

June 14, 2019

Form CRS Requirements

Transition Period

No later than **June 30, 2020**, firms must begin to deliver their Forms CRS to new and prospective clients and customers who are retail investors. No later than **July 30, 2020**, firms must deliver, on an initial one-time basis, their Forms CRS to existing clients and customers who are retail investors. Thereafter, the delivery requirements described below will apply.

Delivery in the Ordinary Course

For new clients, an investment adviser is required to deliver to retail investors its current Form CRS no later than the time it enters into an investment management agreement with the retail investor. For new customers, a broker-dealer is required to deliver to retail investors its current Form CRS at the earliest of its (i) making a recommendation of an account type, a securities transaction or an investment strategy involving securities, (ii) placing an order for the retail investor or (iii) opening a brokerage account for the retail investor.

With respect to existing clients and customers, the following delivery triggers apply. For each *existing* client [customer] who is a retail investor, an adviser [a broker-dealer] must deliver its Form CRS no later than the time it:

- opens a new account that is different from the retail investor’s existing account(s),
- recommends that the retail investor roll over assets from a retirement account into a new or existing account or investment, or
- recommends or provides a new investment advisory [brokerage] service or investment that does not necessarily involve the opening of a new account and would not be held in an existing account.

Dual registrants, as well as affiliated broker-dealers and investment advisers offering their services to retail investors jointly, are required to deliver a Form CRS at the earlier of the delivery triggers for broker-dealers or investment advisers.

A firm may deliver its Form CRS and any amendment thereto by notice-and-access electronic delivery, if consistent with the existing arrangement with that client or customer and consistent with the SEC’s framework regarding electronic delivery.¹ For an initial delivery of a Form CRS, a firm also may deliver the form to a new or prospective client or customer “in a manner that is consistent with how the retail investor requested information” about the firm (*e.g.*, as a direct link or in the body of an email or message).

Filing

An investment adviser is required to file its Form CRS (as new Part 3 of its Form ADV) by the Investment Adviser Registration Depository (“IARD”) (as it files its Form ADV Parts 1A and 2A).² A broker-dealer is required to file its Form CRS with the SEC by the Central Registration Depository (“Web CRD”) operated by FINRA. Dual registrants must file by IARD and Web CRD.

Form CRS Amendments

An investment adviser is required to amend and file its Form CRS within 30 days whenever any information in the Form CRS “becomes materially inaccurate,” by filing the amendment with the SEC by IARD. The CRS Release states that the SEC “believe[s] the proposed approach is consistent with the current requirements for investment advisers to update the

¹ The framework consists of (i) notice that information is available electronically, (ii) access to information comparable to that which would have been provided in paper form and (iii) evidence of delivery.

² For its initial filing, an investment adviser may add its Part 3 to its Form ADV as an other-than-annual amendment or as part of its annual updating amendment.

Form ADV Part 2A brochure.” Similarly, a broker-dealer is required to update and file its Form CRS within 30 days whenever any information in the Form CRS becomes materially inaccurate by filing the amendment with the SEC by Web CRD.

Firms will be required to communicate to retail investors who are existing clients or customers any amendment made to their Form CRS no later than 60 days after the amendment is required to be filed. Each amended Form CRS delivered to a retail investor who is an existing client or customer must highlight the most recent changes by marking the revised text or including a summary of material changes, with the additional disclosure showing revised text or summarizing the material changes attached as an exhibit to the unmarked amended Form CRS.

Form CRS Content Summary

The disclosure required in Form CRS is far less scripted than the disclosure that the SEC proposed in 2018. As adopted, much of the Form CRS disclosure follows standardized questions used as the topic headings, presented in a prescribed order. For the most part, firms may use their own wording to respond to each of the five items prescribed by Form CRS.

1. **Introduction – Item 1.** A firm’s name and its SEC registration status is required. This item also requires statements to the effect that (a) brokerage and investment advisory services and fees differ, and that it is important for a retail investor to understand the differences and (b) free and simple tools to research firms and financial professionals, as well as educational materials, are available at the SEC’s Investor.gov/CRS website.
2. **Relationships and Services – Item 2.** A broker-dealer must disclose the types of brokerage services offered to retail investors, including whether it also offers recommendations to retail investors. An investment adviser must disclose the types of investment advisory services it offers to retail investors, including, for example, financial planning and wrap fee programs. If the investment adviser accepts discretionary authority, it must describe that authority and any material limitations on that authority. A firm also is required to disclose whether it (i) monitors retail investors’ investments, including the frequency and any material limitations on that monitoring and (ii) makes available, or offers advice solely with respect to, proprietary products. Account minimums and other eligibility requirements also must be disclosed.

Finally, firms must specifically refer to more detailed information about their services that, at a minimum, includes the information required by their Form ADV, Part 2A brochure (Items 4 and 7 of Part 2A or Items 4.A. and 5 of Part 2A Appendix 1) and Regulation Best Interest, if applicable.

3. **Fees, Costs, Conflicts and Standard of Conduct – Item 3.** This item covers three areas: (a) fees and costs, (b) standard of conduct and conflicts of interest and (c) financial professional compensation and related conflicts of interest.
 - a. *Description of Principal Fees and Costs* requires a firm to summarize the principal fees and costs that retail investors will be charged. Broker-dealers must describe their transaction-based fees. Investment advisers must disclose their ongoing asset-based fees, fixed fees, wrap fee program fees or other direct fee arrangement. The conflicts of interest these fees create also must be disclosed. A firm also must include specific references to the more detailed information about its fees that, at a minimum, includes the information required by their Form ADV, Part 2A brochure (Items 5.A., B., C. and D.) and Regulation Best Interest, as applicable.
 - b. *Standard of Conduct and Conflicts of Interest* requires firms to make scripted statements regarding the standard of conduct under which they operate with respect to retail investors, how the firm makes money from the relationship and the conflicts of interest the firm has in connection with the relationship. For example, an investment adviser must state (emphasis required):

When we act as your investment adviser, we have to act in your best interest and not put our interest ahead of yours. At the same time, the way we make money creates some conflicts with your interests. You should understand and ask us about these conflicts because they can affect

the investment advice we provide you. Here are some examples to help you understand what this means.

An investment adviser must describe any other ways in which the firm (or its affiliates) makes money from its services to the retail investor, as well as material conflicts of interest. The firm also must include specific references to the more detailed information regarding its conflicts of interest required in its Form ADV, Part 2A brochure or by Regulation Best Interest (as the case may be).

- c. *Description of How Financial Professionals Make Money* requires a firm to summarize how it compensates its financial professionals, including cash and non-cash compensation, and the conflicts of interest those payments create.
4. **Disciplinary History – Item 4.** In this item, a firm must disclose whether the firm or its financial professionals have legal or disciplinary history. Disciplinary history includes information disclosed in a Form ADV, Form BD or, for financial professionals, on FINRA Forms U4, U5 or U6. A firm also must disclose that a retail investor may visit the SEC’s Investor.gov/CRS website to research the firm and its financial professionals.
5. **Additional Information – Item 5.** A firm must disclose where a retail investor can obtain additional information about the firm’s brokerage or investment advisory services and request a copy of the firm’s current Form CRS.

Recordkeeping

The CRS Release also adopted amendments to the recordkeeping and record retention requirements under Advisers Act Rule 204-2 and Exchange Act Rules 17a-3 and 17a-4. Firms are required to create a record of the date on which each Form CRS was provided to a retail investor and to maintain copies of each Form CRS and each amendment thereto.