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THE USE OF AI IN THE SECURITIES INDUSTRY:
U.S. REGULATORY CONSIDERATIONS FOR BROKER-DEALERS
AND SEC-REGISTERED INVESTMENT ADVISERS

In this article, the author explores the current U.S. regulatory environment with respect to the use of AI by U.S. broker-dealers and SEC-registered investment advisers and sets forth certain legal and compliance considerations.

By Jennifer D. Morton *

Long before the advent of artificial intelligence (“AI”), U.S. broker-dealers and SEC-registered investment advisers (“RIAs”) deployed automated tools to facilitate communications with customers, assist with portfolio management, and support their operational functions, among other use cases. Broker-dealers employ virtual assistants to provide responses to basic customer inquiries, such as portfolio holdings, accounts balances, and market data,¹ and to develop investment strategies, including analyzing the success of specific features and marketing practices at influencing retail investor behavior.² RIAs use automated tools to supplement aspects of their advisory relationships with clients, including through the use of robo-advisers, to provide investors with computer-generated advice delivered through an application. Now they can do all that and

more, using AI and machine-learning-based models to inform their investment decisions.³

Unsurprisingly, the use of AI in the securities industry has drawn attention from its regulators,⁴ including the Financial Industry Regulatory Authority, Inc. (“FINRA”), an independent self-regulatory organization and principal regulator of U.S. broker-dealers, the U.S. Securities and Exchange Commission (“SEC”), which has supervisory jurisdiction over broker-dealers and RIAs.⁵ While these regulators are still developing their

¹ Artificial Intelligence (“AI”) in the Securities Industry, FINRA, at 6 (June 2020) available at <https://www.finra.org/sites/default/files/2020-06/ai-report-061020.pdf>.

² Rel No. 34-97990, at 16 (2023) available at <https://www.sec.gov/files/rules/proposed/2023/34-97990.pdf> (“Proposing Release”).

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³ *Id.* at 13.

⁴ Note that the scope of this article does not capture the laws of the U.S. states and territories.

⁵ The regulation of AI is also on the radar of the Biden Administration. In October 2023, in response to “the rapid speed at which AI capabilities are advancing,” President Biden issued an Executive Order establishing standards for AI safety and security. Exec. Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence (2023) available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and->

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