



August 28, 2025

Submitted electronically via email to NASAAComments@nasaa.org

North American Securities Administrators Association
750 First Street NE
Suite 990
Washington, DC 20002

RE: Proposed amendments to the *NASAA Unethical Business Practices of Investment Advisers, Investment Adviser Representatives, and Federal Covered Investment Advisers Model Rule 102(a)(4)-1*; *NASAA Prohibited Conduct of Investment Advisers, Investment Adviser Representatives and Federal Covered Investment Advisers Model Rule 2002 502(b)*; and *NASAA Recordkeeping Requirements for Investment Advisers Model Rule 203(a)-2 and USA 2002 411(c)-1*.

To Whom It May Concern:

CFP Board, the Financial Planning Association (“FPA”), and the National Association of Personal Financial Advisors (“NAPFA”) together respectfully submit these comments on the North American Securities Administrators Association, Inc.’s (“NASAA”) proposed revisions to the model rules under the 1956 and 2002 Uniform Securities Acts.

The proposed revisions would (i) incorporate a long form model rule option that is consistent with the United States Securities and Exchange Commission (“SEC”) Marketing Rule adopted in December 2020 with an effective date of May 4, 2021 (“SEC Marketing Rule”), and (ii) rescind the existing long form model rule language that prohibits various practices that are conditionally permitted by the SEC Marketing Rule.¹ We applaud NASAA for proposing to align requirements for state-registered investment advisers with those for SEC-registered advisers, and we are pleased to offer the following comments in response to several of NASAA’s specific requests in its rule proposal.

I. Who We Are

A. *CFP Board*

CFP Board consists of two affiliated non-profit organizations, the Certified Financial Planner Board of Standards, Inc. and the Certified Financial Planner Board of Standards Center for Financial Planning, Inc. (collectively, “CFP Board”). CFP Board operates the CFP® certification program, which sets high standards of competency and ethics for financial planning in the United States. Today, 106,000 CFP® professionals (approximately one-third of retail financial

¹ https://www.nasaa.org/wp-content/uploads/2025/07/Request_for_Public_Comment_IA_Marketing_Rule_7-29-2025.pdf

professionals) voluntarily commit as a part of their certification to act as a fiduciary, and therefore, to act in the best interests of the client at all times when providing financial advice. CFP® professionals operate under various business and compensation models (including commission-based compensation and fee compensation) and provide professional services on behalf of investment advisers, broker-dealers, and insurance companies, among other business types. More than 80% of CFP® professionals are investment adviser representatives.

B. The Financial Planning Association

FPA is the nation's leading membership organization for CFP® professionals and those engaged in the financial planning process. FPA supports nearly 17,000 members and 79 chapters and state councils. FPA encourages high standards of professional competence, ethical conduct, and clear, complete disclosure when serving clients. FPA's members work with clients on topics ranging from budgeting, debt management, student loans, credit card debt, insurance, taxes, retirement, investments, and estate planning.

FPA's core members are CFP® professionals. The majority of FPA's members, by virtue of holding the CFP® professional designation, voluntarily commit to act in the best interests of their clients under CFP Board's fiduciary standard.

C. The National Association of Personal Financial Advisors

NAPFA was founded in 1983 and is the nation's leading organization of fee-only, comprehensive financial planning professionals. There are more than 4,600 NAPFA members across the country serving clients from all backgrounds. NAPFA members adhere to standards of professional conduct that are widely recognized as among the highest in the financial planning profession. A "NAPFA-Registered Financial Advisor" must be registered with the Securities and Exchange Commission ("SEC"), or with a state securities regulator, as a "registered investment adviser" or "RIA." A "NAPFA-Registered Financial Advisor" also must hold the CERTIFIED FINANCIAL PLANNER® designation from CFP Board, and therefore, must commit to high standards of competency and ethics.

II. NASAA's Proposed Incorporation of the SEC Marketing Rule in its Model Rules

The undersigned organizations support NASAA's proposal to incorporate the SEC Marketing Rule in its model rules. The adoption of the SEC's modernized framework for marketing and advertising by the states will simplify and harmonize compliance requirements for investment advisers, ease regulatory burdens, create business opportunities, and minimize confusion for firms and investors.

A. NASAA's Incorporation of the SEC Marketing Rule into Its Model Rules Will Modernize Compliance Requirements for all Investment Advisers

In 2020, the SEC amended its Marketing Rule to consolidate decades-old advertising regulations and no-action letters for investment advisers into a modernized framework designed to adapt to an evolving world of financial marketing and advertising and consumer demand. Unlike NASAA's current model rules, the SEC Marketing Rule permits testimonials, endorsements,

third-party ratings, and performance reports in investment adviser marketing, provided that certain regulatory standards are met. The rule became effective on May 4, 2021, with an 18-month transition period until the November 4, 2022 compliance date.

