

Complying with “the Rule”: The DOL Conflict of Interest Rule’s impact on data and systems

Introduction

On April 8, 2016, the Department of Labor (DOL) published the final version of the Conflict of Interest Rule (“the Rule”) to the Federal Register. The Rule has an initial and partial compliance date of April 10, 2017, and a full compliance date of January 1, 2018.

Key components of the Rule cover an expanded definition of a fiduciary, prohibition of conflicts of interest, and the provision of permissible exemptions (e.g., Best Interest Contract Exemption, Principal Trading Exemption, 84-24 Exemption).

As financial services firms finalize their target business models and identify the needed capabilities to become compliant, it’s becoming increasingly clear that this Rule will have an end-to-end impact on the data and systems that support their businesses.

Whether you’re a broker dealer, an asset manager, an insurance company, or all three, the impacts will be significant. So how much time do you really have to design and implement technology and data management solutions that will support compliance with the Rule?

Implementation considerations of the impact to data and systems

The requirements of the Rule have an end-to-end impact on a firm’s technology infrastructure. Key systems that will potentially be affected include:

- Account services and CRM
- Trade order management
- Books, records, and document management
- Alerts and reporting
- Monitoring and supervision

Complying with “the Rule”

The Rule will require firms to assess the impact on the capabilities that support their end-to-end business model, define the functional needs that need to be built or enhanced, and determine the technical considerations that will need to be built to meet the requirements.

In addition, firms will need to account for competing pre-existing strategic and business-as-usual initiatives, as well as year-end technology and business blackout periods.

Assessing impact to capabilities

Each organization’s target business models will determine which capabilities need to be enhanced or built. The most impacted capabilities will likely be those that are key to the following business processes:

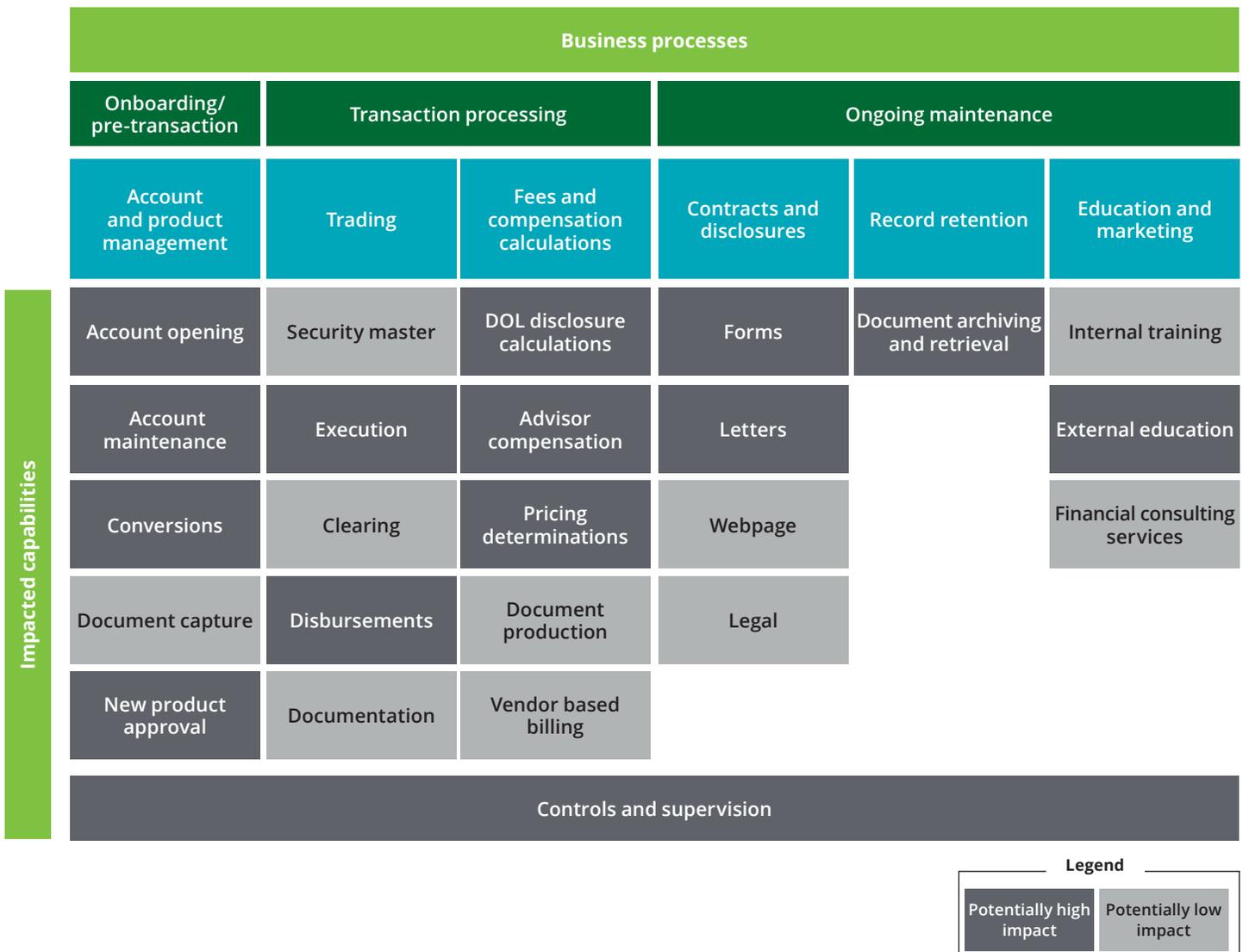
- *Onboarding/pre-transaction* covering account and product management
- *Transaction processing* covering trading and fees/compensation calculations
- *Ongoing maintenance* of contracts, disclosures, record retention, and education and marketing

