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Five steps toward Conflict of Interest Rule readiness

Preparation for operations leaders

On April 8, 2016, the Department of Labor (DOL) published the Conflict of Interest Rule (the "Rule") in the Federal Register. Since the Rule was announced in 2015 and finalized, firms are weighing a number of decisions that may have an impact on their business and operating models.

Operations (ops) leaders may feel they are waiting on certain business decisions to be made before they can execute the Rule. But there are actions that can be taken now to become operationally compliant with the first implementation date of April 10, 2017, and to be in full compliance by January 1, 2018.

The DOL Rule

The Rule is designed to protect retirement investors by ensuring financial advisers, their firms, and their affiliates (advisers):

- Act in their clients' best interests
- Mitigate and/or prevent conflicts of interests

To mobilize around these two key themes, advisers have begun thinking about how they will change policies, procedures, operational processes, and technologies to accommodate the Rule.

The Conflict of Interest Rule is different in that it requires covered retirement services providers ("firms") to evaluate many aspects of their business models

Unlike other regulatory changes affecting the retirement industry, the Rule has forced financial services firms that provide retirement services to assess the regulation's impact across the entire business model.

For example, retirement services firms are now considering eliminating or restricting investments in complex and high commission products, changing their compensation models, or even exiting entire businesses and/or product offerings altogether.

Yet the Rule bears similarities to other regulations, requiring investments in people, processes, and technology

While the Rule has a broader impact on the retirement industry when compared to prior regulations, compliance requires firms to rely on existing skill sets and implement a familiar regulatory implementation playbook (i.e., build business requirements, implement process change, develop new tools, and train employees to handle the new regulation).

Due to the tight implementation timeline, ops leaders should prioritize deliverables for the April 2017 and January 2018 deadlines. Managers may consider implementing stopgap solutions that are manual, yet compliant in the short run, while instituting additional controls in the interim until long-term automated solutions are realized.

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Operations leaders have the opportunity now to identify potential impacts to their workstreams

There are many areas where the Rule will have significant operational ramifications, including but not limited to:

Category	Rule area	Business decisions	Potential operations ramifications
Exemptions	Best interest contract (BIC)	• If BIC is provided to all clients or to certain selected sets of clients	• Identify all applicable delivery methods for operationalizing the contract • Develop process for positive and negative consent
	Principal transaction exemption (PTE)	• Eligibility of clients for PTE	• Implement changes to trade confirms and disclosures • Assess impact on trade support systems and data
Advice	IRA rollovers	• To allow rollover recommendations, centralized or decentralized within the firm • Factors to consider for a recommendation • Documentation of recommendations	• Capture and store prospect discussions as part of the IRA rollover workflow • Implement process changes that are compliant with the Rule, but also do not adversely impact client experience
Products/ programs	Asset eligibility	• Restrictions on asset availability in IRAs • Applicability of grandfathering to different assets • Provision of self-directed capability	• Implement asset tagging, including special tagging for grandfathered assets • Implement controls around permissibility of assets and changes to the security master
	Enrollment	• Adjust investment minimums for retirement programs	• Edit blocks or workflow controls within the enrollment process • Prepare to manage a potential volume increase in fee-based accounts
Reporting	Disclosures	• Nature and timing of disclosures to be provided within the requirements laid out in the Rule	• Generate an inventory of forms, agreements, and disclosures that may require verbiage alterations • Implement disclosure delivery processes
Compensation	Third-party revenue	• Determine what revenue can be collected, how collected revenue will be reported, and whether revenue will be rebated	• Differentiate treatment of third-party revenue in retirement versus non-retirement accounts

By proactively engaging with the business and providing inputs for decisions being made, ops can empower the firm to achieve Rule compliance in a cost-efficient manner.

As operations leaders wait for those decisions to be finalized, there are Day 1 requirements they can be executing now

Although the Rule may seem ambiguous at times, there is clarity in some areas where ops leaders can begin implementation work now. Four of those potential areas include:

- Mapping exemptions to current operations processes
- Preparing to manage best interest contract (BIC) negative consent
- Designing a retirement advice repository
- Building an engine that provides an automated view into fees

Gap exemptions to current ops processes

Description

- The Rule allows firms a number of exemptions (e.g., PTE, BIC) that can be utilized in order to continue certain business processes or the receipt of certain revenue streams

Why is this a Day 1 requirement?

- The network complexities of financial firms, the retirement industry, and adviser compensation models will force most firms to elect for a rule exemption

Prepare for BIC negative consent

Description

- Develop a process to manage negative consent mailings for the BIC to applicable clients

Why is this a Day 1 requirement?

- The BIC is being widely adopted within the industry
- Firms will try to onboard existing clients into the exemption efficiently

Build a disclosure on-demand engine

Description

- Support a tool to enable the on-demand generation of fee-related information

Why is this a Day 1 requirement?

