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Form CRS

Disclosure Checklist

August 26, 2019



This checklist covers the creation of Form CRS, including its form and content, and is derived from the:

- Instructions to Part 3 of Form ADV (Form CRS) (available at <https://www.sec.gov/rules/final/2019/34-86032-appendix-b.pdf>)
- SEC Adopting Release (Form CRS Relationship Summary; Amendments to Form ADV) (available at <https://www.sec.gov/rules/final/2019/34-86032.pdf>)

Please refer to the IAA Form CRS FAQs for information regarding the formatting, filing, delivery, updating, and recordkeeping requirements for Form CRS (available at <https://www.investmentadviser.org/resources/new-conduct-rules-resources>).

Text appearing in **red** is language specified by the SEC for registered investment advisers (text in **green** is specified for dual registrants). Information appearing in boxes is additional guidance provided by the SEC.

Item 1. Introduction

- Date included prominently at beginning of Form CRS (e.g., in the header or footer of the first page or in a similar location if provided electronically). [1]
- State firm name [1.A.]
- State whether you are registered with the SEC as a broker-dealer, investment adviser, or both. [1.A.]
- Indicate that brokerage and investment advisory services and fees differ and that it is important for the retail investor to understand the differences. [1.A.]
- If applicable, may also include reference to FINRA or Securities Investor Protection Corporation membership in a manner consistent with other rules or regulations (e.g., FINRA rule 2210). [1.A.]
- State that free and simple tools are available to research firms and financial professionals at [Investor.gov/CRS](#), which also provides educational materials about broker-dealers, investment advisers, and investing. [1.B.]

Item 2. Relationships and Services

- Heading: **What investment services and advice can you provide me?** [2.A.]

Description of Services

- State that you offer investment advisory services to retail investors. [2.B.]
- If you are a dual registrant, state that you offer both brokerage and investment advisory services to retail investors. [2.B.]

A firm that is dually registered as both a broker-dealer and an investment adviser but does not offer both brokerage and investment advisory services to retail investors would not fall within the definition of dual registrant. For example, a firm that is dually registered and offers investment advisory services to retail investors, but offers brokerage services only to institutional customers, would be required to prepare, file, and deliver the relationship summary only in accordance with the obligations of an investment adviser offering services to retail investors. [Adopting Release at 68-69](#).

- Summarize the principal services, accounts, or investments you make available to retail investors, and any material limitations on such services. [2.B.]
- State the particular types of principal investment advisory services you offer to retail investors, including, for example, financial planning and wrap fee programs. [2.B.]

In your description you must address the following:

- Explain whether or not you **monitor** retail investors' investments, including the frequency and any material limitations. If you do, indicate whether or not the services described in response to this Item are offered as part of your standard services. [2.B.(i)]

Include a specific statement that the firm does not provide monitoring, if that is the case. The “final instructions pertain to monitoring services generally and are not limited to monitoring for account performance only.” [Adopting Release at 99](#).

You may want to review your disclosures in response to Items 13A. and 13B. in Part 2A of Form ADV regarding review of accounts in responding to this Item. In the SEC’s interpretation on the Advisers Act fiduciary duty, it said that an investment adviser’s duty of care also encompasses the duty to provide advice and monitoring at a frequency that is in the best interest of the client, taking into account the scope of the agreed relationship. The SEC also explained that, as a general matter, an adviser’s duty to monitor extends to all personalized advice it provides to the client, including, for example, in an ongoing relationship, an evaluation of whether a client’s account or program type (for example, a wrap account) continues to be in the client’s best interest.

- If you accept **discretionary authority**, describe those services and any material limitations on that authority. Any such summary must include the specific circumstances that would trigger this authority and any material limitations on that authority (e.g., length of time). [\[2.B.\(ii\)\]](#)
- If you offer **non-discretionary services**, explain that the retail investor makes the ultimate decision regarding the purchase or sale of investments. [\[2.B.\(ii\)\]](#)

The SEC’s investor feedback suggested that further definitions of “discretionary account” and “non-discretionary account” would be useful. While the Instructions do not require prescribed wording here, you must explain these terms in your own words. With respect to the requirement to include the specific circumstances that would trigger that discretionary authority and any material limitations, you may, for example, explain whether you seek the retail investor’s approval before implementing or changing investment strategies or executing certain transactions. [Adopting Release at 101-102](#).

