

SEC Staff Provides Guidance Regarding Disciplinary History Disclosure Standard in Form CRS

October 2020

On Oct. 8, 2020, the staff of the SEC's Division of Investment Management and of the Division of Trading and Markets released additional FAQs¹ relating to Form CRS. These FAQs are focused on disciplinary history disclosures required of Form CRS filers (e.g., registered investment advisers with natural person clients) and their personnel. Public statements from SEC personnel indicate they have observed that many Form CRS filers were either omitting the disciplinary history section of Form CRS altogether or providing additional disclosure with respect to disciplinary history, which is inconsistent with the Form CRS instructions.² The FAQs clarify that:

- Even if a Form CRS filer does not have a reportable disciplinary history, it must include an affirmative statement to that effect in its Form CRS;
- An adviser may separately respond for the adviser and for its personnel (e.g., "No for our firm. Yes for our financial professionals.");
- An adviser may not alter the headings and prompts required by the Form CRS instructions to fit its disciplinary situation; and
- The Form CRS should not be used as a platform to provide additional context around a disciplinary disclosure beyond what the instructions require.

Advisers required to file Form CRS should carefully review their filings to confirm that their disciplinary history disclosures are consistent with the Form CRS instructions and other regulatory reporting.

This article appeared in the October 2020 edition of SRZ's Private Funds Regulatory Update. To read the full Update, [click here](#).

¹ Securities and Exchange Commission, Division of Investment Management: Frequently Asked Questions on Form CRS, available [here](#).

² Securities and Exchange Commission, Joint Statement Regarding New FAQs on Form CRS, available [here](#).