

Defined Outcome Series

Separately managed accounts

Agenda

- Defined outcome products
- What is an SMA?
- Regulatory considerations
- Comparisons

Defined outcome products

Defined outcome products

- Defined outcome products may be offered in a number of different “wrappers” or “packages”: fixed index annuities and RILAs; structured products; SMAs; and ETFs, among others
- Products provide equity exposure generally with some downside protection in exchange for a cap on gains
- Defined outcome ETFs use option strategies in an ETF vehicle (instead of relying on a debt security like a structured note) to provide targeted downside protection, income or enhanced growth
- Defined outcome ETFs achieve the exposure through options-based strategies
 - Option prices move in response to movements in, or volatility of, the reference asset
 - The defined outcome is intended to be delivered over a hold period

What is an SMA?

What is an SMA?

- A separately managed account (SMA) may provide for defined outcome style returns – whether by holding a portfolio of structured products or a portfolio of derivatives and other securities – or it may follow any number of other strategies
- An SMA is, as the name suggests, an “account,” not a 1940 Act-registered fund product, although, like a fund, it is managed by a registered investment adviser
- The account held by the investor is managed by an investment manager, consistent with agreed investment objectives, and managed pursuant to a discretionary management agreement
- Assets held through SMAs continue to increase and are expected to reach \$3.6 trillion by the end of 2026, in line, in terms of growth, with the 12.3% annual growth rate for the managed account industry as a whole through 2028
- Once designed largely for ultra high net worth clients, SMAs now are available to high net worth and mass affluent clients

What is an SMA? *(cont'd)*

- Like a fund:
 - It is managed by a manager
 - In the United States, the manager must be a registered investment adviser
 - It can provide for a high degree of transparency regarding the account holdings
 - There are management fees charged based on AUM
- However, unlike a fund:
 - The fees will be higher than those associated with a mutual fund
 - The degree of customization will be much higher for an SMA, and SMAs are more often subject to active management
 - The tax objectives for an SMA investor may be planned and accounted for
 - There is no required prospectus, but there are certain other disclosures

What is an SMA? *(cont'd)*

- Customization of portfolios may be appealing to SMA investors who may specify specific industries to avoid, concentration limits, ratings limits, ESG requirements, etc.
- SMA investors also may be focused on deferring capital gains distributions and focused on the timing of tax losses; investors may contribute securities to an SMA (in-kind transfers) and this is often a marketing point for advisers to existing customers
- Advisers may also market existing dynamic strategies as SMAs

What is an SMA? *(cont'd)*

- Fee structures for SMAs may differ
- **Wrap fees:** Broker-dealers and platforms may offer SMAs with a wrap fee, or an all-inclusive fee, that is charged as a percentage of AUM, bundling advice, commissions, etc.
 - A wrap fee program still has to offer customization to its participants
 - In part, customization or individualized treatment help in avoiding being deemed an unregistered investment company (Rule 3a-4 of the Investment Company Act)
 - Programs will differ greatly—some may allow the client to choose from among pre-approved managers (affiliated with the broker-dealer sponsor or unaffiliated with the sponsor)
 - Below, we illustrate in summary form a bundled wrap program:



