

NOTICE OF REQUEST FOR PUBLIC COMMENT REGARDING A PROPOSED MODEL
RULE FOR INVESTMENT ADVISER WRITTEN POLICIES AND PROCEDURES UNDER
THE UNIFORM SECURITIES ACTS OF 1956 AND 2002

July 2, 2020

Deadline for Public Comment: August 1, 2020

The Investment Adviser Regulatory Policy and Review Project Group (“Project Group”) of the North American Securities Administrators Association, Inc. (“NASAA”) is seeking public comment on a proposed model rule (“Policies and Procedures Rule”) to require investment advisers to establish, maintain, and enforce written policies and procedures tailored to the investment adviser’s business model. Requiring state-registered investment advisers to establish, maintain, and enforce comprehensive written procedures is intended to facilitate compliance with state securities laws, rules, and regulations. Ultimately, an enhanced culture of investment adviser regulatory compliance minimizes the effects of conflicts and other risks unique to investment advisers; minimizing the effects of these conflicts and risks serves to protect the investing public.

The Policies and Procedures Rule will require investment advisers to establish, maintain, and enforce policies and procedures that address compliance, supervision, proxy voting, physical and cyber security, a code of ethics (including holdings and transaction reports), handling of material non-public information, and business continuity and succession plans. An annual review of all policies and procedures will be required, as will the appointment of a chief compliance officer who has the responsibility and authority to enforce the policies and procedures required by the rule.

Public Comment Period

Please email your comments to Project Group Co-Chairs Stephen Bouchard (BouchardS@dca.njoag.gov) and Stephen Brey (breys@michigan.gov), with a cc: to the NASAA Corporate Office (nasaacomment@nasaa.org) by August 1, 2020. We encourage, but do not require, comments to be submitted by e-mail. If you intend to submit comments in hard copy, please mail them to Stephen Brey at:

State of Michigan, LARA
Corporations, Securities & Commercial Licensing Bureau
Attn: Stephen Brey
PO Box 30018
Lansing, Michigan 48909

Alex Glass
Chair, Investment Adviser Section

Note: After the comment period has closed, NASAA will post to its website the comments it

receives as submitted by the authors. Parties should therefore only submit information that they wish to make publicly available. Further, the following notice will appear on NASAA's website where comments are posted: "NASAA, its agents, and employees accept no responsibility for the content of the comments posted on this Web page. The views, expressions, and opinions expressed in the comments are solely those of the author(s)."

I. Background

The Securities and Exchange Commission ("SEC") has required investment advisers under its regulatory purview to adopt and implement written policies and procedures reasonably designed to prevent violations of the Investment Advisers Act of 1940 since February 5, 2004, when it adopted 17 CFR 275.206(4)-7 ("Rule 206(4)-7"). In its final rule release, the SEC stated, "The rule requires advisers to consider their fiduciary and regulatory obligations under the Advisers Act and to formalize policies and procedures to address them."¹ State-registered investment advisers differ from their federal-covered counterparts in many respects; however, they still owe the same fiduciary duties to clients and face the same sorts of conflicts and varieties of risks faced by federal-covered investment advisers. State-registered investment advisers should be required to have similar policies and procedures as those required under SEC Rule 206(4)-7.

SEC Rule 206(4)-7 does not identify specific elements that an adviser must include in its policies and procedures; rather, the rule requires advisers to identify their own unique conflicts and risk exposures and to design policies and procedures that address those conflicts and risks. The SEC identified a list of items that it considered at a minimum should be included in every adviser's policies and procedures:

- Portfolio management processes, including allocation of investment opportunities among clients and consistency of portfolios with clients' investment objectives, disclosures by the adviser, and applicable regulatory restrictions;
- Trading practices, including procedures by which the adviser satisfies its best execution obligation, uses client brokerage to obtain research and other services (known as "soft dollar arrangements"), and allocates aggregated trades among clients;
- Proprietary trading of the adviser and personal trading activities of supervised persons;
- The accuracy of disclosures made to investors, clients, and regulators, including account statements and advertisements;
- Safeguarding of client assets from conversion or inappropriate use by advisory personnel;
- The accurate creation of required records and their maintenance in a manner that

¹ <https://www.sec.gov/rules/final/ia-2204.htm>

secures them from unauthorized alteration or use and protects them from untimely destruction;

- Marketing advisory services, including the use of solicitors;
- Processes to value client holdings and assess fees based on those valuations;
- Safeguards for the privacy protection of client records and information; and
- Business continuity plans.²

Like their federal-covered counterparts, state-registered investment advisers owe fiduciary duties to their clients and have regulatory obligations designed to prevent harm to investors. The Policies and Procedures Rule is intended to require state-registered investment advisers to identify similar conflicts and risks and to use the identified conflicts and risks to establish, implement, and maintain policies and procedures tailored to their firms which will reduce risks to their advisory clients.

The Policies and Procedures Rule consolidates into one overarching rule certain existing NASAA model rules on physical security, cybersecurity, and business continuity and succession planning plus new topics such as compliance and supervisory policies and procedures, proxy voting, code of ethics, and material non-public information policies. The Policies and Procedures Rule combines the various policy and procedure requirements under currently effective NASAA model rules and includes a series of new policy and procedure requirements designed to enhance compliance by state-registered investment advisers. Identifying what is expected by state securities regulators to establish effective policies and procedures should facilitate compliance with state securities laws and enhance investor protection.

