

'Foreside Letter' Offers Industry-Leading FINRA Guidance Expansion For Mutual Funds

September 22, 2019

Mutual funds continue to face headwinds that require nimble reactions and flexibility – neither of which are easy feats given the ever-shifting regulatory landscape. Continued pressure on fees, industry consolidation, and increased demand for transparency from investors all present challenges but also opportunities to innovate. When partnered with the right regulatory consultant, mutual funds have the authority to forge new pathways and create value for investors that to date has been unheard of.

Foreside is proud to have partnered with ABR Dynamic Funds to introduce a new level of transparency for institutional investors, called the Foreside Letter. This interpretive guidance, drafted with FINRA's oversight, allows open-end mutual funds to disclose pre-inception index performance data, an allowance previously only made to passively managed ETFs. This guidance gives mutual funds a new and improved way to demonstrate value to potential investors, while meeting investors' demands for increased transparency.

This type of regulatory innovation is critical to compete in today's crowded landscape, according to Dave Whitaker, president of Foreside.

"We're seeing a higher demand from institutional investors for more data, including for pre-investment performance data, so they can properly evaluate their investment decisions. The funds that bring in the right partners to navigate their clients' and prospects' changing demands will be the ones to win in the end."

The Foreside Letter applies to open-end mutual funds that are seeking to replicate pre-defined rules that cannot be altered except under extraordinary market, political or macroeconomic conditions, similar to passively managed ETFs. The guidance does not change FINRA's long-standing position that the presentation of hypothetical back-tested performance in the retail material is prohibited.

Collaboration was key to this industry-leading achievement. Foreside partnered with ABR Dynamic Funds, the law firm DLA Piper, and FINRA to complete the expansion of this guidance. No single party could have completed the task alone, and each brought value to the process. Key to this guidance, and to future innovation that navigates today's regulatory landscape, is keeping the focus on the investor.

"Oftentimes, institutional investors and compliance consultants can become too caught up in sticking to the old way, that they miss opportunities to add value for clients," said Whitaker. "At Foreside, we never just say 'no' – we always seek opportunities to make things work."