- *Supervision and surveillance infrastructure*, including transaction monitoring, account/program selection, compensation programs, and adherence to the firm’s anti-conflicts policy

Each firm needs to perform an assessment of the impacts to the capabilities and prioritize those impacts.

Figure 1 is an illustrative example of what a firm’s analysis of the impact to its capabilities may look like.

Figure 1: Example of impact to capabilities



Complying with “the Rule”

Defining the functional requirements

Once the impacted capabilities have been identified and prioritized, the functional requirements to enable compliance with the Rule need to be documented. For a firm, there could be well over a hundred functional requirements that need to be

documented. Account opening alone could have close to 10 functional requirements that need to be addressed.

Figure 2 is an illustrative example of some of the requirements that a firm may need to document for its account opening capability.

Figure 2: Example of functional requirements for account opening

Capability	Functional requirements
Account opening	<ul style="list-style-type: none">• Is the DOL Rule applicable to the account?• Define which accounts can utilize the BIC or PTE at the account, Investment Professional, firm, etc. as applicable• Identify when account utilizes BIC or PTE• Provide notification to approvers of new accounts opened as DOL Rule type and/or BIC/PTE level accounts• Connect multiple accounts by client, Investment Professional, and firm (ability should exist to perform manually and systematically)• Route accounts opened as DOL Rule type and/or BIC/PTE level accounts for approval• Identify accounts that have been approved for BIC/PTE• Incorporate changes to existing field-level options or indicators in applicable workflow, rules engine, and reporting that are triggered by these fields/indicators downstream• Document that signed contract is in place for new accounts and contract receipt and acceptance dates

Documenting the data requirements and enhancements to systems impacted

After the functional requirements are documented and approved by the key business, legal, compliance, and technology

stakeholders, the impact to systems that will enable capture of data and additional functionality needs to be assessed.

Figure 3 is an illustrative example of the impacts to a firm's technology infrastructure. Figure 4 is an illustration of the overlay of data and functionality requirements across the infrastructure.

