Gifts + Entertainment Rules for the Holidays: A Refresher

The holiday season is a time to express gratitude for those in your personal and professional lives. Sometimes we show our appreciation or affection with gifts. Other times we gather individuals together to celebrate. However, advisors, broker-dealers and anyone regulated by the SEC or FINRA must pause before launching into holiday elf mode.

Both regulatory agencies have guidelines regarding giving and receiving gifts. And while these expectations stand throughout the year, they become especially relevant during the holiday season.

Now is the perfect time to refresh your memory on gift and entertainment guidelines and to ensure your team is also well-trained on the regulatory guidance and your firm's rules.

What Do the SEC and FINRA Say About Gifts and Entertainment?

The SEC and FINRA have slightly different approaches to their gift and entertainment restrictions, but the underlying intention is the same. Both regulatory agencies wish to remove any impropriety that could result from giving or receiving gifts.

If someone from your firm presents a client with a lavish gift, that client may feel pressure to maintain or expand the relationship or reciprocate in some other way.

If a client presents an advisor with an all-expenses-paid trip for him and his family, he may feel indebted to that individual in a way that encourages them to bypass their ethics.

That is why the SEC and FINRA discourage excessive gifting. While the SEC does not put a specific dollar limit on the types of gifts advisors and employees can give and receive, the anti-fraud messaging and focus on fiduciary duty within its Investment Advisors Act encourages moderation. FINRA assigns a $100-per-year limit to any non-compensation-related rewards (which includes gifts, entertainment and gratuities).

Defining Gifts and Entertainment Rules for Your Firm

FINRA Rule 3220 states that gifts and entertainment are rewards that go above and beyond compensation or contracts of employment.

Gifts are typically material goods, whereas entertainment usually comprises events like a business dinner or an invitation to join a client at a concert or sporting event.

When crafting your firm’s policy around gifts and entertainment (or sending reminders to your colleagues about existing rules), it can be helpful to provide real-world examples to contextualize expectations.

It’s also crucial to clarify that gifts and entertainment policies do not just dictate the client-advisor relationship. All employees of the firm are subject to these rules. Imagine the conflict of interest that could arise if the executive assistant of a firm leader sent an expensive gift to a client.

Additionally, gift and entertainment policies pertain to other professional relationships your employees have. This means any vendors or partners fall under the umbrella of your gift and entertainment policy. Your company’s janitorial vendor sending season courtside tickets to your COO, for example, would create a conflict of interest and be in breach of code of ethics expectations.

Steps to Prepare for Compliance During the Holiday Season

Because gifts often flow freely during the holidays, now is the perfect time to remind your team about your firm's gifts and entertainment policies and procedures.

1. Share your written policies and procedures.

Consider sending a memo to your entire team reminding them of the finer points of your gifts and entertainment policy. Provide your team with guidance around these common questions:

- What types of gifts and entertainment require compliance pre-approval before giving or accepting?
- What is the threshold for reporting gifts and entertainment, and how do you determine the monetary value of a gift?
- How do I report any gifts I've given or received?
- What do I do if a client or vendor approaches me with a surprise gift that I know is out-of-policy?

2. Quiz your team on gift and entertainment guidelines.

Once you've educated your team, follow up with a quiz. How much information from your gifts and entertainment policy did they retain?

Are there any common deficiencies in your team's understanding? That might be a sign that your policy is unclear.

If any colleagues struggled with the assessment, perhaps it's time for some one-on-one coaching with a member of your compliance team.

3. Simplify gift and entertainment reporting.

Some firms have convoluted reporting systems involving pen and paper forms, a chaotic spreadsheet, or email approvals.

A byzantine or outdated reporting process disincentivizes employee participation by adding cumbersome tasks to their plate.

It also makes it easier for an employee to make an honest mistake in reporting. If someone receives multiple holiday gifts and cannot track which have already been reported, they may inadvertently omit one.

Manual processes are often the downfall of well-intentioned compliance policies.

4. Centralize your reporting system and logs.

Instead of relying on antiquated systems, consider using a centralized compliance software program to track all reporting. When you have one source of truth for all gift and entertainment reports, it's easier for your compliance team to flag potential violations and follow up with the necessary employees.

Say, for example, you have one client who engages with multiple team members. If each employee wishes to max out your giving limit to that client, that's a breach of your policy. But without centralized reporting of all gifts and entertainment, it would be easy to miss that overlap.

The holidays should be joyful and festive. Send your team a reminder now about the gift and entertainment reporting process. Ensure your procedures make it easy to comply with policies. Then, pour yourself some eggnog and enjoy the season!

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