OCIE, Form CRS and Inspections

Inspections for compliance with Form CRS and its rules will begin after the June 30, 2020 filing date, according to an OCIE Risk Alert dated April 7, 2020. The Alert identifies key areas the staff will be examining regarding the new form for advisers. In projecting the inspection schedule, OCIE made it clear that the Office is "up and running." Form CRS was adopted by the Commission on June 5, 2019, under the Exchange Act and the Advisers Act. The Form and its related rules were adopted as part of a package of items focused on retail investors. Under the new provisions advisory firms are required by the end of June to file their initial relationship summaries with the agency and post the material on their public website.

Key of the OCIE inspections will be an evaluation to determine if there was a "good faith effort to implement Form CRS." The examinations may focus on the following points:

Delivery and filing – existing investors: The staff may begin with an assessment of compliance with the filing and delivery date and the policies and procedures used to ensure compliance. The staff may also evaluate compliance with regard to an account for an existing investor opened as a roll-over of assets into a new type of an account or, even if a new account was not opened, a recommendation for a new brokerage or advisory service.

Delivery and filing – new retail investors: With respect to new retail investors, the staff may assess compliance in four respects: 1) Prior to entering into a new advisory agreement; 2) a recommendation for a type of account, securities transaction or strategy; 3) placing an order; or 4) opening a brokerage account.

Content: OCIE may assess if the relationship summary contains the required information. Five points may be pertinent: 1) The description of the firm, its services, account monitoring and investment authority; 2) the description of the fees and costs that will be incurred directly or indirectly, including examples of the most common fees and costs applicable to retail investors such as custodian fees, maintenance fees,

Related Capabilities

- Securities & Financial Services Litigation & Enforcement variable annuity fees and other transactional and product level fees; 3) descriptions of firm member compensation, including cash and non-cash components and any conflicts arising from those payments; 4) descriptions of conflicts of interest, including those arising from proprietary product, third party payments, revenue sharing and principal trading; and 5) disclosures regarding any disciplinary history of firm employees.

Formatting: The staff may also assess the formatting for the disclosures to determine if it is in accord with the instructions.

Updates: The firm's policies and procedures for updating the disclosures may also be assessed.

Record keeping: OCIE may review the records of the firm related to the delivery of the relationship summary and the policies and procedures regarding record keeping to assess the manner in which the firm complies with its delivery and record keeping obligations.

Finally, the purpose of this Alert is to encourage firms to carefully assess their compliance with Form CRS. The Alert also ensures transparency.