



Consumer Federation of America

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SEC Study Offers Fair Assessment of Policy Options to Address Pressing Investment Adviser Oversight Resource Challenges

Last night the Securities and Exchange Commission issued a study required under Section 914 of the Dodd-Frank Wall Street Reform and Consumer Protection Act assessing the resource challenges the agency faces in its oversight of investment advisers and analyzing the various policy options available to Congress to address that challenge. CFA Director of Investor Protection Barbara Roper issued the following statement in response to the study:

“The SEC is faced with a problem it did not create and has no power to correct – it is not funded at a level that would allow it to effectively oversee the investment advisers under its jurisdiction. This is a problem decades in the making. Since the mid-1980s at least, Congress has stood by while the investment adviser community experienced both dramatic growth and transformation without providing the agency with the resources necessary to keep pace with those changes. Investors have been put at risk as a result.”

“The study by the SEC staff provides a straightforward account of the decreasing percentage of investment advisers that have been subject to the examinations crucial to an effective regulatory program over the years and the continuing challenges the agency faces in coming years, even with the reduction in the number of firms subject to SEC oversight provided by the Dodd-Frank Act. “The study is particularly useful in identifying the many issues Congress must resolve if it chooses to go the route of authorizing the creation of one or more SROs to supplement SEC oversight of investment advisers.”

“Too often, this approach is put forward as an easy solution to the resource problem by individuals who have not adequately confronted the issues it raises. How should such an approach be structured in light of the diversity in the investment adviser community? How can the risks of industry capture be avoided? What are the implications of strong industry opposition to such an approach? What would the costs of effective SRO oversight be, and how would they be borne by the many small investment adviser firms? What resources would the SEC need to provide effective oversight of any such SRO or SROs to which this responsibility might be delegated? Should an SRO be an inspection-only SRO, or should it also have broader rule-making authority? What, if any, role should FINRA play in this area?”

“This is not to suggest that such an approach cannot or should not be considered. Instead, as the SEC study helps to make clear, it is an approach that presents a number of issues that must be carefully weighed and addressed if it is pursued.”

“Ultimately, Congress will decide what if anything to do about the pressing investor protection concern raised by inadequate SEC funding in this area. We would hope that their decision would be made based on what approach would best protect investors. In the meantime, the agency has provided Congress with a useful roadmap to the issues they must address as they pursue a solution to this resource problem.”

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The Consumer Federation of America is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education.