

Investment Adviser Fee Table on the Table

March 31, 2018

On February 7, the Massachusetts Securities Division asked for public comment on a fee table requirement for Massachusetts-registered investment advisers. **Difficult Disclosure Problem** The Division is concerned that investment advisers may not provide information about their fees that is clear, or on a basis that is comparable among different investment advisers. This problem arises because advisers offer many different types of services, for which they receive compensation under a wide variety of fee arrangements: e.g., hourly fee, subscription charge (for publications), fixed fee, commissions, performance-based fee, or fees based on the customer's net worth or household income. The Division's laudable objective of ensuring comprehensible and comparable disclosure may be particularly elusive, as even the same adviser may:

- offer different variations or "levels" of the same general type of service;
- allow customers to use more than one type of fee to pay for a given type of service;
- as to any fee type, make a range of fee levels available to different types of customers or accounts; or
- be willing to negotiate some types of fees and not others (or under some circumstances and not others).

Clarity and comparability of adviser fee disclosure is further complicated because:

- Even within the same general type of service, the nature and level of that service may differ markedly from one adviser to another.
- For example, some advisers may rely on third parties, such as other money managers or robo advisers, to perform important services for the customer.
- In some cases, the adviser's fee also covers the cost of any such third party, while in other cases the customer is charged an additional amount.

Relationship of Fee Table to Form ADV Brochures The information that would be included in the Division's proposed investment adviser fee table is generally required in the Form ADV "brochures" that state registered advisers generally must deliver and make available to customers. However, Form ADV does not prescribe any particular format for that disclosure, and, due to complexities such as those discussed above, a brochure's disclosure about all of an adviser's fees is often in narrative form which may not be clear when compared to other advisers' brochures. The Division's proposal would be in addition to the brochure disclosure. The Division envisions the new fee table as a relatively compact chart with one column that would list each of the different "Fees Charged by Investment Adviser." A few additional columns would succinctly state other pertinent information about the charges, such as "Fee Amount," "Frequency Fee is Charged" and "Services." The Division hopes to be able to develop requirements for such charts that will make them a worthwhile addition to the information already contained in the Form ADV. **Where this Might Lead** The more types of services and fee arrangements included in a single fee table, the less useful a fee table is likely to be. If a single table is used, all the material variations and distinctions in the fee arrangement would need to be disclosed, which may reduce the effectiveness of the table as a comparison tool. Perhaps this could be alleviated by requiring multiple tables: e.g., a separate table for each type of service, with each customer getting only the tables for those services that concern that customer. Form ADV, for example, permits separate brochures for substantially different services (and indeed *requires* separate brochures for wrap fee programs). Any requirement for an adviser to have multiple fee tables, however, would be more costly for advisers to administer. The Massachusetts fee table disclosure, if adopted, could become an anomaly. While it could help customers compare one Massachusetts state-registered adviser to another, customers would have no comparable tables related to the federally registered advisers with whom the Massachusetts-registered advisers also compete.

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