Figure 3: Example of impact to technology infrastructure

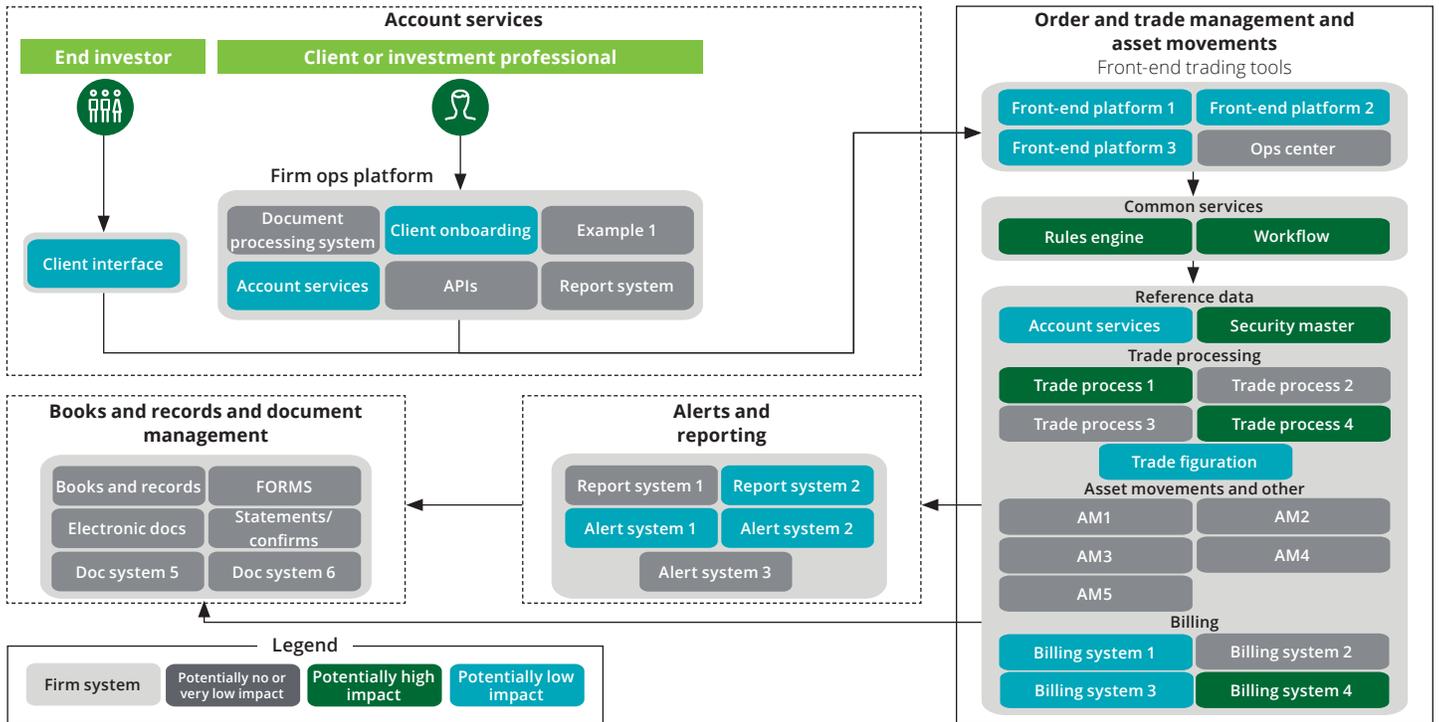
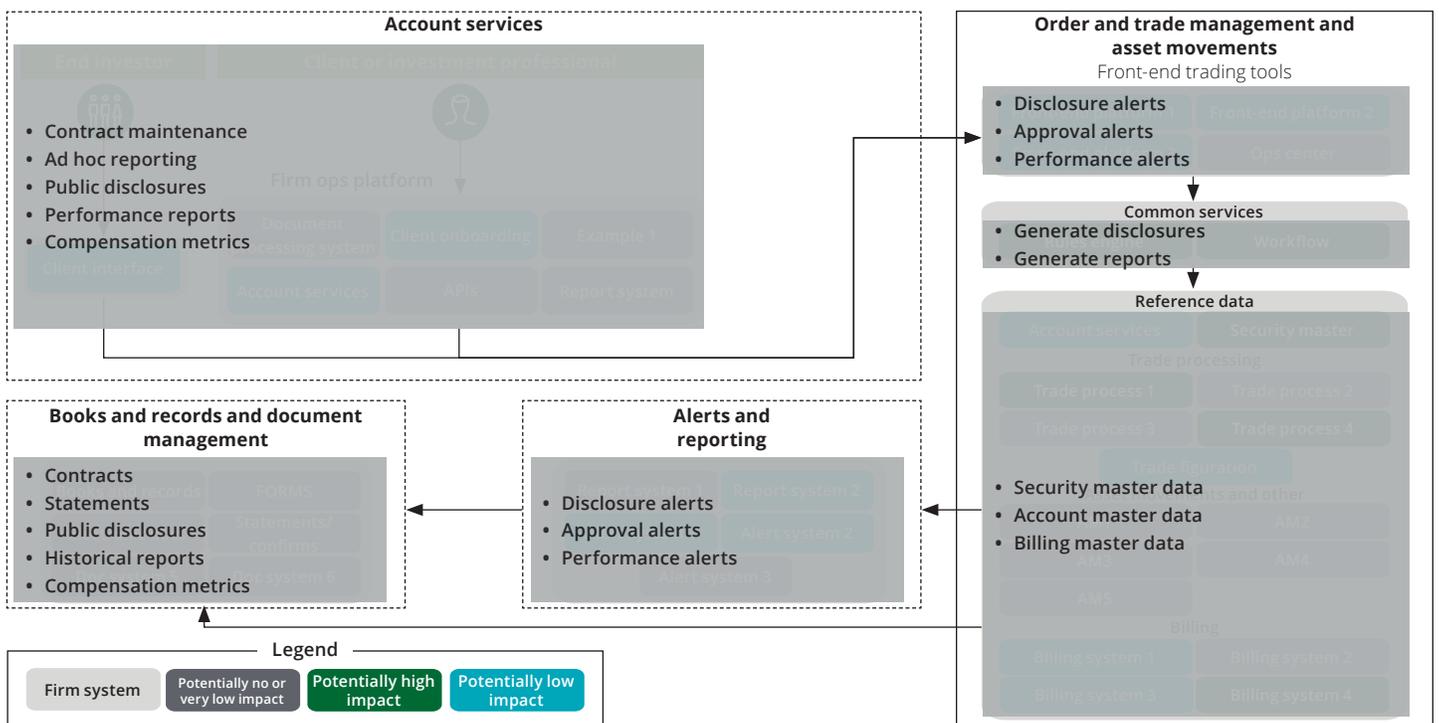


