

Points of Emphasis/Best Practice Summary

When must you send your clients a copy of your firm's Brochure (ADV Part 2A) and Brochure Supplements (Part 2B)? The requirements changed this year and going forward. In light of the changes to the ADV, your firm was required to deliver a copy (not just make the offer) of its current Brochure and any all Brochure Supplements within sixty (60) days after the filing of its 2010 FYE annual update. Federally registered firms were given until July 21, 2011 to have their Brochure Supplements completed and sent out to new and prospective clients and were given until September 30, 2011 to send Brochure Supplements to existing clients. State-registered firms still had the 60 day requirement from the date of the filing of their first annual update on or after December 31, 2010.

For all subsequent ADV updates, you must deliver a copy of your firm's Brochure before or at the time you enter into an advisory agreement with a

client. Annually, you must deliver a current copy of your firm's Brochure within 120 days of your firm's fiscal year end. Alternatively, you can provide a summary of material changes along with an offer to provide the updated Brochure along with instructions for how to obtain a copy. In addition, you must promptly deliver an updated Brochure to all clients if information in Item 9 (disciplinary information) has been updated. Supervised Persons' Brochure Supplements must be delivered before or at the time that supervised person begins to provide advisory services to a client. You also must deliver to clients any update to the Brochure Supplements that amends information in response to Item 3 of Part 2B (disciplinary information).



Firms must deliver a current copy of its Brochure within 120 days of its fiscal year end.

As a reminder, you must also provide, as applicable, your annual Privacy Policy notice to clients.

Advisors to pooled investment vehicles must also provide audit reports to investors of the pooled investment vehicles.

Regulatory Corner

The North American Securities Administrators Association (NASAA) has developed a coordinated review program for investment advisers switching from federal to state securities regulatory oversight as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Investment Adviser Coordinated Review Program is open to SEC-registered investment advisers switching their registration to between four and 14 states. To participate in the program, eligible investment advisers must complete and submit the Coordinated Review Form found in the IA Switch Resource Center on the NASAA website (www.nasaa.org) in addition to filing all materials required by the states in which the adviser is

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applying for registration.

Submission of the Investment Adviser Coordinated Review Form alerts the program manager that the adviser has filed its registration materials in the appropriate states. The program manager then coordinates the review of the investment adviser's registration materials with the states in which the investment adviser has filed a registration application. The states where investment advisers have filed registration applications will conduct a coordinated review of the investment adviser's registration materials. After completion of the review, the adviser will be informed of the deficiencies, if any,

that must be resolved before the registration will be approved. There is no additional cost to use the program. Advisers will be subject only to the filing fees specified by the states in which the investment adviser is applying for registration.

An application for registration will be approved by each state in which the investment adviser has applied. Each state will approve an application using IARD based on each state's procedures. Neither NASAA nor the program manager has the authority to approve an application. NASAA and the program manager are acting solely as facilitators to streamline the resolution of deficiencies in the core areas of the application. The program began on November 7, 2011 and will conclude on March 30, 2012.

Word on the Street

The SEC has penalized three investment advisers for failing to put in place compliance procedures designed to prevent securities law violations. The cases stem from an initiative within the SEC Enforcement Division's Asset Management Unit to proactively prevent investor harm by working closely with agency examiners to ensure that viable compliance programs are in place at firms. Investment advisers are required by law to adopt and implement written compliance policies and procedures. When SEC examiners identify deficiencies in a firm's compliance program, those deficiencies need to be corrected before they lead to other securities law violations that could harm investors. Investment advisers that essentially ignore SEC examination warnings risk being the subject of SEC enforcement actions.

Under Rule 206(4)-7 of the Investment Advisers Act (the "Compliance Rule"), registered investment advisers are required to adopt and implement written policies and procedures that are reasonably designed to prevent, detect, and correct securities law violations. The Compliance Rule also requires annual review of the policies and procedures for

their adequacy and the effectiveness of their implementation, and designation of a chief compliance officer to be responsible for administering the policies and procedures.

In two of the cases, SEC examiners previously warned the firms about their compliance deficiencies. In one of the cases, the firm had no compliance program for a period of three years and its advisory representatives were completely unsupervised. In addition, the firm failed to establish, maintain, and enforce a written code of ethics, and failed to maintain and preserve certain books and records. In another case, the firm failed to adopt and implement written supervisory procedures and a code of ethics. The firm also neglected to collect the required securities disclosure reports from its staff. In addition, the firm engaged in hundreds of principal transactions with its advisory clients' accounts without informing them or

obtaining their consent as required by law. In the third case, the SEC examiners found that the firm has failed to adopt and implement a compliance program. Once it was brought to the firm's attention, the firm adopted policies and procedures but never fully implemented them.



SEC Penalizes Investment Advisers for Compliance Failures