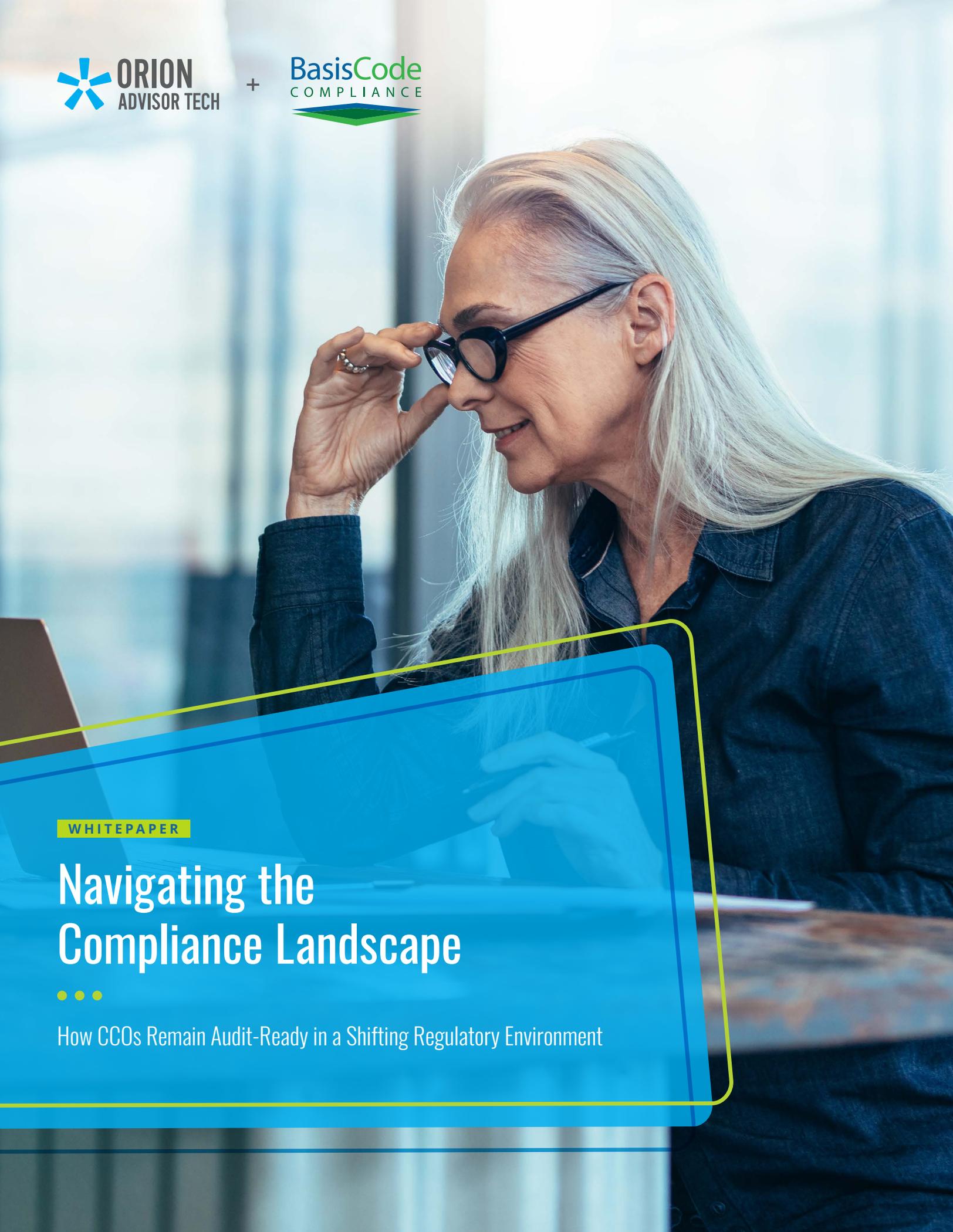




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WHITEPAPER

Navigating the Compliance Landscape



How CCOs Remain Audit-Ready in a Shifting Regulatory Environment



Introduction



Investment advisors face a complex regulatory environment. The SEC is regularly issuing new rules and priorities, and the changing guidelines affect everything from portfolio management practices to marketing regulations.

Despite the challenges imposed by the pandemic, regulatory expectations remain high. In fiscal year 2021, [the SEC filed 434 new enforcement actions](#), an increase of seven percent over 2020.

Managing this additional complexity falls to the Chief Compliance Officer (CCO). This individual is responsible for addressing external demands, mitigating risks, and maintaining clear records of the firm's actions to appease the regulatory bodies.

If a CCO is to meet these requirements, they must have a solid strategy coupled with a robust technology solution. Here, we explore the biggest risks compliance officers face in 2022, and what CCOs can do to remain audit-ready as the regulatory environment continues to shapeshift.

Digital Assets And Advice



Digital transformation has accelerated across industries. With the pandemic driving consumers to stay home, businesses everywhere are looking to connect virtually with clients and prospects.

However, as financial interactions move online, the risk of fraud and unscrupulous behavior grows. The SEC is particularly concerned with the appearance of unregistered exchanges, crypto-lending, and the offering of electronic investment advice.

In November 2021, the [SEC issued a Risk Alert](#) pertaining to electronic investment advice. For firms providing clients access to robo-advising, the SEC seeks to ensure they meet their fiduciary duties, adequately protect data, and test any related compliance policies and procedures.

While offering robo-advising services is a potential boon for RIAs looking to connect with clients from afar, it also creates a compliance risk. Here's what CCOs can do to **help meet regulatory guidelines** while adopting new digital offerings.

