



Infinex Financial Group
located at Jewett City Savings Bank
Tomasz Kosek
Investment Executive
111 Main Street
Jewett City, CT 06351
860-376-7149
tomkosek@infinexgroup.com
www.jcsbank.com/investments.html



Working with a Financial Professional: Your Interests Come First



Regulation Best Interest ("Reg BI"), Form CRS, and What It All Means for You

In these uncertain times, the value of objective financial guidance cannot be overestimated, and the importance of the financial profession has never been more apparent. Regulatory changes initiated well before any of us had even heard the phrase "social distancing" are now in effect, establishing a new landscape that governs the relationship between those who seek financial guidance and those who provide such services.

June 30, 2020, marked the implementation date of regulations passed by the Securities and Exchange Commission (SEC) more than a year ago. Called "Regulation Best Interest" or "Reg BI," the rules include a new standard of care for broker-dealers, as well as new disclosure and compliance obligations. You will see some of the changes manifested in a new standard communication — a customer relationship summary called Form CRS, required under a separate regulation issued by the SEC — that your broker-dealer and/or investment adviser will provide.

There is a lot to Reg BI and Form CRS, but it really boils down to one thing — transparency. Here are three things you need to know about how the new rules specifically affect you as an investor.

When you work with a financial professional, what duty of care applies?

What you should know

If the financial professional you are working with is an Investment Adviser Representative (that is, associated with a Registered Investment Adviser, or RIA), the individual is a fiduciary. That basically means the financial professional has to act on your behalf, serving your interests first — providing advice that puts your interests before his or her own interests (for example, factoring in costs associated with product and account recommendations) and eliminating or disclosing any conflicts of interest.

Historically, financial professionals associated with broker-dealers were held to a "suitability" standard, essentially requiring a reasonable basis to believe a recommended transaction or strategy be suitable, given factors that include your investment portfolio, age, experience, risk tolerance, liquidity needs, objectives, and time frames. The new rules, as the name Regulation Best Interest implies, now impose a requirement that a broker-dealer must have a reasonable basis to believe that a recommendation is in your best interest, considering a number of different factors.

Why does it matter?

If you worked with a broker-dealer while the suitability standard was still in place, does this mean any advice or recommendations you received weren't in your best interests? Not at all. It just means the standard that would apply in reviewing those recommendations was different. The new standard makes clear that broker-dealers cannot place their interests before yours.

How might that happen? One example could be the temptation to recommend a product with a higher commission over one that pays a lower commission. The new rules make it clear that any recommendation or advice you receive from a financial professional comes with a clear understanding that your needs and interests come first.

Disclosing conflicts of interest

What you should know

Reg BI requires broker-dealers to establish, maintain, and enforce written policies and procedures that are reasonably designed to address conflicts of interest associated with recommendations to retail customers. This means:

- Identifying and disclosing all conflicts of interest associated with recommendations if those conflicts of interest cannot be eliminated. This includes anything that could create an incentive for an

associate financial professional to recommend something that might not put your interests first (for example, with the issue of product commissions mentioned above, a higher commission has the potential to influence a product recommendation)

- Disclosing when recommendations are based on a limited product menu or restricted to proprietary product offerings
- Eliminating sales contests, quotas, bonuses, and other policies that could potentially influence the recommendations made

RIAs, as part of their fiduciary duty, already have a similar obligation to disclose any conflicts of interest that could potentially impact the advice or recommendations they provide to clients.

Initial disclosures of any conflicts of interest are included in Form CRS, discussed below.

Why does it matter?

It's all about transparency. The fact that your financial professional recommends a product with a higher commission payout doesn't mean the recommendation isn't in your best interest. But you should have as much information as possible in understanding and evaluating the recommendation. Similarly, a financial professional may recommend a product that, among all available options, is the best fit for your situation. If, however, the options he or she is selecting from involve a limited set of proprietary products, you should know that as well.

Form CRS

What you should know

Under Reg BI, both broker-dealers and SEC-registered RIAs must create and make available a customer relationship summary — Form CRS. Firms had until June 30, 2020, to file the form with the SEC, and then have 30 days from the time of filing to provide the form to investors. Each firm also must post the form on its website.

The SEC requires Form CRS to be concise — no more than two pages — and written in easily understandable terms. (Firms that are dually registered as a broker-dealer and an investment adviser may choose to send out a four-page Form CRS or separate two-page forms.) Each form will explain whether the firm is a broker-dealer, an RIA, or both; the types of services offered; fees, costs, potential conflicts of interest, and the standard of conduct under which they operate; and whether there is any disciplinary history.

Why does it matter?

In addition to sending you the initial Form CRS, broker-dealers and SEC-registered RIAs will send you a new form if you open a new account, when a rollover from a retirement account is recommended, when new services or products are provided, and when the firm makes material changes to its Form CRS.

When you receive Form CRS, you should take the time to read and understand it. The whole point of the Form CRS requirement is to provide the information you need to help evaluate your relationship with your financial professional and his or her firm. If there is anything you have questions about or do not understand, reach out to your financial professional.

For more information

The SEC has created a website designed to help investors understand how to use Form CRS. The site includes a video introduction by Jay Clayton, chairman of the U.S. Securities and Exchange Commission, and links to educational resources. For more information, visit

investor.gov/home/welcome-investor-gov-crs.

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