

Conduct a Gap Analysis / Assessment of Rule Applicability

Possible Timeframe: 1 – 2 Months

- **Educate:** Become familiar with the provisions of the amended rule
- **Evaluate:** Determine whether changes are needed in the following practices:
 - Testimonials and endorsements
 - Communications made by or through intermediaries
 - Specific investment recommendations
 - Third-party ratings/awards
 - Disclosures
 - Use of social media by personnel
- **Assess:** Review all performance metrics to determine whether the following are applicable and might require changes:
 - Hypothetical / extracted performance
 - Predecessor performance
 - Related performance
 - Provision of gross and net
 - Use of 1-, 5- and 10- year time periods for presenting performance (separate accounts only)

Collaborate on Changes

Possible Timeframe: 4 – 12 Months

- **Consider New Flexibility:** Determine whether the firm wants to take advantage of any new flexibility offered by the amended rule
- **Update Performance Metrics and Presentation:** Based on any gaps identified, work with relevant parties to determine appropriate procedures and methodologies for calculating and presenting performance and maintaining track records
- **Consider GIPS Implications:** Reconcile any changes to performance calculations and presentation with the GIPS 2020 standards, if applicable
- **Work with Intermediaries:** Consider whether any materials are “indirectly” prepared by the adviser and collaborate with third parties on those materials
- **Update Placement Agent and Solicitor Arrangements:** Determine whether changes are needed with placement agent or solicitation provisions under the revised rule (also consider FINRA Notice 20-21, if applicable) and work with those third parties as needed to implement
- **Draft Policy Changes:** Begin drafting desktop or operational procedures as well as any policy changes to reflect the intended practice of the firm

Implement Revised Procedures and Materials

Possible Timeframe: 2 Months & Beyond

- **Implement Policies:** Implement amended policies and procedures
- **Update Marketing Systems:** Initiate any changes to marketing review and document retention processes
- **Train:** Provide training to personnel on the revised rule and policies and procedures
- **Revise and Publish Materials:** Prepare updated materials and corresponding disclosures
- **Disclose in Form ADV:** Provide information on Form ADV regarding the adviser’s marketing practices (generally, March 2023)
- **Make Adjustments:** Review procedures and materials in light of evolving regulatory guidance and industry practices and make changes as needed