

Discussion Draft Bill Proposes SRO for Investment Advisers

Written by Catherine M. Anderson, Jeffrey D. Collins

September 30, 2011

On September 8, 2011, Representative Bachus (R-Ala.), Chairman of the House Financial Services Committee, introduced a discussion draft of the Investment Adviser Oversight Act of 2011 which proposes allowing a self-regulatory organization (“SRO”) to oversee investment advisers. If adopted, the legislation would amend the existing Investment Advisers Act of 1940 to provide for a national investment adviser association. If established, all Securities and Exchange Commission (the “SEC”) and state registered investment advisers would be required to register with the association. The draft legislation hasn’t yet been presented to the House Financial Services Committee.

The draft legislation follows the release of the SEC’s findings in January after it studied possible enhancements to investment adviser examinations. In its report entitled “Study on Enhancing Investment Adviser Examinations,” the SEC encouraged Congress to adopt one of the following approaches to improve investment adviser oversight: (1) authorize the SEC to impose user fees on SEC-registered investment advisers to fund the adviser examinations, (2) authorize one or more SROs to examine, subject to SEC oversight, SEC-registered investment advisers, or (3) authorize the Financial Industry Regulatory Authority (“FINRA”) to examine those investment advisers registered with both the SEC and FINRA.

According to the SEC report, the concept of an SRO for investment advisers is not new as various proposals have been considered by Congress, the SEC and members of the investment industry for over 45 years. For the most part, these proposals have been made in response to the constraints on the SEC’s ability to examine those investment advisers registered under the Investment Advisers Act of 1940.

We will continue to monitor the draft legislation’s progress. To view the SEC’s report, please visit [here](#).

RELATED INDUSTRIES

- [Investment Advisers & Private Funds](#)
- [Professional Services](#)

RELATED PRACTICES

- [Capital Markets](#)

This communication is intended for general information purposes and as a service to clients and friends of Foley Hoag LLP. This communication should not be construed as legal advice or a legal opinion on any specific facts or circumstances, and does not create an attorney-client relationship.

United States Treasury Regulations require us to disclose the following: Any tax advice included in this document was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

Attorney advertising. Prior results do not guarantee a similar outcome. © 2017 Foley Hoag LLP. All rights reserved.