



Financial Services & Products ADVISORY ■

APRIL 2, 2020

Deadline for Reg BI and Form CRS Compliance Remains on Track

The U.S. Securities and Exchange Commission has confirmed that the June 30, 2020 compliance date for Regulation Best Interest (Reg BI) and Form CRS remains in effect, according to a [statement issued by Chairman Jay Clayton](#). While the SEC and other securities regulators have responded to the COVID-19 pandemic by providing temporary regulatory relief to the securities industry on a variety of topics, according to the chairman's statement, the SEC believes the compliance date for Reg BI and Form CRS "remains appropriate," citing its extensive engagement with the industry over the past 10 months that evidences "considerable progress ... preparing for the requirements of Reg BI and the obligation to file and begin delivering Form CRS."

Implemented in June 2019, Reg BI will transform the standard of care for securities recommendations made by registered broker-dealers. It will require all broker-dealers that recommend a securities transaction to any "retail customer" (defined to include all natural persons or their legal representatives who receive a recommendation from a broker-dealer and use it primarily for personal, family, or household purposes) to, among other things, meet an enhanced "best interest" standard of care in making that recommendation. This new standard enhances and replaces, by and large, the application of the long-standing "suitability" requirement in FINRA's Rule 2111. Form CRS, implemented at the same time as Reg BI, will require broker-dealers and SEC-registered investment advisers to provide retail investors a brief relationship summary that summarizes key information about the firm, and to file this form with the SEC.

While refusing to extend the Reg BI and Form CRS compliance date, the chairman's statement acknowledges that if "a firm is unable to make certain filings or meet other requirements because of disruptions caused by COVID-19, including as a result of efforts to comply with national, state or local health and safety directives and guidance, the firm should engage with us. I expect that the Commission and the staff will take the firm-specific effects of such unforeseen circumstances (and related operational constraints and resource needs) into account in our examination and enforcement efforts."

The chairman also previewed how the SEC's examiners will evaluate firms for Reg BI compliance, saying that "[d]uring the initial period following the compliance date, SEC examiners will be focusing on whether firms have made a good faith effort to implement policies and procedures necessary to comply with Reg BI, while also providing an opportunity to work with firms on compliance and other questions." Finally, the chairman highlighted that the SEC's Office of Compliance Inspections and Examinations will be issuing two new Risk Alerts in the coming days: one providing SEC-registered broker-dealers "with specific information about the scope and content of initial examinations for Reg BI," and the other providing broker-dealers and registered investment advisers with similar information for initial exam efforts around Form CRS.

This alert is published by Alston & Bird LLP to provide a summary of significant developments to our clients and friends. It is intended to be informational and does not constitute legal advice regarding any specific situation. This material may also be considered attorney advertising under court rules of certain jurisdictions.

While broker-dealers and registered investment advisers should continue implementing the final phases of their Reg BI and Form CRS compliance procedures, they should carefully document any hindrances or hurdles to implementation created by the COVID-19 pandemic, in particular government-imposed “stay-at-home” orders. Although impacted firms must be cautious in explaining how their supervisory systems and business continuity planning were reasonably designed to ensure the continued functionality of their compliance processes during the pandemic, the chairman’s statement acknowledges that SEC examiners will be mindful of the pandemic’s unforeseen impact during its initial examinations for Reg BI and Form CRS compliance.

Alston & Bird has formed a multidisciplinary [task force](#) to advise clients on the business and legal implications of the coronavirus (COVID-19). You can [view all our work](#) on the coronavirus across industries and [subscribe](#) to our future webinars and advisories.

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