

February 28th, 2023

Re: SEC Rule 206(4)-1 (the “Marketing Rule”) – Interpretative Opinion

CHIP is a marketing platform that makes it easy for consumers to find financial professionals of color, offering partner discounts and brand exposure opportunities primarily by leveraging cross-industry networks.

On December 22nd, 2020, the Securities and Exchange Commission (“SEC”) adopted sweeping amendments to Rule 206(4)-1 under the Investment Advisers Act of 1940, as amended (the “Advisers Act”).¹ The amendments create a single rule (the “Marketing Rule”) that replaces the current advertising and cash solicitation rules under the Advisers Act. One of the consequences of the amendment to the Marketing Rule is that there are now circumstances under which common cross-referral arrangements with non-licensed professional services providers like attorneys and accountants may qualify as activity subject to SEC regulation as compensated endorsement or testimonial arrangements. While CHIP does not operate as a Registered Investment Adviser, we understand the importance of considering the regulatory requirements for the RIAs that we work with.

After a close evaluation of the regulatory statutes, it is the opinion of CHIP that registration as an Investment Adviser is not required to provide the Adviser marketing services included in the platform.

The Investment Advisers Act of 1940 defines Investment Adviser as “any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities;”² No owner, director, or management person of CHIP fits within this definition of Investment Adviser.

¹ <https://www.sec.gov/news/press-release/2020-334>

² <https://www.govinfo.gov/content/pkg/COMPS-1878/pdf/COMPS-1878.pdf>

Additionally, CHIP does not endorse or provide testimonials for any adviser in exchange for cash or non-cash compensation and are not paid to promote the advisor to the client. Advisers through the platform are provided the access and opportunity to market to consumers. The term “solicitor” (which has historically referred to those who engaged in compensated solicitation or referral activity with respect to advisers) has been effectively replaced with the term “promoter.” Promoter is not defined in the marketing rule, but CHIP’s activities did not fall under the previous definition of solicitor, and as a result, it is our opinion that we do not operate as “promoters” for the financial professionals we work with.

Finally, compensation paid to CHIP by Advisers for marketing services is based on the service offering of CHIP, and is in no way predicated upon, or made in connection with, advisory client acquisition or revenue derived from advisory services provided.