Create Guidelines

Your compliance policy should include rules and guidelines about handling your digital offerings. Update your documentation and educate your team about any new regulations that pertain to robo-advising capabilities.

Assess Risk Appropriately

Some robo-advising platforms do not adequately consider an individual client's risk tolerance. Ensure your offering allows for suitable customization to meet each client's needs. Similarly, having a compliance platform that documents your client's risk tolerance and the details of each portfolio will help a CCO answer any document requests quickly and efficiently.

Ensure Your Marketing Reflects Reality

The SEC has found that some firms overpromise on flexibility and customization in advertising their robo-advising product. Documenting the capabilities of your digital investment tools and maintaining complete records for any advertising you create for those products helps the SEC assess the viability of your marketing tactics.

Protect Your Data

When your team interacts with clients online, it is incumbent upon you to ensure all data is kept private and secure. The issue is further complicated when your team is working remotely, as many have been for the past two years.

A compliance solution that seamlessly integrates with your existing technology and allows for up-to-the-minute testing and monitoring keeps data safe.

New Marketing Rules



[The SEC's recent updates](#) to rules governing marketing and advertising represent a significant shift from prior guidelines. The new rules went into effect on May 4, 2021, and investors have an 18-month window to get into compliance.

Leading up to this November 4, 2022 deadline, CCOs can and should take several steps.

Educate Your Team

Any new rule requires a change in team behaviors. It's not enough to simply update your written policies to reflect new regulations; you must make your team aware of these amendments and shift behavior to meet new expectations.

The right compliance tool can disseminate new policies to your entire team and test employees on new rules. Testing employee knowledge with quizzes ensures they understand the finer points of your new policies.

Update Your Process

When your team is used to operating one way, it can be hard to change those habits. Documenting your updated processes using workflow within your compliance software tool helps your employees act in accordance with new rules and enables record-keeping.

Capture Your Evidence

Firms must fully comply with new marketing rules by November 4, 2022. Part of compliance includes updates to the related books and records rule and Form ADV. New rules invite additional regulatory focus. Leveraging compliance software can support your firm in updating regulatory disclosures, documenting, and reporting across procedure and process changes to demonstrate compliance to regulatory bodies.

Inappropriate Employee Behavior



Regulators are not only concerned with the firm's activities on behalf of clients. They also monitor each employee's behavior to ensure it is ethical, unbiased, and in the clients' best interests.

Insider trading and gifts and entertainment reporting are two areas where CCOs must keep each team member in compliance. Maintaining records around employees' personal investing activities and gifts and entertainment given to and received from clients can quickly become confusing.

CCOs should take the following steps to monitor, document, and correct employee behavior, when necessary.

Monitor Personal Investing

Investment firms are responsible for ensuring their team members act ethically when managing their private investment portfolios.

A tool like BasisCode offers assistance with Code of Ethics management in accordance with the requirements of Advisers Act Rule 204A-1. Specifically, BasisCode addresses personal securities trading obligations by enabling advisory firms to monitor employee trade activity in an automated fashion.

This automation allows CCOs to conduct employee trade monitoring reviews in real-time rather than assessing employee behavior annually.

Track Gift and Entertainment Disclosures

What is the line between a gift and a bribe? CCOs must set clear parameters around how employees handle and report gifts and entertainment, and team members must be educated around how to disclose gifts given or received.

There are three essential components for CCOs to manage here: setting policy, educating the team, and documenting gifts to remain in compliance.

A compliance software tool can help CCOs draft and disseminate relevant policies. Testing employees on the dos and don'ts of entertainment and gifts positions each team member to properly manage client interactions.

The right tool also provides a place to house disclosures, receipts, and other paperwork regulators may request during an audit.

Environmental, Social, And Governance (ESG) Investing



Today's investing clients are more socially conscious than ever before. Investing with a purpose is a primary concern for many consumers, and firms seek to meet these shifting expectations by creating ESG-focused portfolios and offerings.

Because ESG is a developing area of interest, regulators have not established a robust framework for monitoring investor behaviors. CCOs should expect an increased focus on ESG in the coming months and years.

Update Your Policies To Meet New Expectations

As regulators roll out new guidelines around ESG investing, CCOs will need to update existing policies and procedures to promptly address these expectations.

Setting an alert on your BasisCode dashboard empowers compliance professionals to receive updates when new policies or risk alerts are released.

Once you become aware of a new policy, updating your internal Code of Ethics, procedures, and workflow is simple when working in a unified compliance system.

Watch What You Promise

One area where CCOs can expect further guidance from regulators is around what constitutes ESG investing. The term remains loosely defined at present, but the SEC will likely provide concrete definitions for ESG investing and related terms as consumer interest in the area continues to gain momentum.

When the term is formally defined, you should adjust your marketing materials and client communications to ensure you use all ESG-related phrases properly.

Mislabeling products or services can lead to negative attention and fines for your firm. A comprehensive audit of your marketing materials is the best way to remain on the right side of any new definitions.

Gather all of your marketing documents in one place, ask for input from leaders across your organization, and develop a checklist to ensure no communications pieces fall through the cracks.

Conclusion



The regulatory environment reflects the realities of our present world. As digitalization moves forward and new risks and priorities emerge, regulators will continue to adjust expectations and guidelines to meet the current moment.

For CCOs, that means there is always something to review, update, or improve. Implementing a compliance software solution designed to move with you helps you meet new rules and regulations with agility and speed.

Meeting regulatory guidelines is essential not just to a firm's growth but to its very survival. A technology solution that automates and streamlines compliance processes is foundational to a firm's evolution and success.

