

Quarterly Compliance Newsletter

2020, Third Quarter

Because compliance is constantly changing and evolving, we prepare this newsletter to keep you apprised of the latest rulings, guidance, proposals and more from the most recent quarter.

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

** Update on COVID-19 Regulatory Relief **

SEC

- SEC Amends the Accredited Investor and Qualified Institutions Buyer Definitions
- SEC Adopts Amendments to Proxy Voting Rules
- SEC Adopts Amendments to Exemptive Applications Procedures
- SEC Adopts Amendments to Modernize Shareholder Proposal Rule
- SEC Proposes Amendments to Update Form 13F
- SEC Proposes Amendments to Modernize Fund Shareholder Reports
- SEC Issues Risk Alerts for Ransomware and Safeguarding Client Accounts
- SEC Issues Risk Alert for Covid-19 Compliance Risks
- SEC to Host Roundtable on Regulation Best Interest and Form CRS
- SEC Expands Whistleblower Program

FINRA

- FINRA Launches New Online Filing Process for U4s

**** Update on COVID-19 Regulatory Relief ****

The SEC, FINRA, and CFTC continue to provide temporary relief of certain regulatory obligations and guidance due to the pandemic. The regulators have also let some of the temporary relief expire. Here is a list of some of the items that are noteworthy from the recent quarter or are still in place:

SEC:

- Relief from mailing certain regulatory communications to shareholders who have addresses outside of the United States [still in place]
- Extended relief from certain notarization requirements and paper format submissions of regulatory documents [still in place]
- Extended relief from conducting required in-person meetings (such as Board meetings) [still in place]

FINRA:

- How to document reliance on temporary relief provided as a result of the pandemic [new]
- Updated process for reliance on the temporary relief from fingerprint requirements [new]
- Relief from verification of certain Form U4 information [new]
- Extending the timeframe (enrollment window) for passing certain qualification examinations [still in place]

CFTC:

- Relief from fingerprint requirements [new]
- Extension of comment periods for rulemaking [new]

Each regulator has a website page that provides information on the guidance or temporary relief that has been issued: [SEC Pandemic Information](#) | [FINRA Pandemic Information](#) | [CFTC Pandemic Information](#)

SEC

SEC Amends the Accredited Investor and Qualified Institutions Buyer Definitions

The SEC adopted amendments to the accredited investor and qualified institutional investor definitions. For the accredited investor definition, the changes add a new category to the definition that permits individuals to qualify as accredited based on certain professional designations or certifications, such as the Series 7 or Series 65. The definition now includes certain family offices, knowledgeable employees, and a new “spousal equivalent” term that may allow investors to pool money with their spouse to meet the accredited qualification. The amendments also expand the definition of “qualified institutional buyer” in Rule 144A under the Securities Act of 1933 to include certain limited liability companies and rural business investment companies (RBICs), among other groups. These amendments are long overdue and should expand the potential investor pool for private funds and venture capital.

For more information: [SEC Final Rule for Accredited Investor Definition](#)

SEC Adopts Amendments to Proxy Voting Rules

The SEC adopted amendments to the rules governing proxy solicitations. The amendments are designed to help clients that utilize proxy voting advice firms to have access to more transparent, accurate, and complete information for voting decisions. The SEC is also amending the definition of “solicit” and “solicitation” to codify its longstanding view that proxy voting advice constitutes a solicitation per the applicable rules of the Securities and Exchange Act of 1934. The SEC also supplemented prior guidance to investment advisers regarding their proxy voting responsibilities. If you vote proxies for your clients, make sure to review the new rule and the guidance.

For more information: [SEC Final Rule for Proxy Voting](#)

SEC Adopts Amendments to Exemptive Applications Procedures

The SEC adopted rule amendments that will establish an expedited process for exemptive and other applications under the Investment Company Act of 1940. Requests that are identical to recent precedent or are routine should be reviewed more quickly while requests that are not deemed expedited will follow a more formal timeline for review by the SEC. These amendments are good news, especially for those situations involving routine requests that are almost guaranteed to be approved but still must go through the review process.

For more information: [SEC Final Rule for Exemptive Applications](#)

SEC Adopts Amendments to Modernize Shareholder Proposal Rule

The SEC adopted rule amendments that will change the process for a shareholder to have its proposal included in a company’s proxy statement for consideration by all of the company’s shareholders. The amendments generally increase the requirements of holding periods and dollar amounts of company stock held by an investor before submitting a proposal to shareholders. The changes also increase the levels of shareholder support a proposal must receive to be eligible for resubmission at the company’s future shareholder meetings. In summary, a shareholder will need to have a greater financial commitment to the company before it can propose any changes to other shareholders.