Figure 4: Example of overlay of requirements on technology infrastructure



Complying with “the Rule”

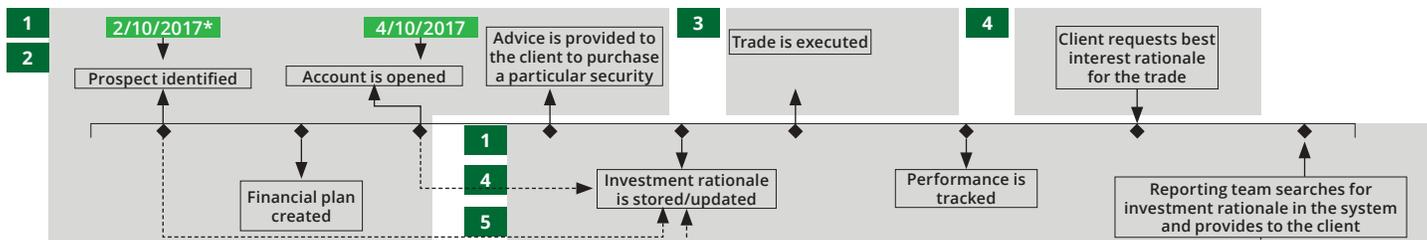
Implementation timeline considerations

Though the implementation date for the Rule is April 10, 2017, lead time for prospecting should be factored in. A two-month lead time to open a new account would mean that by February 10, 2017, some functionality,

such as tracking of recommendations and key investment decisions, should be in place. In addition, time should be factored in for the technology build as well as competing technology priorities and year-end blackout dates.

Figure 5 is an illustration of the timeline for BIC exemption implementation and the impacted systems.

Figure 5: Example of impact of BIC exemption implementation



* Assuming two months lead time to close a prospect

- 1** Client interfacing systems (CIS) **2** Prospecting & account opening systems (POAS)
- 3** Trade order management systems (TOMS) **4** Data repositories (DS) **5** Client reporting systems (CRS)

#	BIC considerations	1. CIS	2. POAS	3. TOMS	4. DS	5. CRS	#	BIC considerations	1. CIS	2. POAS	3. TOMS	4. DS	5. CRS
1	Written acknowledgement of fiduciary status	✓	✓		✓	✓	9	Level fee fiduciary disclosures	✓	✓	✓	✓	✓
2	Adhering to the impartial conduct standards	✓		✓	✓		10	Acting in good faith and failure to disclose	✓			✓	✓
3	New contract creation	✓	✓		✓		11	Compliance with proprietary products and third-party payments	✓	✓		✓	✓
4	Amendment of existing contracts	✓	✓		✓		12	Disclosures to the department				✓	
5	Warranties	✓			✓	✓	13	Recordkeeping	✓	✓	✓	✓	✓
6	Contract disclosures	✓		✓	✓	✓	14	Insurance and annuity contracts considerations	✓	✓	✓	✓	✓
7	Transaction disclosures	✓		✓	✓	✓	15	Pre-existing transactions/grandfathering considerations	✓	✓	✓	✓	
8	Web disclosures	✓	✓	✓	✓	✓							

Complying with “the Rule”

What should a firm consider doing now?

