

THIS MONTH IN COMPLIANCE

FORM CRS and SEC's Report on Cybersecurity

MONTHLY COMPLIANCE TASKS

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

NEW: CCO Checklist – Finding it hard to login and document your monthly tasks and review oversight on SmartRIA? We have a solution – refer to the attached checklist, print out and work through them on the task reminders. Be sure to retain in your “Testing” Compliance Files.

CCO TIP:

Be sure to retain your ADV Annual Amendment Checklist. The completed checklist provides excellent documentation of the review of Agreements, firm disclosure of risks, products, services, fees, and more!

FORM CRS (Attention - SEC REGISTERED FIRMS ONLY)

HOW CRP WILL ASSIST WITH COMPLYING WITH THE NEW RULE...

Beginning March 1st, CRP will be working with each firm individually to prepare, customize and file their firm's Form CRS by the SEC's deadline (June 30, 2020). Because of the additional consulting time involved, **this will be billed as an additional fee from our base monthly retainer.**

□ WHAT IS FORM CRS?

CRS is designed to help retail investors select or determine whether to engage or remain with a firm or financial professional by providing better transparency and summarizing information about a broker-dealer or investment advisor. Form CRS is intended to inform retail investors of the following:

- The **types of client and customer relationships and services** the firm offers;
- The **fees, costs, conflicts of interest** and required standard of conduct associated with those relationships and services;
- Whether the firm and its financial professionals currently have **reportable legal or disciplinary history**; and,
- How to **obtain additional information** about the firm.

□ DATES TO NOTE

- **Beginning March 1, 2020** – CRP will be able to assist firms with creating their Form CRS
- **May 1, 2020** – Filing Period Begins
- **June 30, 2020** – Deadline to Filing Form CRS
- **Deliver to existing clients within 30 days** of filing Form CRS (*Maintain proof of delivery to clients including identifying the specific version of Form CRS and the date it was provided*)
- **For new clients after June 30, 2020** – practice is consistent with the Form ADV, Part 2A brochure, Form CRS will be delivered to clients before or at the time of entering into an investment advisory contract.

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□ METHOD OF DELIVERY

- May **deliver electronically**, including updates, consistent with SEC guidance regarding electronic delivery, and in a manner that is consistent with how the client requested information about your firm. Form CRS must be presented prominently in the electronic medium (e.g., as a direct link or in the body of an email or message, and must be easily accessible).
- If delivered in paper as part of a package of documents (including with 2A Brochure), Form CRS must **be first among any documents that are delivered**.
- Current version of Form CRS will be required to be **posted prominently on the firm's public website**, if the firm maintains one. The location and format of the posting should be easily accessible to clients and provide a means of accessing any information that is referenced in Form CRS (e.g., hyperlinks to fee schedules, conflicts disclosures, the firm's narrative brochure or other regulatory disclosures). If Form CRS is delivered in paper format, firms may include URL addresses, QR codes, or other means of facilitating access to such information.

□ RECORDKEEPING REQUIREMENTS

- Keep a **record of dates** that Form CRS was given to a client or prospective client who subsequently becomes a client.
- **Retain copies of each Form CRS** and each amendment.

□ REVIEW AND HELPFUL TIPS

- Review Form ADV 2A Brochure to ensure "full and fair disclosure" of all material facts and conflicts of interest pertaining to your firm and IARs are disclosed under Item 10
- Review your practices around client advisory fees. The interpretative guidance mentions an advisor cannot favor their interests ahead of their clients' interests. This includes favoring certain clients that may pay higher fees!

Review your firm's conflicts of interest to determine if they have been mitigated or should be eliminated. Common conflicts to consider for full disclosure to clients:

- ✓ Registered Representative of a broker dealer
 - ✓ IAR or other staff Member that sells Insurance products
 - ✓ Participation in a firm's adviser platform.
 - ✓ Affiliated service providers – Broker-dealer, Insurance company, Accounting Firm
 - ✓ Soft dollar arrangements
 - ✓ Referral arrangements (paid out or received)
 - ✓ Managing a Private fund or registered mutual fund
 - ✓ Government entity clients – play to play?
 - ✓ Proxy Voting Conflicts?
 - ✓ Service by any Advisory Affiliate on a Board
 - ✓ Sponsoring a Wrap Fee Program
 - ✓ Block Trading (employees included in block trades, partial trade allocations?)
 - ✓ Trade error procedures (Clients made whole? Adviser net out gain and loss errors?)
- Review the Form ADV for the use of the word "may." For example, disclosure that an advisor "may" have a conflict is "not adequate when the conflict actually exists."

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CYBERSECURITY

On January 27, 2020, the Office of Compliance Inspections and Examinations (OCIE) released a report summarizing various industry practices and approaches to managing and combating cybersecurity risk and the maintenance and enhancement of operational resiliency. In sharing these staff observations, firms are strongly encouraged to review their practices, policies, and procedures concerning cybersecurity and operational resiliency. As one of the SEC's 2020 priorities, firms can expect this topic to be a focus of any visit from a regulator. By assessing your level of preparedness and implementing some or measures mentioned in the report, your firm and its practices will be that much more secure. OCIE will continue to focus on working with organizations to identify and address cybersecurity risks and encourages market participants to engage regulators and law enforcement in this effort actively.

[Click Here to access the full report.](#)

BE SURE TO DOCUMENT YOUR CYBER REVIEW IN YOUR COMPLIANCE FILES!