

[Securities Regulation Daily Wrap Up, TOP STORY—OCIE issues Risk Alerts for compliance with Regulation BI, Form CRS, \(Apr. 7, 2020\)](#)

Securities Regulation Daily Wrap Up

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The compliance date remains June 30, 2020, with examination staff taking into account firm-specific effects from disruptions resulting from coronavirus-related incidents.

The SEC's Office of Compliance Inspections and Examinations (OCIE) has published two Risk Alerts that provide information to firms for compliance with Regulation Best Interest (Reg BI) and Form CRS, which were adopted in June of last year and have a compliance date of June 30, 2020. The Alerts are intended to provide broker-dealers and investment advisers with information about the scope and content of first examinations to be conducted under the new rules.

[According to](#) OCIE Director Pete Driscoll, "Based on conversations we have had with the industry, we know firms have made substantial progress in implementing these new rules." Driscoll added that OCIE staff's "focus will be on firms continuing good faith and reasonable efforts, including taking into account firm-specific effects from disruptions caused by COVID-19."

Regulation Best Interest compliance. When OCIE begins its initial examinations for compliance with Reg BI, the staff will primarily evaluate whether firms have established policies and procedures reasonably designed to comply with the new regulation, according to the Alert. Reg BI requires broker-dealers to act in the best interest of the retail customer without placing its own financial or other interest ahead of the customer's interest. The [Risk Alert](#) outlines four component obligations of this general obligation: disclosure, care, conflicts of interest, and compliance obligations.

Under the disclosure obligation, the firm must provide in writing to a retail customer all material facts relating to the scope and terms of its relationship with the customer and all material facts related to conflicts of interest that are associated with the broker's recommendation. During an examination, the staff may review the contents of these disclosures and other firm records to assess compliance. These documents may include schedules of fees, the broker-dealer's compensation methods, disclosures related to the monitoring of customer accounts, and lists of proprietary products sold to customers.

The care obligation requires a broker-dealer to understand and consider the risks, rewards, and costs associated with the obligation in light of the customer's investment profile. Documents reviewed under this obligation may include new account forms, the process undertaken by the broker-dealer to assess its decision that a recommendation was in the customer's best interest, and how risky, complex, or expensive product recommendations were made.

Under the conflicts of interest obligation, the staff may review documents concerning material limitations, such as a limited product menu offering only proprietary products. The staff may also review policies and procedures relating to the elimination of sales contests, sales quotas, bonuses, and non-cash compensation based on the sale of specific securities within a limited period of time.

Finally, under the compliance obligation, may review the broker-dealer's policies and procedures and evaluate any controls, remediation of noncompliance, training, and periodic review and testing of its policies and procedures.

Form CRS. Form CRS requires SEC-registered broker-dealers and investment advisers (firms) to deliver to retail investors a brief customer or client relationship summary that provides information about the firm and to file their initial relationship summaries with the Commission. According to the [Form CRS Risk Alert](#), areas of focus for the

staff regarding compliance with Form CRS include issues relating to delivery and filing of the form, the content of the form itself, and issues such as formatting, updates, and recordkeeping.

Specifically relating to the delivery and filing of Form CRS, the Alert states that the staff may review records of the dates that each relationship summary was provided to investors and validate that the firm complied with delivery obligations pertaining to existing retail investors and new retail investors.

The staff may also review the content of the relationship summary to assess whether it includes all required information and to assess that the information it contains is accurate and true. The Alert gives several examples of what the staff may assess in reviewing the relationship summary's content, including how it describes its services, how it describes fees and costs, how it describes how the firm's professionals are compensated, how it describes conflicts of interest, and whether legal or disciplinary history is accurately disclosed.

Both Alerts note that OCIE will work with firms and the Division of Trading and Markets on challenges that COVID-19 has created for firms. The Reg BI Alert also contains an appendix listing samples of information that OCIE may request during an examination.

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