NASAA's proposal would update its model rules with changes designed to make them uniform with the SEC's modern framework. Adoption of the proposed NASAA model rule amendments by states would simplify compliance requirements for state-registered investment advisers. For example, state-registered investment advisers operating in multiple states must comply with different and sometimes conflicting state regulations and administrative interpretations in each state where they do business.

Further, in the five years since the SEC Marketing Rule was adopted, technology companies have created tools to automate and streamline processes to assist investment advisers with rule compliance. Aligning state and SEC requirements will provide opportunities for smaller, state-registered advisers to utilize and leverage complementary technology solutions, thus reducing costs and enhancing efficiency.

In addition, the adoption of the SEC Marketing Rule by states would help harmonize business and marketing opportunities for both state- and SEC-registered investment advisers, which have increasingly expanded to digital channels, such as social media and short-form videos. While we share concerns about the risk of misinformation in testimonials, endorsements, third-party ratings, and performance advertising, the SEC Marketing Rule provides a principles-based framework and guardrails that allow them under appropriate conditions. This has resulted in enforcement actions against firms that, for example, engaged in unsubstantiated claims in marketing materials or used outside testimonials and endorsements without proper disclosure. Such enforcement must continue.

There are practical considerations as well. The SEC's evaluation of a potential increase to the minimum assets under management (AUM) threshold required for investment advisers to register at the federal level (\$100 million AUM, absent an exemption)² makes the need for modernizing these requirements even more important. Firms currently registered with the SEC, and subject to the SEC Marketing Rule, may find themselves subject to state regulation in the future. Moreover, since the SEC Marketing Rule was adopted five years ago, approximately half of states have reportedly already revised their own rules to align with the federal requirements.³ Investment advisers registered in states with rules different from the SEC Marketing Rule may be left at a competitive disadvantage.

B. Incorporation of the SEC Marketing Rule as a Long-Form Model Rule, and Not by Reference, Will be Most Effective

In response to NASAA's request for specific feedback on the way the SEC Marketing Rule is incorporated in its model rules, we support NASAA's proposal to incorporate the language of the SEC Marketing Rule as a long-form model rule for states to consider adopting. We caution

² Commissioner Mark T. Uyeda, [Remarks to the Annual Conference on Federal and State Securities Cooperation](#), (April 8, 2025).

³ NASAA issues proposal to align marketing guidance with SEC, CityWire RIA (July 30, 2025).

against the proposed option for states to incorporate the SEC Marketing Rule by reference. While incorporation by reference would streamline regulatory language, we believe the need for clarity for firms and investors, with accessible and clear language in individual state regulations, outweighs the benefits of shorter or more streamlined written requirements that simply reference the SEC Marketing Rule.

To the extent the model rules are amended to incorporate the SEC Marketing Rule by reference, it should be done in a manner that allows for continued compliance with future amendments to the referenced rule. NASAA could incorporate language into the model rules that is consistent with how the NASAA Recordkeeping Requirements for Investment Advisers Model Rule addresses compliance with references to specific SEC Rules referenced in that model rule:

“To the extent that the U.S. Securities and Exchange Commission promulgates changes to Rule 206(4)-1 under the Investment Advisers Act of 1940, an investment adviser in compliance with such rule, as amended, shall not be subject to enforcement action by the [Administrator] for violation of this rule to the extent that the violation results solely from the investment adviser’s compliance with the amended federal rule.”

C. NASAA Should Encourage States to Incorporate SEC Guidance on the Marketing Rule

Given that some provisions of the SEC Marketing Rule have remained open to interpretation, particularly regarding performance data, SEC guidance on the rule has been critical to investment advisers’ compliance. This guidance was updated earlier this year to clarify additional gray areas.⁴ To promote consistency in interpretation and compliance with the SEC Marketing Rule standards, NASAA should encourage states to incorporate such SEC guidance into their administrative interpretations.

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We appreciate the opportunity to comment on the proposed revisions. If you have any questions regarding this comment letter, please contact the undersigned individuals.

Sincerely,

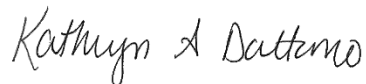


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⁴ SEC, [Marketing Compliance Frequently Asked Questions](#) (Updated March 19, 2025).



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cc: Jonathan Bashi (Jonathan.Bashi@ag.ny.gov) and Stephen Brey (breys@michigan.gov), Co-Chairs of the Regulatory Policy and Review Project Group of the Investment Adviser Section