FINRA recently issued Regulatory Notice 20-17 ("Reg. Notice 20-17") addressing changes to FINRA Rule 4530 due to the impending implementation of Regulation Best Interest ("Reg. BI"). Rule 4530 requires member firms to report, among other things, statistical and summary information regarding written customer complaints, as well as specified criminal actions, civil complaints and arbitration claims. The reporting requirements of Rule 4530 assist in identifying any operation or sales practice issues arising on a regular basis. With the implementation of Reg. BI, FINRA is adding additional Problem Codes along with other amendments to assist in Rule 4530 reporting. Beginning July 18, 2020, FINRA will add Problem Code 16-Reg. BI and Problem Code 17-Form CRS, which are to be used when applicable and pursuant to Rules 4530(f) and (g).

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The new Problem Codes are designed to capture “allegations that recommendations of securities or investment strategies involving securities, including recommendations of account type, made to retail customers were not in the best...
interest of the retail customer”. They also cover “allegations of possible violations of Reg BI’s four component obligations (Care, Disclosure, Conflict of Interest, and Compliance)”. FINRA also requests that member firms use Problem Code 17-Form CRS “when a reportable matter involves allegations concerning the firm’s Form CRS or issues regarding delivery of Form CRS to retail investors”.

In Reg. Notice 17, FINRA is also withdrawing Problem Code 69-DOL Fiduciary Rule. In addition, FINRA is amending the description of Problem Code 04-Suitability to assist member firms with the use of that code after the Reg BI compliance date. The amendment to Problem Code 04-Suitability is for “allegations concerning activity that occurred after the Reg BI compliance date of June 30, 2020, firms should consider whether to use Problem Code 16-Reg BI, even if the allegations contain suitability terminology”. The full text of Reg. Notice 17 can be found here.

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