

JULY COMPLIANCE TASKS

SMART RIA

Please be sure to check your SmartRIA CCO portal to keep up with your monthly Compliance tasks.

If you are not using the SmartRIA portal, please let us know so we can find you a more effective solution! Contact Sara Sparks at 303-797-0550, Ext. 3.

CCO CHECKLIST ATTACHED

Finding it hard to login and document your monthly tasks and review oversight on SmartRIA? We have a solution! Refer to the attached checklist- Just print it out, and work through the task reminders. Be sure to retain this checklist in your "Testing" Compliance Files.

DOCUMENT COMPLIANCE WITH REG BI

Indicate the date completed below.

This checklist will assist with documentation of the implementation of Reg BI.

- _____
FORM CRS MUST BE POSTED TO FIRM'S WEBSITE BY JUNE 30TH
- _____
UPDATE FIRM AGREEMENTS BY JUNE 30TH
- _____
UPDATE PACKET TO INCLUDE FORM CRS FIRST AMONG DOCUMENTS
- _____
TRAIN/EDUCATE YOUR EMPLOYEES ON NEW RULE – REG BI BY JUNE 30th
- _____
UPDATE COMPLIANCE MANUAL FOR REG BI LANGUAGE BY JUNE 30th
- _____
DELIVER COPY OF FORM CRS TO EXISTING RETAIL CLIENTS BY JULY 30TH

SEC's RECENT STATEMENT: *Areas Where Increased Care May be Necessary When Making Recommendations to Main Street Investors*

NEW WEBSITE PAGE FOR MAIN STREET INVESTORS - To help Main Street investors better understand Form CRS and its benefits, the Commission has established a new website page. This investor-focused resource provides educational resources and additional tools for investors to assist them in reading and understanding as they begin to navigate Form CRS, and in researching firms and financial professionals. [Click here](#) to visit the new site.

MIX OF INVESTMENTS AND STRATEGIES MARKETED TO MAIN STREET INVESTORS - Chairman Clayton states – “It is clear to me that some of the investments and strategies currently being marketed to Main Street investors are complex and risky, including certain of those that (1) are marketed as responsive to the effects of COVID-19, (2) provide significantly leveraged exposure (and risk) through the use of options, futures, and other derivatives or through the use of margin and (3) have complex structures that may not be easily understood by Main Street investors. I am concerned that recommendations of these investments and strategies may not be in the best interest of significant portions of our Main Street investors. *Under the Investment Advisers Act (the “Advisers Act”), an investment adviser cannot put their own interests ahead of the interests of its client and must have a reasonable understanding of the client’s objectives, including an understanding of the client’s investment profile (including his or her financial situation, level of financial sophistication, investment experience and financial goals).* In meeting their respective obligations under Reg BI and the Advisers Act, broker-dealers and investment advisers should review their operations to ensure they are making recommendations or providing investment advice that is in the best interest of the retail investor. In this regard, firms should ensure that, particularly under current conditions, the focus is applied in the following areas, to the extent they are included in a firm’s recommendation or advice to a retail investor:

ROLLOVERS AND WITHDRAWALS FROM 401(K) AND OTHER PLANS. Reg BI’s application to recommendations of rollovers of and withdrawals from retirement accounts is one of its most significant enhancements over the status quo. Recommendations to retail investors to rollover or transfer assets from one type of account to another, or to take withdrawals from an account, *should be approached with care.* Firms should be particularly attuned to their regulatory obligations in light of the additional flexibility Congress recently provided investors to take withdrawals from certain accounts.

Firms should recognize that these recommendations are subject to Reg BI and ensure that their policies and procedures meet the requirements of Reg BI, the Advisers Act and Form CRS, as appropriate.

CCO TIP –

- **DOCUMENT THE REVIEW OF FEES AND SERVICES WHEN RECOMMENDING ROLLOVERS TO ENSURE IT’S IN THE BEST INTEREST OF THE CLIENT**
- **UTILIZE OUR *ROLLOVER ATTESTATION FORM* TO ASSIST WITH DOCUMENTATION OF ROLLOVER REVIEW**

COMPLEX OR RISKY PRODUCTS. “Recommendations or investment advice to retail investors regarding complex or risky products, including significantly leveraged products that rely on derivatives strategies to enhance returns, or those that focus on investments in less liquid and more volatile markets, should be carefully reviewed by firms to ensure that they are in the best interest of retail

THIS MONTH IN COMPLIANCE

SEC's Recent Statement

investors. For example, inverse or leveraged exchange-traded products may not be in the best interest of a retail investor absent an identified, short-term, investor-specific trading objective.”

CCO TIP –

- **BE SURE TO DISCLOSE THE RISKS ASSOCIATED WITH MORE COMPLEX PRODUCTS**
- **REVIEW YOUR PART 2A TO ENSURE ALL COMPLEX PRODUCTS AND THEIR RISKS ARE FULLY DISCLOSED**
- **UTILIZE THE *ALTERNATIVE CLIENT ACKNOWLEDGMENT FORM* WHEN USING MORE COMPLEX OR ALTERNATIVE PRODUCTS WITH CLIENTS**

COVID-RELATED INVESTMENTS. “Since the spread of COVID-19 began, some companies have announced new products and services designed to address the health and other effects of the virus. For example, several stock promotions have claimed that new products or services of publicly-traded companies can prevent, detect, ameliorate or cure COVID-19 and that the stock of these companies will dramatically increase in value as a result. *Similarly, an investment adviser must have a reasonable belief that its advice, including its advice with respect to COVID-related investments, is in the best interest of the client, including a consideration of whether investments are recommended only to those clients who can and are willing to tolerate the risks of those investments and for whom the potential benefits may justify the risks.*”

SPACS AND OTHER STRUCTURED INVESTMENT VEHICLES. “SPACs, or special purpose acquisition corporations, are created to raise money from investors on the premise that the sponsor of the SPAC will, in the future, identify and acquire another, usually privately-held, company. Before the target company is acquired, the SPAC acts as a pool of capital, and if a target company is not identified during a specific period of time, investors typically receive their money back. These investments may be appropriate for various types of retail investors, including as a component of a diversified portfolio. However, because of this “money back” feature, during times of heightened market volatility, retail investors may view SPACs as a relatively safe investment option, even though the structure and strategy of a SPAC may present complex risks. *Those risks may include potential conflicts of interest caused by the compensation structure in itself and in combination with the “money back” feature. Recommendations or investment advice to retail investors regarding an investment in a SPAC or another type of structured investment vehicle should take any such risks into account in determining whether the investment is in a retail investor’s best interest.*”

CCO TIP –

- **CONDUCT THOROUGH DUE DILIGENCE ON ALL PRODUCTS BEING OFFERED TO RETAIL INVESTORS AND MAINTAIN FOR YOUR FIRM FILES**
- **ENSURE COMPLEX PRODUCTS ALIGN WITH THE CLIENT OBJECTIVES AND TOLERANCE LEVEL**
- **DISCUSS AND DOCUMENT WITH THE CLIENT POTENTIAL RISKS WITH CLIENT**

SOURCE: <https://www.sec.gov/news/public-statement/clayton-compliance-date-regulation-best-interest-form-crs>