

## Preparing for Form CRS

By Amber Allen

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As the year comes to a close, many firms have started preparing for Form CRS, a new disclosure form that registered investment advisers and broker-dealers (collectively, “firms”) are required to file with the SEC by June 30, 2020.

Form CRS, also referred to as the “Client Relationship Summary” or “ADV Form 3,” is a prescribed two-page document designed to assist retail investors in determining whether to engage, continue engaging, or terminate services provided by firms. Form CRS requirements apply in addition to existing disclosure and reporting requirements for firms.

**Not sure where to start?** The summary below provides an overview of the requirements and the attached template is designed to jumpstart your drafting process.

### Overview of Form CRS Requirements

#### Scope

SEC-registered investment advisers and SEC-registered broker-dealers that offer services to retail investors must comply with Form CRS and its related rules, which require firms to file and deliver a relationship summary. Firms that do not have any retail investors are not required to prepare or file Form CRS.

#### Format

Form CRS must be written in plain-English and provide a summary of the client relationship and certain information about the firm, including:

1. Introduction;
2. Summary of relationship and services;
3. Fees, costs, conflicts, and standard of conduct;
4. Disciplinary history of the firm and its associated persons; and
5. How to obtain additional information about the firm.

#### Initial Filings

Investment advisers must file Form CRS must be filed in a text-searchable format through the Investment Adviser Registration Depository (“IARD”) as Form ADV Part 3. Broker-dealers must make the filing through CRD. Firms currently registered with the SEC may submit initial Form CRS filings as early as May 1, 2020, but no later than June 30, 2020. Investment advisers that file an application to register with the SEC on or after June 30, 2020 will be required to include Form CRS as part of their initial filing submission. Broker-dealers applying for registration on or after June 30, 2020, must file their Form CRS on or before the date their registration becomes effective.

#### Form CRS Delivery

##### *Recipients*

Form CRS must be delivered to all retail investors or, in the case of broker dealers, retail customers. The term “retail investor” is defined as “natural person, or legal representative of such natural person, who seeks to receive or receives services primarily for personal, family or household purposes.”<sup>1</sup>

There is not an exemption for high-net-worth clients.

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#### *About the Author*

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1. <https://www.sec.gov/rules/final/2019/34-86032-appendix-b.pdf>

While the definition excludes natural persons seeking services for commercial or business purposes, firms are still required to deliver Form CRS if a natural person is seeking services for a mix of both personal and other purposes, such as a business. If a firm is unsure of the purpose for which a person is seeking services, the firm should treat the person as a retail investor and deliver Form CRS.

### ***Timing of Delivery***

Firms must complete initial delivery of Form CRS to existing retail clients and investors within 30 days after the date the firm was first required to electronically file. Therefore, firms currently registered with the SEC will be required to deliver Form CRS to existing retail investors by July 30, 2020.

After the initial filing, investment advisers must deliver Form CRS to each retail investor prior to, or contemporaneous with, execution of the investment advisory agreement. Broker-dealers must deliver Form CRS before or when the retail customer first engages the firm's services.

Dual Registrants must deliver Form CRS at the earlier of the above.

In addition to the above, firms are required to deliver, free of charge, Form CRS to a retail investor who is an existing client or customer prior to or when:

1. A new account is opened that is different from the retail investor's existing accounts;
2. The firm makes a "roll over" recommendation; and / or
3. Recommends or provides certain new services.

Firms must also respond to retail investor's requests for Form CRS within 30 days of the request.

### ***Subsequent Amendments***

Firms are required to amend and file the relationship summary within 30 days of any information becoming "materially inaccurate." Such amendment must be accompanied by an exhibit highlighting changes, which may be completed by redlining the changes or providing a summary thereof.

Firms must alert existing retail investors of the amendment within 60 days after the updates are required by either delivering the amended Form CRS or describing the amendment through another required disclosure, such as in the ADV Part 2.

### ***Methods of Delivery***

All firms subject to Form CRS are required to clearly post the most recent version in a location available to users on the firm's public website, if the firm has one.

*Electronic delivery:* The initial and subsequent delivery requirements of Form CRS may be completed electronically so long as such delivery is consistent with prior SEC guidance. When completing electronic delivery, firms must present the information prominently and in an easily accessible manner for retail investors, such as in the body of an email or by providing a direct link.

*Paper delivery:* Firms may complete delivery by providing hardcopies of Form CRS. If Form CRS is provided as part of paper packet, then it must be the first document. For example, advisers may not attach Form CRS to the back of the advisory agreement.

### **Next Steps:**

While six months may seem to be plenty of time to prepare two-page document, firms should consider additional action that may be required:

1. Drafting and filing Form CRS;
2. Updating the firm website to include Form CRS;
3. Training personnel on Form CRS, new delivery obligations, and procedures for responding to "conversation starters" prescribed by the Form;
4. Updating the compliance manual to address filing and delivery of Form CRS;
5. Preparing list of retail investors to whom the firm must deliver Form CRS; and
6. Completing initial delivery.

