

FINRA Unlocks Some Pre-Inception Index Marketing Data

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In January, FINRA issued an interpretative letter allowing member firms to use pre-inception index performance (PIP) data in communications concerning open-end investment companies that are distributed solely to institutional investors. FINRA issued similar guidance in 2013 regarding the use of such data in communications concerning exchange-traded products such as exchange-traded funds.

PIP data model the performance of an index assuming it had existed prior to its inception. Broker-dealers and investment advisers that are institutional investors can and do use PIP data to evaluate new index fund offerings where the benchmark index was created according to a predefined set of rules that cannot be altered except under certain extraordinary circumstances. Such evaluations can help broker-dealers and advisers to decide whether to invest, or recommend that their clients invest, in the offerings.

FINRA's guidance is subject to a lengthy set of conditions designed to prevent the dissemination of PIP data to retail investors and to ensure that any member communications containing PIP data comply with FINRA rules governing institutional communications. Those rules require, among other things, the communications to be fair and balanced and to provide a sound basis for evaluating the facts in regard to the security at issue.

The guidance may be helpful to insurers and distributors in the marketing and development of insurance-dedicated index funds and index-linked or other innovative insurance products.