

2021 COMPLIANCE WORKSHOPS

IAA Virtual Compliance Workshops

Thursday, Nov. 4 • Thursday, Nov. 18

25th ANNIVERSARY

Implementing Effective Policies and Procedures to Comply with the New Marketing Rule

- Michael B. Koffler, Eversheds Sutherland (US) LLP
- John D. Pollard, Jr., EJP Capital LLC
- John Holzwarth, ACA Group
- Laura L. Grossman, Investment Adviser Association

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1st Inning

	AT BAT	BALL	STRIKE	OUT	H/E								
VISITOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
HOME	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	1	2	3	4	5	6	7	8	9	10	R	H	E

- Understand and analyze rule structure
 - General prohibitions
 - Testimonials & endorsements
 - Third-party ratings
 - Performance
 - Definitions
 - Advertisement (two prongs)



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2nd Inning

	AT BAT	BALL	STRIKE	OUT	H/E								
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HOME	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	1	2	3	4	5	6	7	8	9	10	R	H	E

- Assess impact of rule on current advertising activities and solicitation arrangements
- Inventory in-scope communications/content
 - Pitch books, one-on-one meetings, investor calls, collateral, RFPs, social media, websites
 - Performance calculations, hypothetical, predecessor
 - Solicitation/referral arrangements, placement agent agreements



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3rd Inning

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HOME	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	1	2	3	4	5	6	7	8	9	10	R	H	E

- As marketing materials are presented for approval, consider performing parallel reviews under both the current rule and new rule
 - Identify in-scope content by category
 - Begin sensitizing team to what will need to change



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4th Inning

	AT BAT	BALL	STRIKE	OUT	H/E								
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HOME	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	1	2	3	4	5	6	7	8	9	10	R	H	E

- Perform a gap analysis
 - Live communications
 - Schedule of communications



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5th Inning

	AT BAT	BALL	STRIKE	OUT	H/E								
VISITOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
HOME	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	1	2	3	4	5	6	7	8	9	10	R	H	E

- Broaden assessment to stakeholders outside of compliance
 - Preview what will happen under new rule
 - Avoid surprises



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6th Inning

	AT BAT	BALL	STRIKE	OUT	H/E								
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HOME	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>								
	1	2	3	4	5	6	7	8	9	10	R	H	E

- Training
 - Break up rule into digestible sessions
 - Most relevant changes for each audience segment
 - Benefits
 - Relief that can no longer be relied upon
 - New obligations and limitations



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7th Inning

	AT BAT	BALL	STRIKE	OUT	H/E								
VISITOR													
HOME													
	1	2	3	4	5	6	7	8	9	10	R	H	E

- Execute transition
 - Design policies, procedures and controls
 - Develop documents and materials around Marketing Review
 - Flow chart/decision tree



7th Inning Stretch

- What makes policies and procedures *effective*?
 - Process-oriented
 - Specificity in assigning responsibilities
 - Who, what, when, how evidenced, where evidenced
 - Procedure to follow if something goes wrong



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8th Inning

	AT BAT	BALL	STRIKE	OUT	H/E
VISITOR					
HOME					

1 2 3 4 5 6 7 8 9 10 R H E

8th inning scorecard showing a yellow highlight on the 8th inning column and a red box around the R, H, and E columns.

- Coordinate with third parties
 - Promoters
 - Solicitation agreements, placement agent agreements, disclosure
 - Third-party ratings
- Testing



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9th Inning

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	1	2	3	4	5	6	7	8	9	10	R	H	E

- Prepare to go live
 - Master checklist
 - Practice/more testing
 - Conduct a mock run through for each type of marketing the firm expects to use
 - Prepare data collection for new Form ADV questions



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Thank You

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- John D. Pollard, Jr., JPollard@ejfcap.com
- John Holzwarth, John.Holzwarth@acaglobal.com
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