

CCO TASK SUPPORT

Please be sure to check your SmartRIA CCO portal to keep up with your monthly Compliance tasks.
Please contact the following for:

- **Task Related Questions:**

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CRP POLICY & MANUAL UPDATES TO FIRMS

CCO ACTION: Review the *DOL PTE Rollover & IRA Transfer Policy Feb 2022* included in TMIC Email. Language has been revised to adjust to the delay of the DOL implementation and enforcement. Language has also been amended to further clarify procedures to assist in complying with the PTE conditions or providing Education only approach. Additional Resource Forms and Attestations are referenced.

NOTE – February’s This Month’s Resource will provide firms and their CCOs a sample training on DOL and the PTE 2020-02 conditions. Firms will need to further tailor this training to provide their unique procedures and practice.

CCO TOOLS INCLUDED THIS MONTH:

- **ADV Annual Amendment Checklist** - During February, our team will continue to work with firms to schedule a time to review and update your firm’s ADV Part 1A, 2A and Form CRS. Please complete and return the Annual ADV Amendment Checklist if you would like CRP to assist with your annual filing. Checklists are due back to CRP by March 15th to guarantee the filing be completed before the March 31st deadline.
- **CCO Checklist** – Complete the attached CCO Checklist for the month of February 2022.
- **Rollover Spreadsheet Log 2022** – Sample Spreadsheet designed to assist firms who need a tool to log new accounts that are opened due to a “Rollover” as defined by DOL and the monthly/quarterly CCO Task for 2022. (“Rollovers” include not only rollovers from plans to IRAs, but also from an IRA to another IRA, an IRA to a plan, a plan to another plan, and from one type of account to another (brokerage to advisory, and vice versa).

ATTENTION 13F FILERS

WHO HAS DISCRETION? ASSETS WITH DISCRETION ARE ONLY REPORTED ON THE 13F.

Rule as to Use of Form 13F.

- Investment managers (“Managers”) must use Form 13F for reports to the Commission required by Section 13(f) of the Securities Exchange Act of 1934 [15 U.S.C. 78m(f)] and Rule 13f-1 [17 CFR 240.13f-1] thereunder.
- Rule 13f-1(a) provides that every Manager which exercises investment discretion with respect to accounts holding Section 13(f) securities, as defined in rule 13f-1(c), having an aggregate fair market value on the last trading day of any month of any calendar year of at least \$100,000,000 shall **file a report on Form 13F with the Commission within 45 days after the last day of such calendar year and within 45 days after the last day of each of the first three calendar quarters of the subsequent calendar year.**

Rules to Prevent Duplicative Reporting.

- If two or more Managers, each of which is required by rule 13f-1 to file a report on Form 13F for the reporting period, exercise investment discretion with respect to the same securities, only one such Manager must include information regarding such securities in its reports on Form 13F.
- Firms should make an inquiry if Third Party Managers (for example: Envestnet) file the 13F. Be sure to document in Compliance File or take appropriate steps to initiate a file, if meeting the requirements.

DOL PTE 2020-02 – CCO ACTION REQUIRED BELOW

As previously communicated by CRP, on October 25, 2021, the Department of Labor (“Department” or “DOL”) stated it would not pursue prohibited transaction claims against investment advice fiduciaries who worked diligently and in good faith to comply with “Impartial Conduct Standards” for transactions that would have been exempt under the new Department of Labor’s Prohibited Transaction Exemption (PTE) 2020-02. The Department understands that investment firms are in the process of developing tools to comply with the rollover documentation and disclosure requirements. Additionally, investment firms expressed concern that they would incur significant additional distribution costs, because the December 20, 2021, expiration date did not coincide with their annual distribution cycle for disclosures.

Accordingly, for the period, December 21, 2021, through January 31, 2022, the Department will not pursue prohibited transactions claims against advisory firms who are working diligently and in good faith to comply with the impartial conduct standards for plan rollover and IRA transfer transactions. In addition, from December 21, 2021, through June 30, 2022, the Department will not pursue prohibited transactions claims against advisory firms who are otherwise working towards compliance with PTE 2020-02. **However, CRP will continue to outline and update the compliance policies and procedures to educate and assist in the implementation of PTE-2020-02.**

WHAT DO CCO'S NEED TO DO NOW?

