
Staff FAQ Relating to Investment Adviser Consideration of DEI Factors [\[1\]](#)

Q. Under its fiduciary duty, may an investment adviser that recommends other investment advisers to or selects other advisers for its clients consider factors relating to diversity, equity, and inclusion, provided that the use of such factors is consistent with a client's objectives, the scope of the relationship, and the adviser's disclosures?

A. Yes.

An investment adviser is required to have a reasonable belief that the advice it provides is in the best interest of the client based on the client's objectives.^[2] Such a reasonable belief that advice is in the best interest of the client typically includes consideration of a variety of factors.^[3] Accordingly, an adviser that recommends other investment advisers to or selects other advisers for their clients may consider a variety of factors in making a recommendation or selection, including, but not limited to, factors relating to diversity, equity, and inclusion, provided that the use of such factors is consistent with a client's objectives, the scope of the relationship, and the adviser's disclosures.^[4] Further, the adviser's fiduciary duty does not mandate restricting such a recommendation or selection to investment advisers with certain specified characteristics, such as a minimum amount of assets under management or a minimum length of track record.^[5]

[1] This staff FAQ represents the views of the staff of the Securities and Exchange Commission ("Commission") and is not a rule, regulation, or statement of the Commission. The Commission has neither approved nor disapproved this staff FAQ. The staff FAQ, like all staff statements, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

[2] [Commission Interpretation Regarding Standard of Conduct for Investment Advisers](#), Investment Advisers Act Release No. 5248, 84 FR 33669, at 33673 (June 5, 2019).

[3] *Id.* at 33674. ("[A]n adviser would not satisfy its fiduciary duty to provide advice that is in the client's best interest by simply advising its client to invest in the lowest cost (to the client) or least remunerative (to the investment adviser) investment product or strategy without any further analysis of other factors in the context of the portfolio that the adviser manages for the client and the client's objective.").

[4] In addition, certain investment advisers who also may be subject to regulation by the Department of Labor should consider such applicable laws and regulations when providing advice.

[5] See also SEC Asset Management Advisory Committee - Subcommittee on Diversity and Inclusion, [Recommendations for Consideration by the AMAC](https://www.sec.gov/files/spotlight/amac/amac-report-recommendations-diversity-inclusion-asset-management-industry.pdf) (July 7, 2021), available at <https://www.sec.gov/files/spotlight/amac/amac-report-recommendations-diversity-inclusion-asset-management-industry.pdf> (discussing that the use of minimum independent selection criteria such as performance, size (AUM), and length of track record can have the effect of disproportionately excluding non-traditional or diverse-owned advisers).

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