**South Carolina General Assembly**

125th Session, 2023-2024

**S. 1014**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Kimbrell, Garrett, Rice, Corbin, Campsen, Adams and Reichenbach

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Introduced in the Senate on February 1, 2024

Currently residing in the Senate Committee on **Banking and Insurance**

Summary: Disclosure standards

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/1/2024 Senate Introduced and read first time (Senate Journal‑page 5)

 2/1/2024 Senate Referred to Committee on **Banking and Insurance** (Senate Journal‑page 5)

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=1014&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[02/01/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/1014_20240201.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 35‑1‑502, RELATING TO PROHIBITED CONDUCT IN PROVIDING INVESTMENT ADVICE REGARDING SECURITIES, SO AS TO SET DISCLOSURE STANDARDS FOR INVESTMENT ADVISERS WHO RENDER SERVICES BASED ON SOCIAL OR NONFINANCIAL FACTORS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 35‑1‑502 of the S.C. Code is amended to read:

 Section 35‑1‑502. (a) It is unlawful for a person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities:

 (1) to employ a device, scheme, or artifice to defraud another person; or

 (2) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.; or

 (3) to misrepresent or to make a false statement to, or to fail to disclose any essential or material fact from, any person in the rendering of investment advice or the sale of a security or commodity to another person.

 (A) An investment adviser or the adviser’s investment adviser representative fails to disclose a material fact to clients or prospective clients if the adviser or the adviser’s representative incorporates a social objective or a nonfinancial objective into the adviser’s or adviser’s representative’s recommendations and solicitations to clients for the purchase or sale of a security or commodity or the selection by the adviser or the adviser’s representative, or the recommendation or advice by the adviser or the adviser’s representative to the adviser’s or adviser’s representative’s clients regarding the selection, of a third‑party manager or subadviser to manage the investments in the adviser’s or the adviser’s representative’s clients’ accounts.

 (B) The disclosure obligation under subitem (A) is satisfied by providing prior disclosure and obtaining written consent and acknowledgment from the client. Written consent must be obtained:

 (i) at the establishment of the advisory relationship; and

 (ii) before:

 (a) effecting any discretionary investment;

 (b) providing any recommendation or advice regarding the purchase or sale of a security or commodity in a client’s account; or

 (c) selecting, or recommending or advising on the selection, of a third‑party manager or subadviser to manage the investments in a client’s account.

 (C) Written consent required under subitem (B) of this section must contain language that is substantially similar to the following:

 “I, (NAME OF CLIENT), consent to my adviser or adviser’s representative incorporating a social objective or nonfinancial objective into any discretionary investment decision my adviser or adviser’s representative makes for my account; any recommendation or advice my adviser or adviser’s representative makes to me for the purchase or sale of a security or commodity; or the selection my adviser or my adviser’s representative makes, or recommendation or advice my adviser or adviser’s representative makes to me regarding the selection, of a third‑party manager or subadviser to manage the investments in my account. Also, I acknowledge and understand that incorporating a social objective or nonfinancial objective into investment decisions, recommendations, advice, and/or the selection of a third‑party manager or subadviser to manage the investments in my account will result in investments and recommendations/advice that are not solely focused on maximizing financial return for me or my account.”

 (D) As used in this section:

 (i) “Incorporates a social objective” means the consideration of socially responsible criteria in the investment or commitment of client funds for the purpose of obtaining an effect other than a maximized financial return to the client.

 (ii) “Socially responsible criteria” means any criterion that is intended to further, or is branded, advertised, or otherwise publicly described by the investment adviser or the adviser’s investment adviser representative as furthering, any of the following:

 (a) international, domestic, or industry agreements relating to environmental or social goals;

 (b) corporate governance structures based on social characteristics; or

 (c) social or environmental goals.

 (b) A rule adopted under this chapter may define an act, practice, or course of business in connection with giving investment advice regarding securities as fraudulent, deceptive, or manipulative, and prescribe means reasonably designed to prevent a person from engaging in acts, practices, and courses of business defined as fraudulent, deceptive, or manipulative.

 (c) A rule adopted under this chapter may specify the contents of a contract entered into, extended, or renewed in connection with giving investment advice regarding securities.

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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