- The Rule requires that retirement clients will have the right to request transaction costs

Design a retirement advice repository

Description

- Firms must be able to stitch together all client advice information—product and transaction recommendations in response to a regulatory request

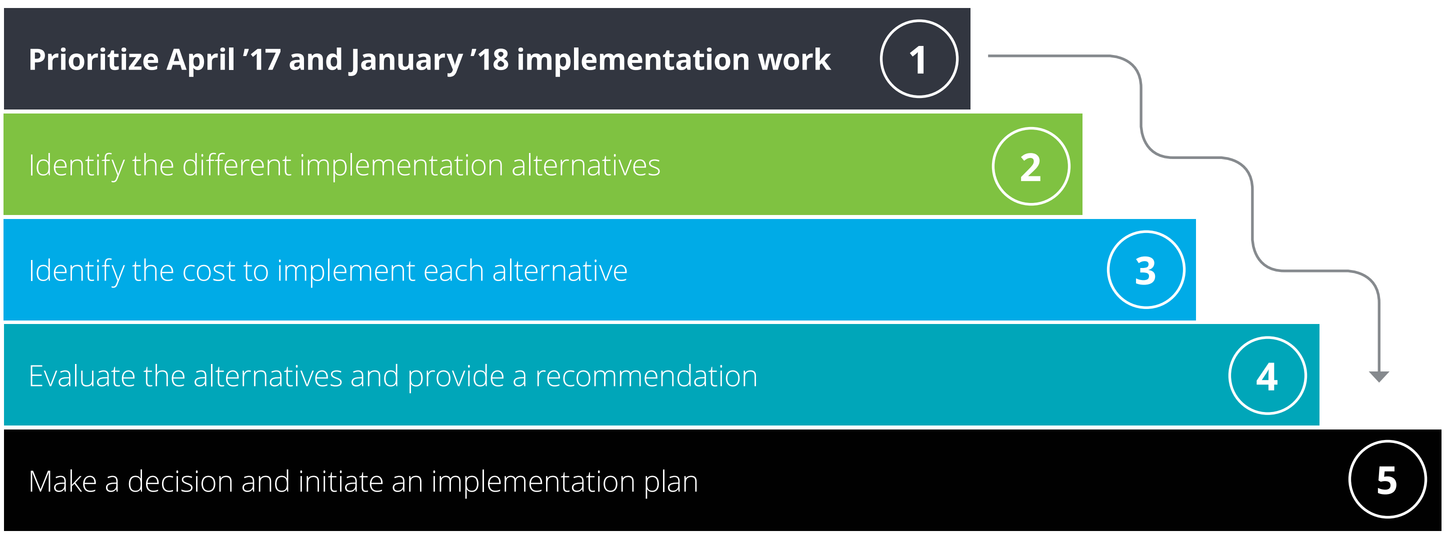
Why is this a Day 1 requirement?

- Systems and ops groups will require visibility across the enterprise

To get started, operations leaders can follow five steps to achieve both near-term and long-term implementation plans

Ultimately, once the business has made key decisions, ops must be prepared to respond quickly and implement plans for the April 2017 and January 2018 compliance dates. Following the initial sprint of setup and implementation activities, firms will transition into business-as-usual mode. At this point the familiar issues of cost of implementation and maintenance will play an important role.

To prepare for this, ops leaders should take the following steps to ensure Rule readiness:



Parting thoughts

While this Rule is complex and sometimes ambiguous in nature, it presents an obstacle that the industry as a whole must overcome. The Rule will produce both strategic advantages and disadvantages, thus differentiating competitors from one another. For this reason, business leaders at retirement services firms are carefully weighing the risks and rewards associated with significant compliance decisions.

While it is intuitive to believe that gradual decision making has handcuffed operations, this is a misconception. Operations must not remain idle. During this time, ops leaders can partner with their business counterparts and steer their firms toward an optimal DOL operating model. To achieve this vision, ops leaders must initiate the following activities:

- Analyze the potential universe of DOL solutions and articulate the associated costs, levels of effort required, and impacts upon the client experience
- Actively identify, prioritize, and pursue Day 1 requirements where work can begin now

The speed at which a firm can react and mobilize to implement a key DOL solution will be an important factor in differentiating industry leaders from their peer group.

How Deloitte can help

As Deloitte continues to analyze the DOL Conflict of Interest Rule, we will provide our perspective on what steps organizations should take to mobilize and implement the substantial changes that will be required by April 10, 2017.

Our structured approach for implementation helps organizations both comply with the Rule and capitalize on the opportunities that its disruption has created. Organizations can contact Deloitte with questions about the Rule and activities to support planning, preparation, implementation, and compliance.

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