



2020 First Quarter Compliance Letter

Guidance, Enforcement, Hot Topics, & More for Investment Advisers

Issued: March 30, 2020

Our thoughts and prayers go out to everyone across the globe affected by the COVID-19 pandemic. A year ago, our first quarter update echoed Warren Buffett's annual letter sentiment about how fortunate we all are to have, what he termed the "American Tailwind" at our backs. Today, the current crisis has shifted those prevailing winds into a gale-force headwind, and we're all in the path. These are unprecedented times and each news cycle brings more uncertainty to a disastrous situation. I don't know when or how that this crisis will end, but I do know that we are all in this together and those American Tailwinds that Buffett aptly described will eventually resume. In the meantime, we must all do our part for one another – now more than ever. When I look back, I want to feel good about how HighCamp transacted and carried itself through these tumultuous times. We already feel extremely fortunate to be a dispersed, remote and youthful company. Not having to transition to remote work has allowed us to keep all hands on-deck and remained focused on our client service. I'm also extremely proud that our company unanimously approved to advance most of our 2020 charitable contribution budget to causes that we believe can make a difference in people's lives today. Lastly, we take comfort in the fact that we are not alone. I want to thank all the great companies, including our clients' businesses, who we look toward to keep our sails headed in the correct destination regardless of wind direction.

This quarter's headlines.

- March 23, OCIE issued a [statement](#) that it is operational and can still administer off-site examinations, unless "it is absolutely necessary to be onsite." And on March 24, the Commission [expanded](#) that it continues to monitor and dialog with "the asset management industry (including private equity funds and investment advisers), particularly funds and advisers with material exposures in markets and asset classes that have been most affected by recent events."
- March 16, the Division of Investment Management [issued](#) an FAQ about inadvertent receipt of client funds or securities for firms that are unable to access mail and deliveries due to COVID-19 and [clarified](#) that firms do not need to update Item 1.F of Part 1A for temporary teleworking locations due to COVID-19 disruptions.
- March 13, the SEC provided an [extension](#) for filing and delivering Form ADV and Form PF, which still requires notifying the SEC and posting information on your website. A subsequent [order](#) issued on March 23 further extended filing obligations relief from April 30 to June 30, 2020 (but still no later than 45 days after original due date).

Other COVID-19 considerations? It is remarkable how quickly the industry has implemented and adapted to this new telework environment. So many of our clients have seamlessly made the abrupt transition. However, this remains a rapidly evolving topic, and we could be in the opening innings. We are encouraging all firms to remain hypervigilant about the impacts that telework will have to their continued operations, including, investment approach (e.g., how to maintain robust diligence without site or property visits); rise of staff infections; potential increase in defaulting investors; and oversight of operations of key service providers. As a result, we have seen a rise in pandemic-related investor risk disclosures (e.g., offering materials and Part 2A) and inquiries (e.g., requests for information) and expect that to continue.

Is that all? See below for our Q1 Chronological List of Key Events and Upcoming Dates and Deadlines.

Stay healthy and take care of each other,
Brad

Have questions? Get in touch at Hello@HighCampCompliance.com.



Q1 Chronological List of Key Events

Issued: March 30, 2020

We left off on December 31, 2019, in our 2019 Year in Review Compliance Letter for Investment Advisers. You can access it [here](#). For those printing this letter, please note that all sources are hyperlinked rather than footnoted.

March 25: SEC Extends Conditional Exemptions From Reporting and Proxy Delivery Requirements for Public Companies, Funds, and Investment Advisers Affected By Coronavirus Disease 2019 (COVID-19)

The SEC announced extensions of filing periods covered by previously enacted conditional reporting relief. For instance, investment advisers can claim up to 45 days of relief for filings due through June 30 (previously it was April 30).

March 23: Statement from Stephanie Avakian and Steven Peikin, Co-Directors of the SEC's Division of Enforcement, Regarding Market Integrity

The Co-Directors of Enforcement issued this reminder that all market participants continue to follow control policies and procedures during these unprecedented times.

March 4: SEC Proposes Rule Changes to Harmonize, Simplify and Improve the Exempt Offering Framework

The SEC proposed rules to harmonize exempt offerings. As it relates to private fund managers, the proposal would: add a new item to the non-exclusive list of verification methods in Rule 506(c); and harmonize the bad actor disqualification provisions in Regulation D, Regulation A, and Regulation Crowdfunding. The public comment period will remain open for 60 days.

February 26: In the Matter of RSM US LLP (f/k/a/McGladrey LLP)

The SEC settled with RSM for "improper professional conduct" after unqualified staff were assigned to series of private fund audits managed by SBB Research Group, an investment adviser charged with improper valuations in 2019.

February 25: SEC Postpones National Compliance Outreach Seminar

February 24: In the Matter of Lone Star Value Management LLC and Jeffrey Eberwein

This exempt reporting adviser settled with the Commission for allegedly effecting cross transaction between funds that should have been treated as principal trades because of related person ownership. Violations included Section 206(3) under the Advisers Act, among others. The *Gardner Russo & Gardner June 7, 20116 No-Action Letter* established that 25 percent or less ownership would not be viewed as a principal transaction.

January 27: SEC Office of Compliance Inspections and Examinations Publishes Observations on Cybersecurity and Resiliency Practices

The SEC recently examined thousands of registrants and has reaffirmed many of the best practices we have come to follow over the years in this observation report.

January 27: SEC Charges Portfolio Manager and Advisory Firm with Misrepresenting Risk in Mutual Fund

SEC charges adviser for misleading investors about the portfolio risk management controls. A reminder to review marketing claims that indicate prevention of losses below certain thresholds (unless those controls can/are implemented).

Have questions? Get in touch at Hello@HighCampCompliance.com.



January 7: [SEC Office of Compliance Inspections and Examinations Announces 2020 Examination Priorities](#)

Exam priorities remain focused on retail sales practice abuse (particularly to seniors), information security, and digital assets. Additionally, exam staff will continue to focus on never-been-examined advisers and advisers to private funds. For private funds, the staff will prioritize and assess compliance risks, including controls to prevent the misuse of material, non-public information and conflicts of interest, such as undisclosed or inadequately disclosed fees and expenses, and the use of affiliates to provide services to clients.

Upcoming Events & Deadlines

As discussed above, the SEC provided a COVID-19 [extension](#) for filing and delivering Form ADV and Form PF, which still requires notifying the SEC and posting information on your website. A subsequent [order](#) issued on March 23 further extended filing obligations relief from April 30 to June 30, 2020 (but still no later than 45 days after original due date). Below are the original filing dates.

- April 14** Form PF for Large Liquidity Fund Advisers Due
- April 29** Distribute Updated Form ADV Part 2A to Clients
Deadline for Distribution of Audited Financial Statements to Investors
Form PF Annual and Quarterly Amendments Due
- April 30** Employees' Personal Q1 Transaction Reports Due
- June 29** Deadline for Distribution of Audited Financial Statements to Fund of Fund Investors
- June 30** Initial Form CRS to Retail Investors Due (aka, Form ADV Part 3)

About HighCamp Compliance

HighCamp Compliance is a premier, boutique compliance consulting and outsourcing firm helmed by former SEC examiners, CCOs, and proven consulting professionals. HighCamp specializes in regulatory compliance and operational support for SEC-registered alternative and institutional investment managers. The team includes specialists in private equity, real estate, and hedge funds.

Have questions? Get in touch at Hello@HighCampCompliance.com.