- Explain whether or not you make available or offer advice only with respect to **proprietary products**, or a **limited menu** of products or types of investments, and if so, describe these limitations. [\[2.B.\(iii\)\]](#)

The Instructions to Proposed Form CRS gave examples of significant limitations on types of investments, including offering only one type of asset (e.g., mutual funds, exchange-traded funds, or variable annuities); mutual funds or other investments sponsored or managed by the firm or an affiliate (i.e., proprietary products) or only a small number of investments. The Adopting Release, on the other hand, in an effort to be less prescriptive and allow firms to describe their investment offerings more accurately to reflect their scope of products and services, specifically references only the following types of limited offerings as examples: a specific asset class and limitations based on products that involve third-party arrangements, such as revenue sharing and mutual fund service fees. [Adopting Release at 105-106](#).

- Explain whether or not you have any requirements for retail investors to open or maintain an account or establish a relationship, such as **minimum account size** or **investment amount**.
[2.B.(iv)]

Additional Information

- Include specific references (e.g., include hyperlinks, mouse-over windows, or other means) to more detailed information. At a minimum, include the same or equivalent information to that required by the Form ADV, Part 2A brochure (Items 4 and 7 of Part 2A or Items 4.A. and 5 of Part 2A Appendix 1). [2.C.]

Conversation Starters

- Given my financial situation, should I choose an investment advisory service? Why or why not?** [2.D.(ii)]
- If dual registrant: **Given my financial situation, should I choose an investment advisory service? Should I choose a brokerage service? Should I choose both types of services? Why or why not?** [2.D.(iii)]
- How will you choose investments to recommend to me?** [2.D.(iv)]
- What is your relevant experience, including your licenses, education and other qualifications? What do these qualifications mean?** [2.D.(v)]

Item 3. Fees, Costs, Conflicts, and Standard of Conduct

- Heading: **What fees will I pay?** [3.A.]

Description of Principal Fees and Costs

- Summarize principal fees and costs that retail investors will incur for investment advisory services, including how frequently they are assessed and the conflicts of interest they create. [3.A.(i)] The principal fees should align with the type of fee(s) that you report in response to Form ADV, Part 1A, Item 5.E. (e.g., percentage of AUM, hourly, subscription, fixed, commissions, performance-based).
[3.A.(i)b.]

According to the SEC, principal fees and costs should be summarized in a way that provides retail investors a high-level overview. Adopting Release at 122. Firms are also encouraged to fully explain any technical terms that they use to describe their fees, such as through layered disclosure that explain technical terms as appropriate for the specific firm (e.g., "hovers"). Adopting Release at 125.

- You are required to describe any ongoing asset-based fees, fixed fees, wrap fee program fees, or other direct fee arrangements. [3.A.(i)b.]
- If applicable, an investment adviser may explain that asset-based fees associated with a wrap fee program will include most transaction costs and fees to a broker-dealer or bank that has custody of these assets, and therefore are higher than a typical asset-based advisory fee. [3.A.(i)b.(1)]

Advisers that offer wrap fee programs to retail investors should include disclosure about the relevant fees and conflicts of interest, and explain the program. *Adopting Release at 126.*

- With respect to addressing conflicts of interest, an investment adviser that charges an asset-based fee could, for example, include a statement that the more assets there are in a *retail investor's* advisory account, the more a *retail investor* will pay in fees, and the firm may therefore have an incentive to encourage the *retail investor* to increase the assets in his or her account. [3.A.(i)b.(2)]

Firms should explain the conflict of interest their principal fees create. Firms that offer variable annuity and variable life insurance products could disclose that they have a financial incentive to offer a contract that includes optional benefit features, which may entail additional fees on top of the base fee associated with the contract, that they may encourage contract owners to select investment options with relatively higher fees, or that they may offer the contract owner a new contract in place of the one that he or she already owns. Adopting Release at 129.

