

'Foreside Letter'

September 4, 2019

At Foreside, we see regulation not as an obstacle, but as a catalyst for innovation.

The Brief:

Foreside recognized time and again that mutual funds were looking for a flexible way to advertise their new funds using pre-inception performance (PIP) data. FINRA permitted the use of PIP data for ETFs, but not mutual funds. In addition, following higher demand for transparency, institutional investors had been requesting more pre-inception data. FINRA regulations, however, continued to prohibit it.

The Approach:

Foreside worked with FINRA, as well as counsel for one of our clients, to request new interpretive guidance that would permit passively managed open-end mutual funds to use PIP data under conditions similar to those required for ETFs. By leveraging relationships with our regulators, Foreside recognized this as an opportunity to innovate and shift the regulatory requirements rather than telling our clients "no, it can't be done."

The Result:

After working closely with FINRA and our client's counsel on the issue, Foreside successfully obtained an Interpretive Letter in January 2019 (now referred to as the Foreside Letter) permitting the use of PIP data in institutional communications of index-based open-end investment companies that are distributed solely to institutional investors. This has created a completely new way for mutual funds to market their funds, bringing more transparency to investors.

All situations are evaluated independently, and results may differ. It is important to note these case studies are not testimonials, but examples of strategies that have been deployed to assist our clients. These examples may not be representative of your experience with Foreside and do not guarantee that you will experience the same or similar results.

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