Based on overwhelming confusion within the industry, and various questions from our CRP clients, we believe it is imperative for our firms to analyze Investment Adviser Representative activity to determine exactly what services firms are providing to clients.

During 1st Quarter 2022, CRP updated the SAMPLE policies and procedures to outline the two options firms are presented with in light of the new DOL PTE 2020-02. These SAMPLE policies and procedures are meant to replace the previously sent version in October 2021. Firms should review, implement, and work toward complying with the Prohibited Transaction. Please read the attached policies and procedures for each option and complete the following steps for implementing your Firm's policy:

➤ **OPTION 1: Investment Advice and Rollover Recommendations**

- Review CRP's updated policies and procedures as outlined below to determine if the firm is providing "investment advice and recommendations".
- Copy/paste the attached "**Investment Advice and Rollover Recommendations**" policies and procedures into your most recent compliance manual. Replace existing language.
- Review and confirm disclosures have been made and/or updated through your ADV Part 2A. If not, please contact CRP to include it on the firm's 2022 Annual Amendment filing.
- Implement and train IAR's on the new documentation requirement, which includes the attached "**IRA Rollover Worksheet – Comprehensive Analysis**" form. (*Stay tuned to February's This Month Resource for sample training content*)
- For unsolicited transactions, implement and train IAR's on the documentation requirement, which includes the attached "**Unsolicited Transactions - Client Attestation**" form.

- OR -

➤ **OPTION 2: Investment Education**

- Review CRP's updated policies and procedures to determine if the firm is providing "Investment Education" services to clients.
- Copy and paste the attached "**Investment Education**" policies and procedures into your most recent compliance manual. Replace existing language.
- Implement and train IAR's on the documentation requirement, which include the attached "**Education Only - Client Consideration Attestation**" form. (*Stay tuned to February's This Month Resource for sample training content*)
- For unsolicited transactions, implement and train IAR's on the documentation requirement, which includes the attached "**Unsolicited Transactions - Client Attestation**" form.

CCO TIPS:

- **UPDATE:** REVIEW THE *DOL PTE ROLLOVER & IRA TRANSFER POLICY FEB 2022* ATTACHED
- **DOCUMENT:** CUSTOMIZE CRP'S SAMPLE TEMPLATES TO ADHERE TO YOUR ADOPTED POLICY
 - *IRA Rollover Worksheet – Comprehensive Analysis OR Investment Education - Client Consideration Attestation*
 - *Unsolicited Transactions - Client Attestation*
- **TRAIN:** IARS NEED TO BE EDUCATED ON FIRM'S POLICIES AND PROCEDURES AND USE NEWLY ADOPTED FORMS AND ATTESTATIONS – DOCUMENT THE TRAINING.
- **TESTING:** CONDUCT REVIEWS EACH MONTH/QUARTER OF THE COMPLETED ROLLOVER RATIONALE FORMS – THIS WILL COME IN TO PLAY AT YEAR END TO COMPLY WITH THE SENIOR ANNUAL REVIEW (PART OF THE PTE 2020-02)

SEC EXAM TIP:

Let's take a look at an SEC Exam Request – Is your Firm prepared?

- **Retirement Account Disclosures.** Copies of written disclosures made to clients during the Examination Period regarding:
 - a. distribution options regarding clients' retirement plans (e.g., maintaining assets in a former employer's plan, transferring assets to a new employer's retirement plan, rolling assets over to an IRA or similar account type, or taking a lump sum distribution), the tax implications of those options, and other considerations (e.g., required minimum distribution requirements and availability of penalty-free withdrawals).*
 - b. conflicts of interest or financial interests that the Adviser has in recommending any specific product or investment related to retirement accounts;*
 - c. types of account options available to clients (e.g., IRA Rollover), including account-level fees and expenses and services provided under those account options;*
 - d. retirement account investment options available to clients (e.g., variable annuities and/or mutual funds), including information regarding (i) account-level fees and services, and (ii) investment-specific fees, expenses, revenue sharing, loads, commissions and other charges.*