Note: If you receive compensation in connection with the purchase or sale of securities, you should carefully consider the applicability of the broker-dealer registration requirements of the Securities Exchange Act of 1934 and any applicable state securities statutes.

Description of Other Fees and Costs

- Describe other fees and costs related to your investment advisory services and investments in addition to the firm's principal fees and costs disclosed above that the retail investor will pay directly or indirectly. List examples of the categories of the most common fees and costs applicable to retail investors (e.g., custodian fees, account maintenance fees, fees related to mutual funds and variable annuities, and other transactional fees and product-level fees). [3.A.(ii)]

The SEC recognizes that the "fees and costs that a firm determines to be the most common will vary and depend on particular products and services the firm offers and the fee arrangements associated with those products and services. Generally, in making this determination, firms should consider, for example, the amount of the fee (including whether the fee varies based on options the investor may select such as optional benefits and the investment options that a contract owner may select in the context of variable annuities and variable life insurance products), the likelihood that the fee will be applicable, whether the fee is ordinarily assessed on a significant number of the firm's clients, whether the fee is associated with a product or service that the firm frequently recommends or provides, whether the fee is contingent upon certain events the investor should be made aware of, the effect on returns, and the magnitude of the conflict of interest it may create. For example, advisers should consider discussing commissions that are charged when an investment is bought or sold. Firms that offer an investment that includes a surrender fee—for example, a variable annuity or variable life insurance contract is sold as a long-term investment that may entail relatively high surrender fees—should consider disclosing that a retail investor could be required to pay fees when certain investments are sold." Adopting Release at 130.

With regard to product-level fees, in particular, the SEC states that firms may wish to highlight certain fees such as distribution fees, platform fees, shareholder servicing fees, and sub-transfer agency fees, in order to enhance the retail investor's understanding of these fees to the extent applicable to the client's transactions, holdings, and accounts. [Adopting Release at 130](#).

Additional Information

- State: **You will pay fees and costs whether you make or lose money on your investments. Fees and costs will reduce any amount of money you make on your investments over time. Please make sure you understand what fees and costs you are paying.** [3.A.(iii)]
- Must include specific references (e.g., include hyperlinks, mouse-over windows, or other means) to more detailed information about your fees and costs that, at a minimum, include the same or equivalent information to that required by the Form ADV, Part 2A brochure (specifically Items 5.A., B., C., and D.). [3.A.(iii)]
- Conversation Starter: **Help me understand how these fees and costs might affect my investments. If I give you \$10,000 to invest, how much will go to fees and costs, and how much will be invested for me?** [3.A.(iv)]

The intent of this question is to prompt retail clients to "ask about the hypothetical amount they would pay per year for an account, what would make the fees more or less, and what services they would receive for those fees." The question is "not intended to require firms to generate individualized cost estimates for each particular retail investor." [Adopting Release at 65](#).

However, the SEC notes that the question "will allow financial professionals to tailor the conversation to the particular retail investor even if the financial professional does not provide precise fee information for that individual during the conversation. For instance, if the financial professional intends to recommend mutual funds to the retail investor, he or she may choose to discuss firm- and product-level fees that may apply. The financial professional should be in a position to explain the fees and costs relevant to that particular retail investor if the investor chooses a certain type of account and certain investment, even if the financial professional provides examples and estimated ranges rather than a precise prediction of how much the investor will pay. In addition, the financial professional should explain how those fees and costs will work (for example, whether they are upfront charges, taken out of the initial investment amount, taken out over time, future charges, or charged in another manner) and how the fees and costs could impact the retail investor's investment returns over time. Firms may consider including calculators, charts, graphs, tables, or other graphics or text features to enhance an investor's understanding of these fees. Firms may also consider reviewing with their retail investors the impact of fees on the retail investor's account on a periodic basis."

[Adopting Release at 140-141](#).

Standard of Conduct/Conflicts of Interest

- Standalone advisers (or dual registrant preparing Form CRS as adviser) use heading:

What are your legal obligations to me when acting as my investment adviser? How else does your firm make money and what conflicts of interest do you have? [3.B.]

