

Home > Magazine > [PLANADVISER May/June 2020](#)

ERISA VISTA Published in [PLANADVISER May/June 2020](#)

Client Relationship Summary

Who exactly needs to receive a Form CRS?

By [Fred Reish and Joan Neri](#)



Art by [Tim Bower](#) 📄

QUESTION: I'm an investment adviser, registered with the Securities and Exchange Commission (SEC), who provides investment advisory services and/or investment management services to workplace retirement plan accounts. I know that I need to file a [client relationship summary](#) (Form CRS) with the SEC

by June 30 and deliver it to “retail investors.” Does this delivery obligation apply to individuals, for their workplace retirement plan accounts?

ANSWER: It depends. Our response builds on our previous column (see [“New Obligation to the SEC,”](#) PLANADVISER, March/April 2020) regarding the Form CRS disclosure obligation that applies to rollover advice. If the services are for the account of a plan participant, the Form CRS obligation will apply. If, however, the services are provided to the plan fiduciary for the workplace retirement plan, the Form CRS obligation will usually not apply, though there are exceptions.

Form CRS must be delivered to a “retail investor.” There are two components to the definition of retail investor—that the investor: 1) must be a natural person or his/her legal representative, and 2) seeks to receive or receives services primarily for personal, family or household purposes. In its adopting release on the Form CRS rule, SEC Release No. 34-86032, the SEC explains that individuals seeking services for their retirement accounts should receive a Form CRS because retirement saving is a personal, family or household purpose. So Form CRS applies when you’re providing investment advisory and/or investment management services to participants regarding their workplace plan account.

If, however, the plan fiduciary has engaged you to provide advisory services about the investment options offered on the plan lineup, the Form CRS obligation will not generally apply, because the fiduciary is not seeking services primarily for personal, family or household purposes. This is true even if you help participants by providing education about plan investment options, e.g., at an enrollment or investment education meeting. As explained by the

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SEC in the release, under these circumstances, the plan participant is not “seeking or receiving services” as contemplated by Form CRS because the decision to hire you for these services was made by the fiduciary. If, however, you go beyond investment education and provide investment advice to a participant, then Form CRS must be delivered to that person.

What if the plan is established by a sole proprietor or other self-employed individual who decides the plan service arrangements and also participates in the plan?

The SEC explains that, in those circumstances, the self-employed individual would be a retail investor seeking services for personal, family or household purposes and must receive Form CRS.

For retail investors who are new clients, Form CRS must be delivered before or at the time you enter into the investment advisory contract. For retail investors who are existing clients on June 30, the form will need to be delivered by July 30. Also, as we pointed out previously, if you provide rollover advice to an existing client who has already received a Form CRS, you will need to deliver a new one for the arrangement related to the rollover recommendation.

Next Steps

[Prior to June 30](#), you should take these steps to determine whether Form CRS applies to your workplace retirement plan clients. First, review your records to identify: 1) your advisory clients who are plan participants, and 2) your clients that are plan sponsors/fiduciaries with responsibility for the plan as a whole. Clients in category 1) will need to receive a Form CRS. Next, for service arrangements with the fiduciary, determine whether the fiduciary is a sole

proprietor or other self-employed individual who also participates in the plan. These clients will also need to receive Form CRS.

Fred Reish is chairman of the financial services ERISA [Employee Retirement Income Security Act] practice at law firm Faegre Drinker Biddle & Reath LLP. A nationally recognized expert in employee benefits law, Fred has written four books and many articles on ERISA, pension plan disputes and audits by the IRS and Department of Labor. **Joan Neri** is counsel in the firm's financial services ERISA practice, where she focuses on all aspects of ERISA compliance affecting registered investment advisers and other plan service providers.

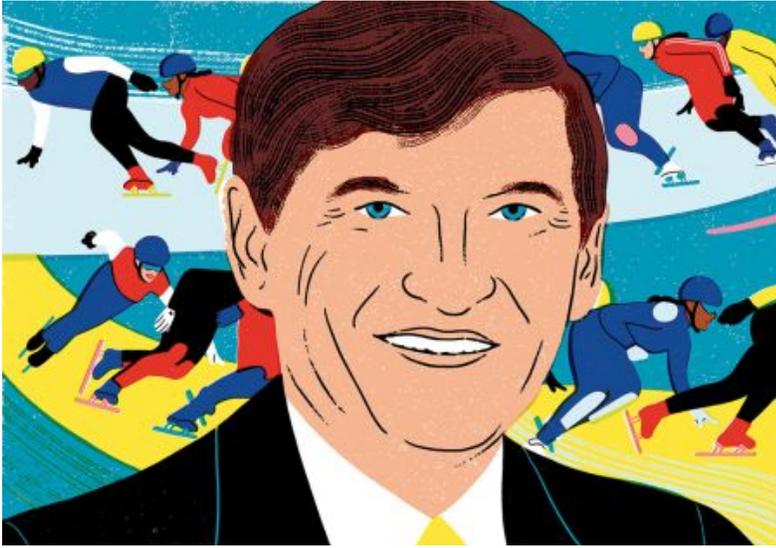
Tagged: Form CRS, Reg BI, Regulation Best Interest



