

BICE REQUIREMENTS SUMMARY

January 2016

This summary is intended to outline the possible actions that are required and those that are optional for a successful implementation of the BICE regulations. Specific firms may require certain actions that are optional from a regulatory perspective.

There are two broad approaches to respond to BICE regulations. The first is to adopt the regulation and the second is to take steps to avoid having to comply. Decision to adopt or avoid is based on the financial advisor's business base, and whether the burden of compliance is so great that forfeiting BICE business (advice to IRAs and 401(k) clients) is worth it.

There are four possible paths:

Adopt BICE:

- **PATH 1:** Adopt the BICE standard for the entire business.
- **PATH 2:** Use BICE practices only in cases where explicitly required by regulations.

Avoid BICE:

- **PATH 3:** Act in a fiduciary capacity for all business.
- **PATH 4:** Cease or transfer all practices that might trigger BICE.

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This summary presents the required and optional actions for financial advisors who choose to adopt BICE (Paths 1 and 2).

Contents of Summary

The summary lists actions that are required under BICE as well as a number of actions that enable the profitable operation of the advisory business (Optional). These actions are categorized in business terms:

- Business Model:** Changes to typical business structures.
- Small Accounts:** Steps that make small accounts profitable.
- Business Development:** Approach to differentiation in the BICE environment.
- Marketing Communications:** Required and desired changes to existing communications.
- Risk Management:** Steps required to mitigate risk derived from Best Interest Contract
- BICE Compliance:** Recap of major compliance requirements.

The applicability of each action listed is provided for financial advisor compensation types:



- **Indirect:** Compensation paid to financial advisor by product provider or vendor.
- **Direct:** Compensation paid to financial advisor by client or from client's assets.

Table of Action

Actions to Adopt BICE	PATH 1 (Entire Business)		PATH 2 (Only when explicitly required)	
	Indirect	Direct	Indirect	Direct
Business Model:				
Establish practices and procedures that can be demonstrated to prevent biased advice.	Required	N/A	Required	N/A
Use fee leveling in which FA compensation is unaffected by which product or vendor is used.	Optional	N/A	Optional	N/A
Use fee based contract in which FA payments are reduced by any indirect compensation received.	Optional	N/A	Optional	N/A
Use fee contract, based on AUM.	N/A	Optional	N/A	Optional
Use fee contract, based on resources expended (time and expenses).	N/A	Optional	N/A	Optional
Use flat fee contract.	N/A	Optional	N/A	Optional
Set BICE fees based on compensation received before BICE.	N/A	Optional	N/A	Optional
Develop process to determine client's best interest and tool to match products and vendors to the best interest.	Required	Required	Required	Required
Revise rollover business acquisition to comply with BICE requirements.	Required	Required	Required	Required
Introduce BICE to existing clients as a Superior Standard of Care.	Optional	Optional	Optional	Optional

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Develop explanation for why Best Interest applies only to certain areas of business and not others.	N/A	N/A	Required	Required
Small Accounts:				
Set minimum account sizes to exclude accounts that are unprofitable under BICE.	Optional	Optional	Optional	Optional
Reduce resources spent on small accounts to be aligned with compensation received (Tiered Service).	Optional	Optional	Optional	Optional
Use fee contract, based on resources expended (time and expenses).	N/A	Optional	N/A	Optional
Use flat fee contract.	N/A	Optional	N/A	Optional
Business Development:				
Review and replace rollover promotion and practices to comply with BICE requirements.	Required	Required	Required	Required
Continue using existing business development methods to compete with BICE advisors.	Optional	Optional	Optional	Optional
Create differentiation from the BICE standard of care offered by all advisors that is valuable and credible.	Optional	Optional	Optional	Optional
Implement the differentiation in all client and prospect communications (verbal, paper, electronic).	Optional	Optional	Optional	Optional
Adapt practices and agreements to reflect the differentiation.	Optional	Optional	Optional	Optional
Become proficient at articulating differentiation and answering questions about it.	Optional	Optional	Optional	Optional
Use the differentiated approach.	Optional	Optional	Optional	Optional
Marketing Communications:				
Amend all client communications to reflect the BICE terms and any additional differentiation.	Required	Required	Required	Required
Re-design some or all marketing communications to more effectively promote the advisor in the BICE environment.	Optional	Optional	Optional	Optional



Develop advertising and public relations initiative to present the BICE image of the advisor.	Optional	Optional	Optional	Optional
Risk Management:				
Establish practices, procedures and documentation which demonstrate that advisor consistently acts in the client's best interest.	Required	Required	Required	Required
Review all activities for non-compliance with BICE requirements.	Required	Required	Required	Required
Establish generally accepted prudent process for decisions that have the potential for client losses.	Optional	Optional	Optional	Optional
Pre-qualify products and vendors that are considered in delivering advice.	Optional	Optional	Optional	Optional
Prepare list of permitted and prohibited activities to avoid a breach of contract.	Optional	Optional	Optional	Optional
Prepare and use compensation guidelines that prevent exposure to claims of excessive fees.	Optional	Optional	Optional	Optional
Develop procedures for handling and documenting decisions made when exceptions occur.	Optional	Optional	Optional	Optional
Provide mechanism for oversight and controls to achieve conformance with established practices and procedures.	Optional	Optional	Optional	Optional
Examine and revise liability insurance coverage as needed.	Required	Required	Required	Required
BICE Compliance:				
Develop Best Interest Contract(s) consistent with business decisions and regulatory requirements with notice to the Department of Labor.	Required	Required	Required	Required
Disclose direct and indirect compensation to clients.				
Develop practices and procedures to comply with BICE and regulatory requirements.	Required	Required	Required	Required



Implement BICE compliant practices and procedures.	Required	Required	Required	Required
Get client signatures on Best Interest Contract.	Required	Required	Required	Required
Perform activities required by Best Interest Contract and regulations.	Required	Required	Required	Required