- Dual registrant that prepares single relationship summary, use heading:

What are your legal obligations to me when providing recommendations as my broker-dealer or when acting as my investment adviser? How else does your firm make money and what conflicts of interest do you have? [3.B.]
- Standalone advisers (or dual registrant preparing Form CRS as adviser) include (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. [3.B.(i)b.]

Note that the language specified above does not include the word "fiduciary." The prescribed statement is intended to use "simplified wording that is short, plain language...but still describes the key components of a broker-dealer's or investment adviser's standard of conduct when providing recommendations or advice." [Adopting Release at 149-150](#). The SEC opted to focus on the term "best interest," and not use the word "fiduciary" in the prescribed statement to be provided by advisers. However, as noted in the Adopting Release and confirmed informally by SEC staff to the IAA, except in the specific instances where language is prescribed, firms may generally use their own wording to address required topics and will have more flexibility to provide accurate information to investors. Accordingly, you may still use the term "fiduciary" in Form CRS to further elaborate on the duties owed to your clients, for example, when discussing your conflicts of interest.
- Dual registrant that prepares a single relationship summary and provides recommendations subject to Regulation Best Interest as a broker-dealer, include (emphasis required):

When we provide you with a recommendation as your broker-dealer or 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 recommendations and investment advice we provide you. Here are some examples to help you understand what this means. [3.B.(i)c.]
- Dual registrant that prepares a single relationship summary and does not provide recommendations subject to Regulation Best Interest as a broker- dealer, include (emphasis required):

We do not provide recommendations as your broker-dealer. When we act as your investment adviser, we have to act in your best interest and not put our interests ahead of yours. At the same time, the way we make money creates some conflicts with your interest. You should understand and ask us about these conflicts because they can affect the services and investment advice we provide you. Here are some examples to help you understand what this means. [3.B.(i)c.]

- If applicable, summarize the following other ways in which you and your affiliates make money from brokerage or investment advisory services and investments you provide to retail investors. Explain the incentives created by each of these examples. [3.B.(ii)]
 - Proprietary Products: Investments that are issued, sponsored, or managed by you or your affiliates. [3.B.(ii)a.]
 - Third-Party Payments: Compensation you receive from third parties when you recommend or sell certain investments. [3.B.(ii)b.]
 - Revenue Sharing: Investments where the manager or sponsor of those investments or another third party (such as an intermediary) shares with you revenue it earns on those investments. [3.B.(ii)c.]
 - Principal Trading: Investments you buy from a retail investor, and/or investments you sell to a retail investor, for or from your own accounts, respectively. [3.B.(ii)d.]
- If none of the above specified conflicts apply to you, summarize at least one other material conflict of interest that affects retail investors. [3.B.(ii)]

The SEC clarifies that this other material “conflict is not limited expressly to financial conflicts” and firms are “not expected to disclose every material conflict of interest, and should instead consider what would be most relevant for retail investors to know in deciding whether to select or retain the particular firm.” [Adopting Release at 161](#).

Firms “with none of the enumerated conflicts should carefully consider their operations in their entirety when selecting a material conflict to disclose to retail investors.” The SEC further noted that while it is “unlikely that a firm will not have any material conflicts to disclose, if this item is inapplicable, firms may omit or modify this disclosure.” [Adopting Release at 157](#).

In addition, according to the Adopting Release, disclosure regarding how conflicts will be mitigated or minimized, or that a particular firm has fewer conflicts than other firms, is not permitted. [Adopting Release at 166](#).