For more information: [SEC Final Rule for Shareholder Proposals](#)

SEC Proposes Amendments to Update Form 13F

The SEC proposed changes to amend Form 13F to update the reporting threshold dollar amount and increase the amount of information included on the form. The threshold amount has not changed in over 40 years! Since 1978 when the threshold was initially established, U.S. equity markets have grown over 30 times. The proposed rule would raise the reporting threshold from \$100 million to \$3.5 billion. Investment advisers would also have to report small positions and report additional numerical identifiers on the Form 13F. The proposed rule would also require the SEC to revisit the threshold every five years. We are crossing our fingers, hoping that this proposal is adopted and eliminates this filling for many smaller advisers.

For more information: [SEC Proposed Rule for Form 13F](#)

SEC Proposes Amendments to Modernize Fund Shareholder Reports

The SEC proposed modifications to the mutual fund and exchange-traded fund disclosure framework to better serve the needs of retail investors. The proposed disclosures would modify shareholder reports to highlight important information to help retail investors assess and monitor fund investments. The emphasis would be included for items such as expenses, performance, and material fund changes. Additionally, funds would be encouraged to use graphics or text features to promote effective communication. The proposal also includes amendments that would allow funds to provide shorter versions of shareholder reports to investors and remove the requirement that annual prospectus updates be provided to investors (with the information instead of being available by request or online). In this case, less is probably better given the amount of information retail investors receive from fund shops. This proposal should get a lot of support from the industry.

For more information: [SEC Proposed Rule for Fund Shareholder Reports](#)

SEC Issues Risk Alerts for Ransomware and Safeguarding Client Accounts

OCIE issued two separate risk alerts regarding ransomware attacks and safeguarding client accounts against credential compromise. The ransomware alert noted an increase in the sophistication of ransomware attacks and encouraged firms to monitor the cybersecurity alerts published by the Department of Homeland Security Cybersecurity and Infrastructure Security Agency (CISA). The other alert describes "credential stuffing," which is a cybersecurity attack that uses compromised client login credentials to access personal information and customer assets. Both alerts reemphasized some of the best practices that firms can follow to prevent ransomware, credential stuffing, and other cybersecurity attacks. If it has been a couple of years since you reviewed your cybersecurity program, its time you take a close look at the procedures you have in place.

For more information: [SEC Risk Alert for Credential Stuffing](#) | [SEC Risk Alert for Ransomware](#)

SEC Issues Risk Alert for Covid-19 Compliance Risks

OCIE issued a risk alert regarding Covid-19 related issues, risks, and practices relevant to investment advisers and broker-dealers. The observations and recommendations include protecting investor assets, supervision of personnel, and business continuity. The alert has a few suggestions about a firm's policies and procedures and changes that may need to be made as more firms move to a (temporary) remote environment. We recommend using this risk alert as a "checklist" for firms to review current procedures and processes to determine if any of the items are applicable.

For more information: [SEC Risk Alert for Covid-19 Risks](#)

SEC to Host Roundtable on Regulation Best Interest and Form CRS

The SEC and FINRA will be hosting a roundtable on Regulation Best Interest and Form CRS on October 26, 2020, that will discuss the regulators' initial observations regarding the new rules. The roundtable will be held by remote means, open to the public via live webcast, and archived for later viewing. The event will take place from 1:00 to 3:00 pm ET. It will be interesting to hear what the regulators have to say about the new rules.

For more information: [SEC Roundtable for Reg BI and Form CRS](#)

SEC Expands Whistleblower Program

The SEC adopted amendments to the rules governing its whistleblower program that are designed to provide greater clarity to whistleblowers and increase the program's efficiency and transparency. The SEC also published guidance regarding the process for determining award amounts for eligible whistleblowers. The amendments include changes to how rewards are determined, further defining the term "whistleblower," and changes to the award determination process.

For more information: [SEC Expands Whistleblower Program](#)

FINRA

FINRA Launches New Online Filing Process for U4s

Beginning October 31, FINRA Gateway users can choose the new online filing process for initial U4s and amendment U4s. All U4 filing types will continue to be available via classic CRD. Once available, FINRA encourages firms to use the new online filing process and provide feedback. This is another piece to FINRA's overhaul of the Gateway web portal.

For more information: [FINRA Online Filing Process for U4s](#)

About Joot

Joot is a fintech company that provides web-based technology and services to registered investment advisers, broker-dealers, and funds. Joot has over 40 clients around the U.S. who collectively manage over \$33 billion. 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 www.joot.io or contact us at info@joot.io.