

BCSC 2024 Compliance Report Card: A sneak peek of the 2024 CFR sweep findings

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The [2024 Annual Compliance Report Card](#) (the Report Card) published by the British Columbia Securities Commission (BCSC) summarizes the findings of the BCSC compliance teams arising from their reviews of the compliance programs of B.C.-based portfolio managers, investment fund managers, and exempt market dealers in 2024. The Report Card provides guidance to firms and chief compliance officers to improve their compliance programs.

Of note, the Report Card provides an early indication of the findings arising from the joint review completed in 2024 by the Canadian Securities Administrators (CSA) and the Canadian Investment Regulatory Organization (CIRO) on compliance with know-your-client (KYC), know-your-product (KYP) and suitability determination requirements, as amended by the client focused reforms (the CFRs and such review, the CFR sweep).

With the CSA report and guidance still pending, the feedback from the BCSC is a must read.

Key findings from BCSC reviews

CFR Sweep findings

The majority of the compliance deficiencies described in the Report Card stem from the CFR sweep. Key findings are summarized below. Of note, the guidance reflects a continued emphasis on the importance of documentation.

Model portfolios – KYP and suitability

The BCSC identified deficiencies in the KYP and suitability processes implemented by advisers in relation to the use of model portfolios. The Report Card provides the following guidance:

- *KYP* – In the context of model portfolios, advisers are expected to have: (i) adequate written policies and procedures on the KYP process; (ii) records that demonstrate the model portfolios' composition at a point in time, the rationale for

making changes and how a firm considers such change as suitable for clients under a particular mandate; and (iii) processes to assess and document suitability for when an advising representative changes the model portfolio holdings for clients.

- *Suitability* – Where a firm has multiple, similar model portfolios available to fulfil the same investment mandates, firms are expected to have a process in place to demonstrate how an advising representative (AR) should determine which model portfolio is suitable for the client and document why one specific model portfolio was recommended to the client over another model portfolio and evidence consideration of a reasonable range of alternatives.

Joint accounts and householding of accounts

The Report Card identified a number of deficiencies arising from the practice of “householding” – where a firm assesses suitability by managing all accounts for members of the same household together, using one investment policy statement (IPS). Key observations include the following:

- The use of a householding does not eliminate the requirement for individual account-level suitability assessments. Moreover, householding may not be appropriate at all where investment objectives of members are not sufficiently aligned.
- When applying a household suitability assessment, advisers must disclose to clients why it is applicable, how it differs from account-level suitability, and that it is only supplementary to account-level assessments. Documentation must confirm household member’s agreement to the approach, and KYC must be updated and verified for each member.

KYC, KYP, suitability, policies and procedures

- *KYC* – As KYC compliance is not a check the box exercise, the BCSC expects that firms:
 - Make a reasonable effort to ensure the accuracy of KYC information collected, including by resolving inconsistent information and confirming its accuracy.
 - Ensure that risk profiles capture both a client’s risk tolerance level and their risk capacity.
- *KYP* – The BCSC notes that having written processes for staff on discrete KYP procedures and reports is not enough. Guidance on how these procedures and reports come together to form the overall KYP process is required. The BCSC expects that firms maintain:
 - Written documentation of the KYP process, including records demonstrating that the process was followed.
 - Adequate record keeping of issuer’s documents and how a firm has assessed the securities, including assessing the relevant aspects of the securities such as structure, features, risks, initial and ongoing costs (and the impact of these costs).
 - Documentation of the ongoing monitoring of significant changes of approved securities, including records showing when securities are removed from approved lists or clients’ portfolios.

- *Suitability* – The BCSC expects firms to maintain clear, comprehensive records that demonstrate portfolio decisions, suitability assessments and product oversight. These records must explain not only what decisions were made but also why they were made. Specifically, suitability compliance requires firms to maintain the following records:
 - How concentration is calculated and how it is applied consistently across the firm.
 - When rebalancing of accounts occur, how or why accounts are chosen while others are not.
 - The process for determining if a change in a portfolio is suitable for a client.
 - The process the advising representative follows when choosing securities from a “watch list” and the reasonable range of alternative actions and rationale behind each security selection.

Other CFR deficiencies

In addition to the above, the Report Card also identified the following CFR-related deficiencies for adviser and dealer firms:

- No KYC or suitability process for considering a reasonable range of alternatives or ensuring that the investment decision puts the client’s interest first, including maintaining proper documentation that demonstrates a firm’s procedures and compliance with its suitability determination obligations.
- No evidence that reasonable steps were taken to obtain trusted contact person (TCP) information or written consent to contact a TCP when necessary.
- No KYC collection process for joint accounts.
- No documented process to ensure meaningful client interaction and adequate recordkeeping.
- No consideration of what constitutes a significant change to client information or how such changes are recorded.
- No process to monitor significant changes in securities of issuers for which the firm raises capital.
- No process to ensure registrants understand KYP duties and recordkeeping, including with respect to a firm’s ongoing review of the products on the shelf, and no documented KYP training process for dealing representatives.

Other compliance review findings

Financial information submissions

The BCSC has observed a growing number of issues in financial filings. In addition to common deficiencies identified, BCSC staff also notes that late filings are viewed as a signal of broader compliance issues, which may trigger further review.

Relevant investment management experience (RIME) submissions

Despite discussing RIME issues in the two previous annual report cards and in the [November 2023 Registrant Outreach](#), the BCSC notes that staff continue to see issues with individual registration applications, including in relation to RIME.

Compliance and enforcement actions

The Report Card highlights that the BCSC is taking aggressive action against firms that fail to meet their obligations including suspending firm registration, imposing strict terms and conditions, and entering into settlement agreements that include bans on registered personnel. Firms with systemic failures, repeat deficiencies or inadequate compliance cultures are referred to the Enforcement division of the BCSC. In some instances, the BCSC may impose costs on firms for compliance reviews, including if firms fail to maintain records or provide proper records during a compliance review within a reasonable time.

2024-2025 compliance priorities

The BCSC's compliance priorities for the year ahead include a continued focus on the CFRs, as well as reviews of high-risk firms, as informed by their biennial risk questionnaire. The BCSC will also be participating in the CSA sweep on registrant cybersecurity practices. Finally, artificial intelligence has been identified as an area of special attention.

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Firms are encouraged to read the full Report Card which contains helpful guidance for improving a firm's compliance program. Should you have any questions about this bulletin or anything in the Report Card or wish to discuss the regulatory landscape ahead with respect to other CSA initiatives impacting registered firms, please reach out to your usual BLG lawyer or BLG Beyond AUM Law lawyer or any of the authors below.

The authors would like to thank Jacob Bennett, student-at-law, for his contributions to this bulletin.

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