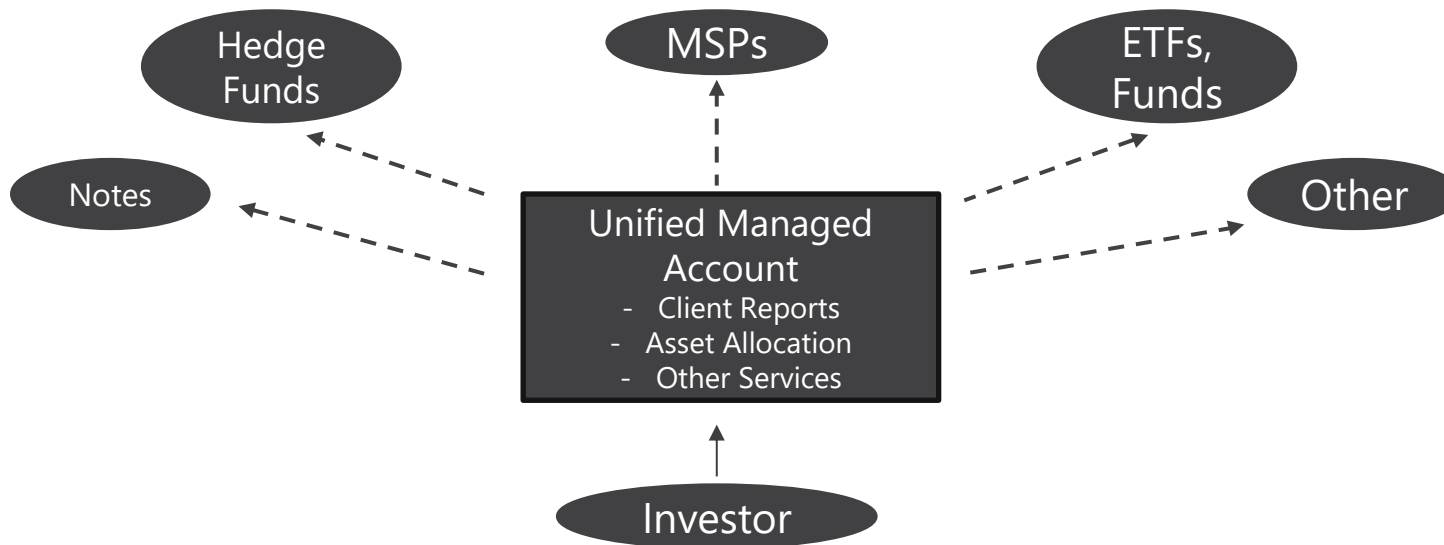
What is an SMA? *(cont'd)*

- **Component fees:** Fees may be unbundled, and may include an asset management fee that is paid to the investment manager; a financial adviser fee; a custodial fee; and brokerage commissions
- Below we show an unbundled program in which an investor chooses the adviser and enters into an advisory agreement with the sponsor and a separate brokerage agreement



What is an SMA? *(cont'd)*

- There are many variations of wrap fee programs that have developed that provide investors with different investment strategies within a single account and may include other asset categories like ETFs. These types of accounts are referred to as unified managed accounts, or UMAs. Below is an illustration:



- Overall fees may be higher than the fees paid in connection with SEC-registered fund products

Regulatory considerations

Regulatory considerations

- A managed account or wrap fee program may be sponsored by a broker-dealer, which is responsible for marketing and offering the program; assessing the potential investor's suitability and understanding its investment objectives; etc.
- The broker-dealer may be dual-registered, or it may work with a RIA (if portfolio selection and related functions are outsourced)
- As we highlighted on the prior pages, there are various types of programs:
 - *separately managed account programs*, in which the sponsor and client have a contract and the sponsor may rely on sub-advisors
 - *multi-strategy portfolios* (MSPs) or multiple disciplinary accounts (MDAs) in which the investor maintains a single account with the ability to hold multiple SMAs
 - *unified managed account programs* (UMAs), in which the investors maintain single accounts with the ability to hold multiple products within separate sleeves, such as SMAs and ETFs
 - *mutual fund asset allocation programs* (or mutual fund wrap programs), in which the adviser advises on baskets of funds

Regulatory considerations

- Form ADV was amended to provide for a separate wrap fee program brochure
- This must be produced in narrative form and include disclosure relating to fees and any other compensation, how the program managers are selected and reviewed, portfolio manager performance, etc.
- Conflicts of interest also must be disclosed
- Investors in these accounts hold the underlying securities directly, so they also will receive the same information relating to the securities as other holders, including prospectuses
- Clients will enter into an advisory account and a brokerage account

Regulatory considerations

- As noted on the prior slides, there may be status questions with respect to wrap accounts
- Is such an account itself an unregistered investment company?
- For this reason, we look to Rule 3a-4 under the Investment Company Act, which provides a non-exclusive safe harbor from the registration requirements
- Essentially, the rule requires that the client be given a level of individualized advice and individualized treatment

Comparisons

Distinguishing among products

	SMA	Mutual fund/ETF (40 Act)
Securities registration	Not SEC-registered	33 Act and 40 Act registered
Issuer	An account; investor holds the securities directly	A fund issuer that sells shares of the fund; investor holds shares of the fund that holds assets
Assets	Generally, flexible	Flexible
Registration or Disclosure	Disclosure will be contained in the manager's Form ADV; fact card	Form N-1A; prospectus, summary prospectus, website
Transparency	Highly transparent for an SMA	Quarterly for a mutual fund; Daily portfolio holdings for an ETF
Access to assets	Throughout the trading day	End of day for a mutual fund; throughout the day for an ETF
Tax	Highly adaptable to the investor's tax needs	RIC for tax purposes

