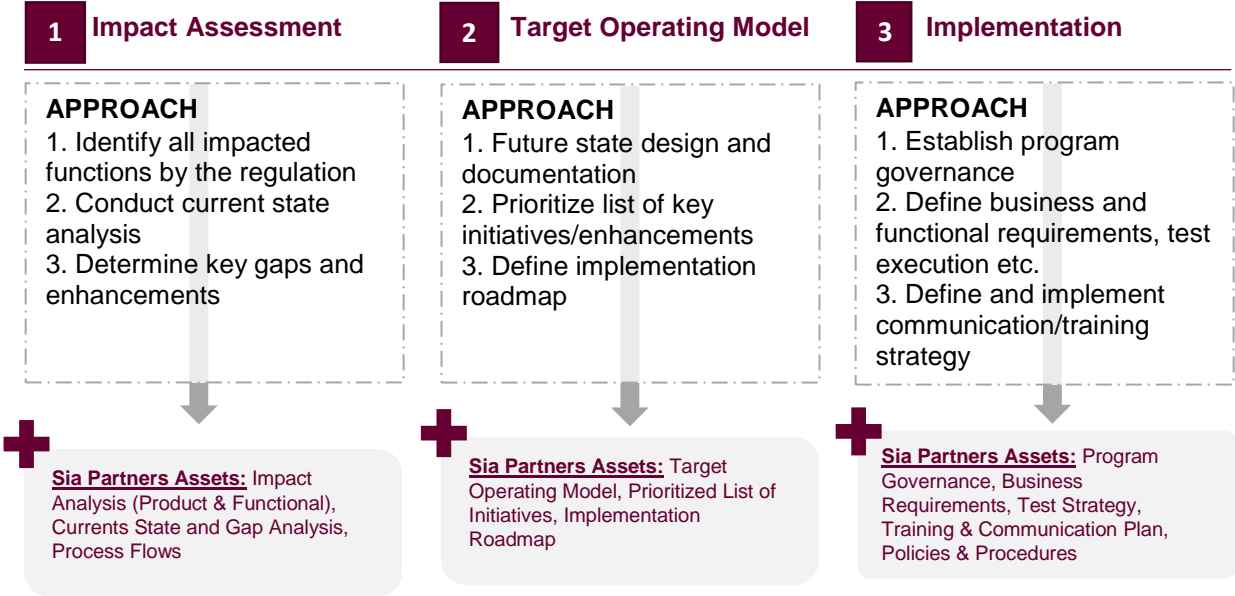
## Key Impacts

Regulation Best Interest will create the need for widespread changes throughout the Investment Advice Industry.



# How Sia Partners Can Help?

Sia Partners has developed an approach and implementation plan to assist firms in their initiatives to comply with Regulation Best Interest.





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## ABOUT SIA PARTNERS

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