August 18th, 2020

Advisers Giving Back: Bernadette Lanser and St. Ben's Community Meal

It was originally supposed to be a one-time thing, but at this point, Lanser has spent more than 17 years volunteering at St. Ben's Community Meal program.



August 6th, 2020

Advisers Giving Back: Bruce Lanser at UBS

During and after his daughter's career as an elite speed skater, Bruce Lanser at UBS has been volunteering his time to help the niche sport continue to thrive in the Milwaukee area. He also finds time to serve on the board of Junior Achievement.



July 30th, 2020

Giving Back: Lessons in Mentorship from Soraya Morris

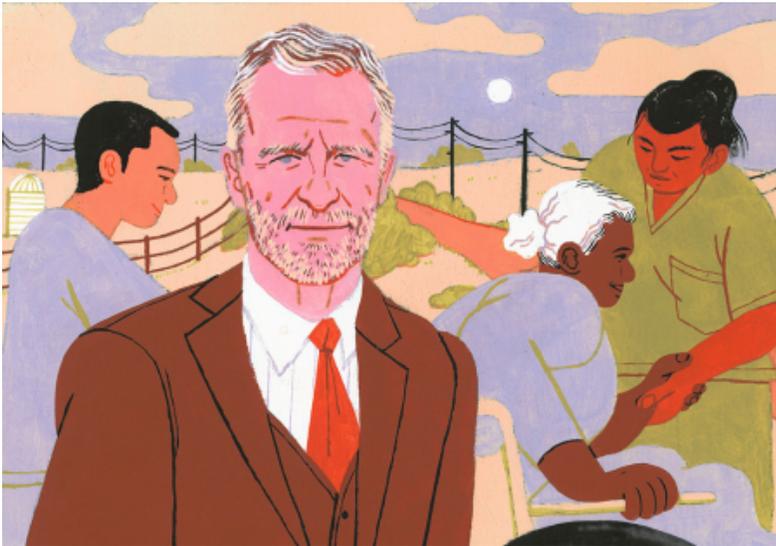
Soraya Morris is a lead trainer at Envestnet | MoneyGuide. She formerly worked for a fee-only registered investment adviser and says mentorship is a huge part of her past and future in this industry.



July 24th, 2020

Advisers Giving Back: Kelli Davis and CSI Advisory Services

Among other efforts, the firm dedicates significant time and resources to causes that fight hunger and support financial literacy among girls and young women in Indiana.



June 29th, 2020

Advisers Giving Back: Brad Arends at intellicents

The plight of rural community health care systems is a personal matter for the community in Albert Lea, Minnesota, and for Brad Arends at intellicents.

 [ADVISERS GIVING BACK](#)

An Asset to Society

Celebrating the good works of advisers who give back to their communities.



June 2nd, 2020

Advisers Giving Back: Grant Arends at intellicents

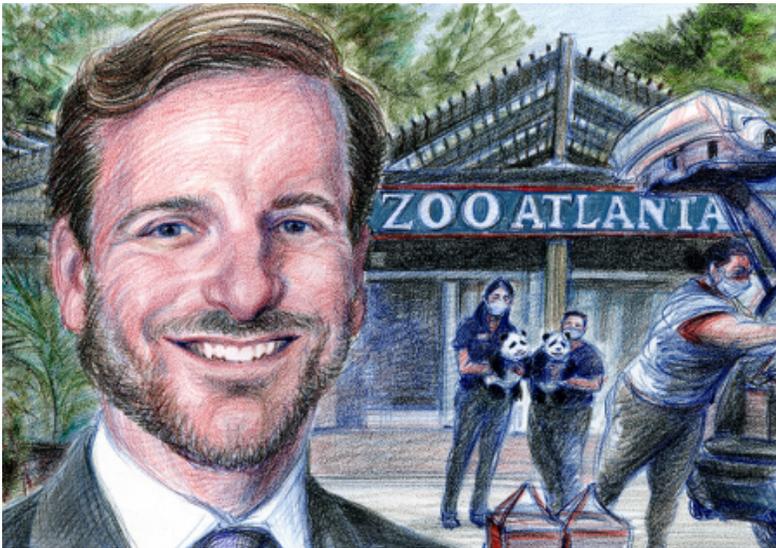
Some people are called to give back and invest in their local communities, while others are compelled to go farther afield.



