

2022, Second Quarter

Compliance Newsletter

Because RIA compliance is constantly changing, we prepare this newsletter to summarize the latest rulings, guidance, proposals, and more from the most recent quarter.

To speak to a compliance expert on any of these topics, please contact us at info@joot.io.

HEADLINE SUMMARY

SEC

- Risk Alert on Investment Adviser MNPI Compliance Issues
- Rules to Require Electronic Filing for Investment Advisers and Institutional Investment Managers
- Updated Electronic Filing Requirements
- Proposed Rule Changes to Prevent Misleading or Deceptive Fund Names
- Proposed Rules to Enhance Disclosures by Certain Investment Advisers and Investment Companies about ESG Investment Practices

- Proposed Rules for the Registration and Regulation of Security-Based Swap Execution Facilities
- Information Requested on Index Providers, Model Portfolio Providers, and Pricing Services

FINRA

- 2022 Industry Snapshot

SEC Issues Risk Alert for Investment Adviser Material Non-Public Information (MNPI) Compliance Issues

The SEC recently issued this risk alert to highlight observations from exams of Section 204A and the Code of Ethics Rule. The deficiencies observed with Section 204A include

- lack of policies and procedures to address the risk of receipt and use of MNPI from alternative data sources;
- lack of policies and procedures related to value-add investors who are more likely to possess MNPI, including officers or directors at a public company, principals or portfolio managers at asset management firms, and investment bankers; and
- lack of policies and procedures related to discussions with expert network consultants who may be related to publicly traded companies or have access to MNPI.

The deficiencies observed with the Code of Ethics Rule include

- not properly identifying access persons;
- access persons not obtaining the required pre-clearance of certain investments;
- lacking evidence of review of holdings and transaction reports, access persons not submitting holdings and transaction reports, and the reports not containing the proper content; and
- lack of written acknowledgement of receipt of the Code of Ethics and any amendments.

For more information: [SEC Risk Alert: Investment Adviser MNPI Compliance Issues](#)

SEC Adopts Rules to Require Electronic Filing for Investment Advisers and Institutional Investment Managers

The SEC has adopted amendments to require certain file applications and documents filed by investment advisers, institutional investment managers, and certain entities to submit reports electronically through the EDGAR system. The rule requires Form ADV-NR to be filed through IARD, rather than in paper format. In addition, the rule amends Form 13F filings to include the firm's CRD and SEC number, permits a firm to include the security's FIGI in addition to the CUSIP, and amends the instructions for confidential treatment requests.

For more information: [SEC Adopts Rule Requiring Electronic Filing for Investment Advisers and Institutional Investment Managers](#)

SEC Updates Electronic Filing Requirements

The SEC has adopted amendments to require certain forms that are currently filed by paper to be filed and submitted electronically through EDGAR. The amendments require electronic submissions of the annual report, certifications of approval of exchange listing, the use of Inline XBRL for filing financial statements, and accompanying notes in Form 11-K and report filings from foreign private issuers. The final amendment includes an extensive list of rules and forms that are affected.

For more information: [SEC Updates Electronic Filing Requirements](#)

SEC Proposes Rule Changes to Prevent Misleading or Deceptive Fund Names

The SEC proposed amendments to enhance and modernize the Investment Company Act “Names Rule” (Rule 35d-1). The goal of these amendments is to address changes in the fund industry and compliance practices that have developed since the rule was first adopted. The proposal aims to enhance the rule’s protections by requiring more funds to adopt the 80 percent investment policy. The amendment would extend the requirement for any fund name with terms suggesting that the fund focuses on characteristics when making investments. Additionally, the amendments would limit temporary departures from the 80 percent investment requirement and clarify the rule’s treatment of derivative investments.

For more information: [SEC Proposes Rule Changes to Prevent Misleading or Deceptive Fund Names](#)

SEC Proposes Rules to Enhance Disclosures by Certain Investment Advisers and Investment Companies about ESG Investment Practices

The SEC proposed amendments to promote consistent and comparable information relating to funds’ and advisers’ incorporation of environmental, social, and governance (ESG) factors. The proposal seeks to categorize certain types of ESG strategies broadly. Funds and advisers would be required to disclose the ESG strategies in the fund prospectuses, annual reports, and adviser brochures. The proposal also includes ESG reporting on Forms N-CEN and ADV Part 1A.

For more information: [SEC Proposes Rule to Enhance Disclosure about ESG Investment Practices](#)

SEC Proposes Rules for the Registration and Regulation of Security-Based Swap Execution Facilities

The SEC proposed a new rule, Regulation SE, that would require registration and regulation of security-based swap execution facilities (SBSEFs). The rule would implement trade execution requirements for security-based swaps and address the cross-border application of that requirement; address conflicts of interest at SBSEFs; and promote consistency between the proposed rule and existing Exchange Act rules.

For more information: [SEC Proposes Rules for the Registration and Regulation of Security-Based Swap Execution Facilities](#)

SEC Requests Information on Index Providers, Model Portfolio Providers, and Pricing Services

The SEC is requesting information on activities of certain “information providers,” including index providers, model portfolio providers, and pricing services. The goal is to determine whether these information providers are acting as investment advisers. If investment adviser status is determined, these information providers could face regulatory implications, including registration under the Investment Advisers Act of 1940.

For more information: [SEC Requests Information on Index Providers, Model Portfolio Providers, and Pricing Services](#)

FINRA

FINRA Publishes 2022 Industry Snapshot

FINRA published the annual statistical report that provides a high-level overview of the industry. The report includes a number of registered representatives, overall revenue of brokerage firms, and trading activity. This year FINRA added information on special purpose acquisition companies, customer margin debt, and the Consolidated Audit Trail.

For more information: [FINRA Publishes 2022 Industry Snapshot](#)

About Joot

Joot is a fintech company that provides web-based technology and services to registered investment advisers, broker-dealers, and funds. Joot's clients include retail advisers, institutional managers, private fund managers, and mutual fund advisers.

For more information about us, please visit our website at joot.io or contact us at info@joot.io.