- Conversation Starter: **How might your conflicts of interest affect me, and how will you address them?** [3.B.(iii)]

Additional Information

- Include specific references (e.g., include hyperlinks, mouse-over windows, or other means) to more detailed information about your conflicts of interest that, at a minimum, include the same or equivalent information to that required by the Form ADV, Part 2A brochure. [3.B.(iv)]

Description of How Financial Professionals Make Money

- Heading: **How do your financial professionals make money?** [3.C.]
- Summarize how your financial professionals are compensated, including cash and non-cash compensation, and the conflicts of interest those payments create. [3.C.(i)]

- The description should include, to the extent applicable, whether your financial professionals are compensated based on factors such as: the amount of client assets they service; the time and complexity required to meet a client's needs; the product sold (*i.e.*, differential compensation); product sales commissions; or the revenue the firm earns from the financial professional's advisory services or recommendations. [3.C.(ii)]

Item 4. Disciplinary History

- Heading: **Do you or your financial professionals have legal or disciplinary history?** [4.A.]
- State "Yes" if you or any of your financial professionals currently disclose, or are required to disclose, the following information:
- Disciplinary information in your Form ADV (Item 11 of Part 1A or Item 9 of Part 2A). [4.B.(i)]
- Generally, Form ADV, Part 2A requires disclosure of any legal or disciplinary event, including pending or resolved criminal, civil, and regulatory actions, if it occurred in the previous 10 years, that is material to a client's (or prospective client's) evaluation of the integrity of the adviser or its management personnel. See Amendments to Form ADV, Investment Advisers Act Release No. 3060 (July 28, 2010) [75 FR 49233 (Aug. 12, 2010)] at 22–27. Items 9.A., 9.B., and 9.C. of Form ADV, Part 2A contain a list of disciplinary events that are presumptively material if they occurred in the previous 10 years. However, Item 9 requires that a disciplinary event more than 10 years old be disclosed if the event is so serious that it remains material to a client's or prospective client's evaluation of the adviser and the integrity of its management.*
- Legal or disciplinary history in your Form BD, if applicable (Items 11 A–K) (except to the extent such information is not released to BrokerCheck, pursuant to FINRA Rule 8312). [4.B.(ii)]
- Disclosures for any of your financial professionals in Items 14 A–M on Form U4, or in Items 7A or 7C–F of Form U5, or, if applicable, on Form U6 (except to the extent such information is not released to BrokerCheck, pursuant to FINRA Rule 8312). [4.B.(iii)]
- Form U4 (Uniform Application for Securities Industry Registration or Transfer) requires disclosure of registered representatives' criminal, regulatory, and civil actions similar to those reported on Form BD as well as certain customer-initiated complaints, arbitration, and civil litigation cases.*

Form U5 (Uniform Termination Notice for Securities Industry Registration) requires information about representatives' termination from their employers.

Form U6 (Uniform Disciplinary Action Reporting Form) is used by SROs, regulators, and jurisdictions to report disciplinary actions against broker-dealers and associated persons. This form is also used by FINRA to report final arbitration awards against broker-dealers and associated persons.

- State "No" if neither you nor any of your financial professionals currently disclose, or are required to disclose, the information listed above. [4.C.]

Regardless of your response above (Yes or No):

- Search Tool: Direct the retail investor to visit [Investor.gov/CRS](#) for a free and simple search tool to research you and your financial professionals. [4.D.(i)]
- Conversation Starter: As a financial professional, do you have any disciplinary history? For what type of conduct? [4.D.(ii)]

According to the SEC, firms or financial professionals "have the opportunity to provide more information about and encourage retail investors to ask follow-up questions regarding the nature, scope, or severity of any disciplinary history, so that retail investors have the information they need to decide on a relationship history, so that retail investors have the information they need to decide on a relationship. In particular, financial professionals who themselves have no disciplinary history can make clear that a "Yes" disclosure in response to the heading question relates to the firm and other personnel (if applicable) and not to them." [Adopting Release at 176](#).

Item 5. Additional Information

- State where the *retail investor* can find additional information about your investment advisory services and request a copy of the relationship summary. This information should be disclosed prominently at the end of the relationship summary. [5.A.]
- Include a telephone number where retail investors can request up-to-date information and request a copy of the relationship summary. [5.B.]

If you do not already have a toll-free telephone number, you will not be required to obtain one to comply with the requirements of the relationship summary. You will have the flexibility to decide whether or not the telephone number you provide in your relationship summary will be toll-free.
Adopting Release at 183.

- Conversation Starter: **Who is my primary contact person? Is he or she a representative of an investment adviser or a broker-dealer? Who can I talk to if I have concerns about how this person is treating me?** [5.C.]