Distinguishing among products *(cont'd)*

	SMA	Mutual Fund/ETF (40 Act)
Portfolio customization	Highly customizable	Not customizable
Diversification	Can be highly variable	Generally, diversified
Funding	Existing securities or cash	Cash
Maturity of market	Around since 1970s	Both well understood
FINRA characterization	Complex product	Complex product
Minimum investment	Generally, a high required minimum investment	Low minimum investment; retail friendly
Other considerations	May be adapted and tailored to the investor's needs but will entail costs	More cost-efficient; however, not particularly amenable to customization

Speakers



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Marla Matusic advises clients on the structuring and trading of complex derivatives and structured financial products. Her practice focuses on bespoke structures designed for institutional and sophisticated investors, proprietary indices and structured product automation. She also counsels on issues arising under the federal securities laws, advises clients in the negotiation of ISDA and equity derivative transactions, and assists with the setup and ongoing operation of structured note, warrant, certificate of deposit and commercial paper programs and the ongoing maintenance of and issuances under covered bond programs.

Marla is ranked as an “Up and Coming” lawyer by Chambers USA for Capital Markets: Structured Products (Nationwide). The Legal 500 US ranks Marla as a “Rising Star” for Structured Finance: Derivatives and Structured Products. The IFLR1000 guide also ranks Marla as a “Rising Star” in the US for Capital Markets: Derivatives. She was named a “Rising Star” in the capital markets category by Euromoney’s 2021 Rising Stars Americas Awards, and was shortlisted by Euromoney for its 2020 Rising Star Awards for the same. Euromoney’s Expert Guides includes Marla in its Rising Star guide for Structured Finance and Securitisation in the United States for 2021 and 2022.



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Anna Pinedo represents issuers, investment banks and other financial intermediaries as well as investors in financing transactions, including public offerings and private placements of equity, equity-linked and debt securities. She also advises on structured products and derivatives matters.

She works closely with financial institutions to create and structure innovative financing techniques, including new securities distribution methodologies and financial products. Anna also works with financial institutions in connection with international offerings of equity and debt securities, equity- and credit-linked notes, and hybrid and structured products, as well as medium term note and other continuous offering programs.

In the derivatives area, Anna counsels a number of major financial institutions acting as dealers and participants in the commodities and derivatives markets. She advises on structuring issues as well as on regulatory issues, including those arising under the Dodd-Frank Act. Her work focuses on foreign exchange, equity and credit derivatives products, and structured derivatives transactions. Anna has experience with a wide range of transactions and structures, including collars, swaps, forward and accelerated repurchases, forward sales, hybrid preferred stock and off-balance sheet structures. She also has advised derivatives dealers regarding their Internet sites and other Internet and electronic signature/delivery issues, as well as on compliance matters.

Resources

Legal Update: [CFTC Issues Request for Comment and Staff Advisory on Prediction Markets](#) (March 13, 2026)

Legal Update: [CFTC Staff Partially Reinstate CPO Exemption for RIAs](#) (December 24, 2025)

Legal Update: [CFTC Harmonizes US Person and Guarantee Definitions in Swap Requirements](#) (December 15, 2025)

Legal Update: [Risk Transfer Market Receives CPO Registration Relief from CFTC](#) (December 1, 2025)

Recent Webinar: [NAIC/SVO Understanding Changes to the Regulatory Capital Landscape](#) (April 2026)

Recent Webinar: [The Regulatory Curve: Developments Involving Commodity Pool Operators and Advisors](#) (March 2026)

Recent Defined Outcome Sessions [\(Access Slides & Recordings Here\)](#):

- Comparing the tax treatment to investors of structured products, ETNs, UITs, and ETFs
- Tax structuring issues for entities taxed as registered investment companies (RICs, UITs and ETFs)
- Comparing disclosure and other requirements applicable to ETFs with those applicable to structured notes and ETNs
- Considerations for index providers to, or hedge providers to, ETFs



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