Professionals responsible for data and technology should obtain key operating model decisions from firm leadership (e.g., which exemption(s) will be employed, decisioning on grandfathering, asset restrictions) as soon as possible. They should then assess the impact to their data and systems as they make decisions around prioritization for Day 1, must-haves versus nice-to-haves, and coordination with vendors, to name just a few issues. Some key questions to consider include:

- What are the capabilities that need to be built or enhanced for the various business scenarios selected by firm leadership?
- What are the functional requirements that are needed for compliance with the Rule?
- Where in the technology infrastructure will the requirements be implemented?
- Who are the key vendors who need to be partnered with? What is their implementation schedule?
- What are the resource (internal and external) investments that need to be made?
- What are the competing technology initiatives and how are they prioritized? Are there any scheduling conflicts?
- What governance and supervision controls need to be built or enhanced?
- Does the current structure around escalation, prioritization of “must-haves,” and funding need to be enhanced?
- What documentation is required to substantiate a defensible program? How long does it need to be retained?
- Are the current change management processes adequate to ensure cohesive interconnectivity across business, legal, compliance, and technology?

What needs to be done between now and April 2017?

Firms must have the preponderance of their compliance program in place, including supporting data and systems, by the April 10, 2017, applicability date. Some key considerations and actions include:

- Supply evidence that a firm is adhering to impartial standards
- Provide certain disclosures to the investor upon the execution of recommended transactions
- Implement controls and tools to enable person(s) responsible for addressing material conflict of interest and monitoring for adherence to the impartial conduct standards
- Maintain records that demonstrate that conditions of the exemption have been satisfied

The following dates are illustrative milestones that a firm should consider in order to meet the April 10 deadline:

- 07/31/2016: Target business models defined
- 07/31/2016: Capabilities assessment complete
- 07/31/2016: Implementation roadmap complete
- 08/30/2016: Vendor discussions and schedule complete
- 09/30/2016: Functional requirements for April 2017 documented
- 01/31/2017: Build for April 2017 completed
- 03/31/2017: Testing and deployment for April 2017 completed
- 03/31/2017: Training completed

What needs to be done by January 2018?

Firms should take steps to make sure the implementation roadmap and resourcing adequately address the following requirements (as applicable to the firm) that need to be implemented by January 1, 2018:

- BIC contract content, delivery, and acceptance
- Website disclosures that includes discussion of business model, material conflicts of interest, schedule of typical account or contract fee services and charges, a model contract, certain disclosures, summary of policies and procedures, list of product manufacturers making third-party payments, and disclosure of advisor compensation and incentive arrangements
- Transaction disclosures with content that includes best interest standard of care, material conflicts of interest, clients right to receive specific disclosures upon request, and a link to the website
- Disclosures upon request of costs, fees, and other compensations

Meeting the implementation timeline

Firms are at different stages of transformation in terms of assessing and addressing impacts of the Rule to their data and systems. It’s important that firms look realistically at the implementation timeline and raise the level of awareness across their firm to ensure that funding and resourcing matches the needs of the firm to become compliant with the Rule. Firms must also address the overlapping requirements and effort between the two deadlines—the partial compliance date and the full compliance date—and prioritize accordingly.

Contacts

Susan Levey

Managing Director | Deloitte Advisory

Deloitte & Touche LLP
slevey@deloitte.com

Maria Gattuso

Principal | Deloitte Advisory

Deloitte & Touche LLP
mgattuso@deloitte.com

Karl Ehram

Principal | Deloitte Advisory

Deloitte & Touche LLP
kehrsam@deloitte.com

Subrahmanyam Ramnath

Managing Director | Deloitte Advisory

Deloitte & Touche LLP
sramnath@deloitte.com

Josh Uhl

Senior Manager | Deloitte Advisory

Deloitte & Touche LLP
juhl@deloitte.com

Craig Friedman

Senior Manager | Deloitte Advisory

Deloitte & Touche LLP
crfriedman@deloitte.com

Scott Parker

Principal

Deloitte Consulting LLP
scparker@deloitte.com

Daniel Rosshirt

Principal

Deloitte Consulting LLP
drosshirt@deloitte.com

Bruce Marcus

Managing Director | Deloitte Advisory

Deloitte & Touche LLP
bmarcus@deloitte.com

Sean Cunniff

Specialist Leader

Deloitte Services LLP
scunniff@deloitte.com

Sameer Shroff

Senior Manager | Deloitte Advisory

Deloitte & Touche LLP
sashroff@deloitte.com

This publication contains general information only and Deloitte is not, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this publication.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a detailed description of DTTL and its member firms. Please see www.deloitte.com/us/about for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.