May 28th, 2020

Advisers Giving Back: Attila Toth and Portfolio Evaluations

Investing in the local community has been an important part of the firm's identity from its founding in 1992, and it makes sure to involve its staff members' spouses and families to make its giving even more meaningful.



May 18th, 2020

Advisers Giving Back: Atlanta Retirement Partners

As the firm's founder, David Griffin, explains, retirement plan advisers have a particular skillset that can be very useful in coordinating giving efforts during these unprecedented times.

[🔒 ADVISERS GIVING BACK](#)

Investing Time, to Help Kids and Others



April 8th, 2020

Advisers Giving Back: Pensionmark

One charity program Pensionmark supports is Partners in Education, which pairs young people with mentors from the business community to help them prepare for internships and first jobs.



March 30th, 2020

Advisers Giving Back: The Smarter Tomorrow Foundation

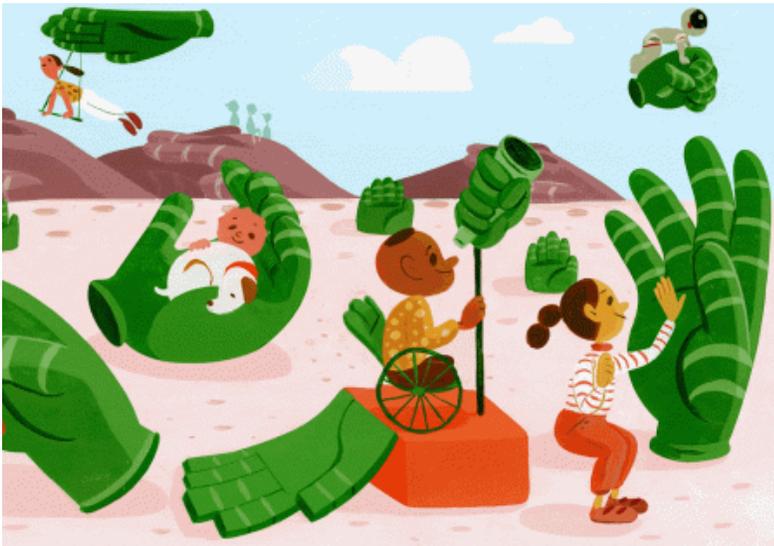
Founded by Florida-based financial adviser Jason Chepenik, the Smarter Tomorrow Foundation is on a long-term mission 'to give every kid from every community a fair shot at a strong financial future.'



March 20th, 2020

Advisers Giving Back: Peak Financial Group

Now part of HUB International, the firm hopes to expand its giving to positively impact the lives of children in the Houston area.



February 21st, 2020

Advisers Giving Back: The CAPTRUST Community Foundation

Though its giving efforts are expansive, the CAPTRUST Community Foundation's vision is singular: 'Plain and simple, we want to enrich the lives of all children.'

 [ADVISERS GIVING BACK](#)

Advisers Offer Time, Money, Ingenuity

Celebrating the good works of advisers who give back to their communities



January 22nd, 2020

Advisers Giving Back: SentinelCares and the Corporate Cup

One of Sentinel's many charitable engagements has directly benefited a little girl named Cora, the granddaughter of a longtime employee, who was born with a severe congenital heart condition.



December 24th, 2019

2020 Will Be Another Year of Adviser Philanthropy

The editorial team of PLANADVISER was blown away by the generosity of advisers recognized in our 2019 Advisers Giving Back program, and we're already working on new stories of giving for 2020.



December 19th, 2019

Advisers Giving Back: A Nationwide Network of Giving

Under the CBIZ Cares program, employees at CBIZ's 100 offices around the nation are encouraged to volunteer their time in their local communities.



December 3rd, 2019

Advisers Giving Back: Innovest's Culture of Compassion

Innovest Portfolio Solutions deploys its staff as volunteers throughout the year for a wide variety of charities in the Denver area; they also work with economically disadvantaged students to provide valuable work experience and help pay for their tuition.



October 8th, 2019

Advisers Giving Back: When People Need a Head Start

After learning about the work of Head Start, George P. Fraser decided to provide financial education to parents of students in the program and build a scholarship fund for the teachers employed there.

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