## Sample Form CRS Disclosure for Investment Adviser Only

By Nick Byrne and Amber Allen

**Item 1 - Introduction:** [Firm] is an SEC-registered investment adviser that provides advisory services. Brokerage and investment advisory services and fees differ and it is important for you to understand the differences. (Item 1, §A). Free and simple tools are available to research firms and financial professionals at [invest.gov/CRS](http://invest.gov/CRS), which also provides educational materials about broker-dealers, investment advisers, and investing. (Item 1, §B).

### Item 2 – Relationship Services

*What investment services and advice can you provide me?*

**We offer investment advisory services to retail investors.** As part of these services, we offer [add brief summary of types of services, accounts, and/or investments already referenced in ADV Part 2A, Item 4]. [Describe principal advisory services offered to retail investors]. We [provide / do not provide] the following services, which [are / are not] part of our standard services: (Item 2, §B).

Monitoring	Explain if you monitor retail investors' investments, including the frequency and any material limitations. If so, indicate if the services described in response to this Item 2.B.(i) are offered as part of your standard services.
Investment Authority	For investment advisers that accept discretionary authority, describe those services and any material limitations on that authority. The summary must include the specific circumstances that would trigger this authority and any material limitations on that authority (e.g., length of time). For investment advisers that offer nondiscretionary services and broker-dealers, explain that the retail investor makes the ultimate decision regarding the purchase or sale of investments.
Investment Offerings	Explain whether 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.
Requirements	Explain whether 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. the services described in response to this Item 2.B.(i) are offered as part of your standard services.

For additional information, see [insert references to more detailed information about your services that include the same or equivalent information to that required by Form ADV Part 2A brochure]. (Item 2, §C).

#### Key questions to ask:

- Given my financial situation, should I choose an investment advisory service? Why or why not?
- How will you choose investments to recommend to me?
- What is your relevant experience, including your licenses, education and other qualifications? What do these qualifications mean?

#### About the Authors

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### Item 3 – Fees, Costs, Conflicts, and Standard of Conduct

*What fees will I pay?*

[Summarize principal fees and costs, including how frequently assessed and related conflicts.] (Item 3, §A.(i)) [Describe ongoing asset-based fees, fixed fees, wrap program fees, or other direct fee arrangements.] (Item 3, §A.(i)b). [Include information about each fee disclosed in Form ADV applicable to retail investors. If Wrap Program fees, explain that fees include most transaction costs and fees to brokerdealer or bank that maintains custody and thus are higher than typical asset-based advisory fee]. (Item 3, §A.(i)b(1)) [For example, an adviser with an asset-based fee may disclose: “Advisory fees are asset based. Thus, the more assets there are your advisory account, the more you will pay in fees; thus, the firm may have an incentive to encourage you to increase the assets in your account.”] (Item 3, §A.(i)b(2)). Client will pay the following fees directly / indirectly [insert fees client will pay directly or indirectly]. The following categories are the most common fees and costs applicable: [insert description of common fees incurred by retail investors, such as custodian fees, account maintenance fees, fees related to mutual funds and variable annuities, and other transactional fees and product-level fees]. (Item 3, §A.(ii))

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. For additional information, please see [insert references/link to more detailed information about your services that include the same or equivalent information to that required by Form ADV Part 2A (particularly Items 5.A., B., C., and D)]. (Item 3, §A.(iii))

**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? How much will be invested for me?**

*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?*

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. (Item 3, §B.(i)b) [If applicable, summarize the following ways you and your affiliates make money from advisory services and investments provided to retail investors and explain incentives created by each: (a) *Proprietary Products*; (b) *Third Party Payments*; (c) *Revenue Sharing*; and (d) *Principal Trading*. If none of these conflicts exist, summarize at least one other material conflict of interest that affects retail investors]. (Item 3, §B.(ii)) More information about our conflicts is available [insert description / specific references to more detailed information about your conflicts and ensure anything in Part 2A is included]. (Item 3, §B.(iv))

**How might your conflicts of interest affect me and how will you address them?**

*How do your financial professionals make money?*

Our financial professionals are compensated based on [insert description, including cash and non-cash compensation, and if compensation based on factors like: amount of client assets, time and complexity required to meet client’s needs, products sold, commissions, or revenues from financial professional’s services or recommendations]. This receipt of payment creates a conflict of interest because [insert description of conflict(s)]. (Item 3, §C.(i-ii))

### Item 4 – Disciplinary History

*Do you or your financial professionals have legal or disciplinary history?*

[Yes/No]. A free and simple search tool to research us and our financial professionals is available at [investor.gov/CRS](https://investor.gov/CRS).

**As a financial professional, do you have any disciplinary history? For what type of conduct?**

Additional information about our investment advisory services and an up-to-date copy of the relationship summary is available by contacting us at [insert telephone number].

**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?"**

**Prescribed section header**

*Prescribed information and/or disclosures*

Text written by your firm in response to the prescribed

**Highlighted conversation starters for retail investors to ask their investment adviser**

**Disclosure:** *This document is provided by Fairview Investment Services, LLC, for informational purposes only. Form CRS must be tailored to meet the needs of each investment adviser and / or broker-dealer. Required disclosures for broker-dealers differ from those shown above.*