

MONTHLY COMPLIANCE TASKS

Please be sure to check your SmartRIA CCO portal to keep up with your monthly Compliance tasks or utilize the CCO Scorecard included in our This Month in Compliance email. Please contact the following for:

- Login and Portal Requests: Sara Sparks: ssparks@thecomplianceresource.com
- Task Related Questions: Nancy Harry: nharry@thecomplianceresource.com
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ANNUAL COMPLIANCE REVIEW

Under Rule 206(4)-7 in the Advisers Act, SEC-registered firms are required to adopt and implement written policies and procedures reasonably designed to prevent violation of the rules and regulations of the Advisers Act. And it also requires investment advisers to review, no less frequently than annually, the adequacy of its compliance policies and the effectiveness of their implementation. Some states have the same requirement. If your state does not have this requirement, conducting the annual compliance review is a best practice. In order to assist you with this requirement, we have a **Sample Report**. **Note this is a template** and **NEEDS** to be tailored to properly evaluate the compliance program and procedures at your firm. Not all topics may apply, or additional topics may need to be added to your own Annual Review. Both the CCO and Senior Management should be involved in the review.

In the review, the CCO or designee is determining if there have been any compliance matters over the Review Period where current policies and procedures needed further clarification or revision. Regular review of the effectiveness of your compliance program is an on-going process. We assist you each month with the CCO Score Card on the SmartRIA CCO portal and our two monthly educational pieces. The Annual Review should be documented in a manner that the SEC or other regulator can determine that the review was conducted. The firm should not hesitate to address, report, and remediate any compliance issues reported in the Review Period. Identifying issues, weaknesses or current polices that need new and improved procedures in the Manual will only improve the outcome of any exam.

Failure by the adviser to carry out this Annual Compliance Review and assessment in a thoughtful and efficient manner would be in violation of Rule 206(4)-7 and could possibly lead to enforcement action against the adviser and its principals. CRP does stress the importance of this review and recommends firms use this opportunity to address issues or weaknesses that may be adversely affecting your firm's business and operation.

Please contact CPR with any questions you may have regarding this requirement.

See attached TEMPLATE - ANNUAL REVIEW SAMPLE WORDING.

ANNUAL RETROSPECTIVE REVIEW FOR EXEMPTIVE RELIEF UNDER PTE 2020-02

Among the requirements explained in the recent DOL PTE 2020-02, firms must conduct an annual retrospective review. To provide perspective on the annual retrospective review for exemptive relief under PTE 2020-02 (“the exemption”), it is helpful for context to review a summary of all the sections of the exemption:

- Impartial Conduct Standards
- Best Interest
- Reasonable Compensation
- Best Execution
- No Misleading Statements
- Disclosure
- Policies and Procedures
- Annual Retrospective Review (*December Focus*)
- Self-Correction
- Principal Transactions
- Recordkeeping

Requirements of the Retrospective Review

To satisfy the retrospective review requirement of the exemption, firms must conduct an annual retrospective review reasonably designed to assist in detecting and preventing violations of the Impartial Conduct Standards and the firm’s policies and procedures. Per the Final Rule, “The methodology and results of the retrospective review must be reduced to a written report that is provided to one of the financial institution’s Senior Executive Officers, who must then make certain certifications related to their review of the report.”

The Department of Labor (“DOL”) issued a FAQ in April 2021 and response to Question 19 stated,

“The Department expects financial institutions to use the results of the review to find more effective ways to help ensure that investment professionals are providing investment advice in accordance with the Impartial Conduct Standards and to correct any deficiencies in existing policies and procedures. Senior Executive Officers should carefully review the report before making the required certifications, so that they can make the certifications with confidence. Making the certifications without carefully reviewing the report would constitute a violation of the exemption. This ensures that the financial institution, through an appropriate Senior Executive Officer, is fully accountable for the retrospective review.”

The recordkeeping retention requirement for the exemption is six years, and the documents must be available for review by the DOL within 10 business days of a request. Notably, the six-year requirement does not conform with the retention requirements for either BDs or IAs as it is longer than both.

COMING SOON (December 15th TMR) - Sample Wording for Senior Retrospective Review