II. Overview of the Model Rule

The proposed Policies and Procedures Rule is drafted pursuant to the Post-Registration Provisions and Requirements contained in Section 203 of the Uniform Securities Act of 1956 and Section 411 of the Uniform Securities Act of 2002. Upholding these obligations is also inherent to an investment adviser's fiduciary duty to its clients under Section 102 of the Uniform Securities Act of 1956 and Section 502 of the Uniform Securities Act of 2002. The Policies and Procedures Rule would be a new, standalone rule under both of these model acts. The Policies and Procedures Rule incorporates, supersedes and replaces the following existing model rules: (1) NASAA Model Rule on Business Continuity and Succession Planning (April 13, 2015); and (2) NASAA Model Rule on Physical Security, Cybersecurity, and Privacy (May 19, 2019).

1. Proposed Policies and Procedures Model Rule

The proposed Policies and Procedures Rule would make it unlawful for a registered investment adviser to provide investment advice unless the investment adviser establishes,

² See link in footnote 1.

maintains, and enforces policies and procedures tailored to the investment adviser's business. Subrule (a) of the proposed rule would require advisers to have written policies and procedures that include: (1) compliance policies and procedures; (2) supervisory policies and procedures; (3) proxy voting policies and procedures; (4) physical security and cybersecurity policies and procedures; (5) a code of ethics; (6) material non-public information policies and procedures; and (7) a business continuity and succession plan.

Subrule (b) of the proposed rule would require that all policies and procedures under the rule be reviewed annually for adequacy and effectiveness of implementation.

Subrule (c) would require the investment adviser to designate a chief compliance officer, which is defined in subrule (d)(2). The chief compliance officer must be a "supervised person", which is consistent with the SEC's definition of the word under Section 202(a)(25) of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-2(a)(25). Additional definitions that are used throughout the rule are included in subrule (1)(d) and are addressed further below.

A. Compliance Policies and Procedures

Compliance policies and procedures will be required as follows:

*(1) **Compliance Policies and Procedures.** The investment adviser must establish, maintain, and enforce written compliance policies and procedures reasonably designed to prevent violations by the investment adviser of the Act and the rules that the [Administrator] has adopted under the Act;*

The proposal incorporates the same general structure as SEC Rule 206(4)-7 and is intended to create a requirement that will be broad enough to encompass all sizes and types of investment advisers. The adviser would be required to establish, maintain, and enforce written policies and procedures that are specific to the adviser and its business.

No specific policies and procedures are prescribed by the rule; rather, guidance will address the minimum expected policies and procedures to be created by every investment adviser. Some advisers will need the bare minimum policies and procedures due to a simple business model; others, however, may require additional policies and procedures to address unique aspects of their businesses.

B. Supervisory Policies and Procedures

Supervision policies and procedures will be required as follows:

*(2) **Supervisory Policies and Procedures.** The investment adviser must establish, maintain, and enforce written supervisory policies and procedures reasonably designed to prevent violations by the investment adviser's supervised persons of the Act and the rules that the [Administrator] has adopted under the Act;*

SEC Rule 206(4)-7 does not break out supervisory policies and procedures as a discrete requirement in a separate rule, but rather requires that federal-covered investment advisers have

policies and procedures reasonably designed to prevent violations of the Investment Advisers Act by the adviser and its supervised persons. The proposed Policies and Procedures Rule breaks the supervisory requirement out separately to put an emphasis on the need for state-registered investment advisers to reasonably supervise their employees and prevent violations by the adviser as a result of its supervised persons.

“Supervised person” as defined by the rule tracks closely with the SEC’s definition of the term. It includes:

any partner, officer, director (or other person occupying a similar status or performing similar functions), or employee of an investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser. The definition includes investment adviser representatives, employees, independent contractors, or other associated persons and supervised personnel, or other persons acting on behalf of the investment adviser.

The investment adviser’s supervisory policies and procedures will need to address how the adviser will adequately supervise those that are employed by or associated with it to prevent violation of state securities laws (also defined by the proposed Policies and Procedures Rule) by the individuals that fall within the definition.

C. Proxy Voting Policies and Procedures

Proxy voting policies and procedures will be required by the following language as adapted from SEC Rule 206(4)-6:

(3) Proxy Voting Policies and Procedures.

(A) If the investment adviser has the authority to vote client securities:

(i) The investment adviser must establish, maintain, and enforce written proxy voting policies and procedures that are reasonably designed to ensure that the investment adviser votes client securities in the best interest of clients. These procedures must include how the investment adviser addresses material conflicts that may arise between its interests and those of the investment adviser’s clients;

(ii) Disclose to clients how they may obtain information from the investment adviser about how it voted with respect to their securities; and

(iii) Describe to clients the investment adviser’s proxy voting policies and procedures and, upon request, furnish a copy of the policies and procedures to the requesting client.

(B) If the investment adviser does not have the authority to vote client securities then this information must be disclosed to its clients.

The proposed proxy voting subrule would require state-registered investment advisers that vote client securities to adopt policies and procedures that will ensure the proxies are voted in the best interest of the client; that provide clients with how to find information about how the adviser voted on the client's behalf; and describe how clients can obtain the adviser's proxy voting policies and procedures. Further, if an investment adviser does not vote client securities as a proxy, it must disclose that it does not do so.

D. Physical Security and Cybersecurity Policies and Procedures

Physical security and cybersecurity policies and procedures are required as follows:

(4) Physical Security and Cybersecurity Policies and Procedures. *The investment adviser must establish, implement, update, and enforce written physical security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information. The policies and procedures must be tailored to the investment adviser's business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser.*

(A) The physical security and cybersecurity policies and procedures must:

- (i) Protect against reasonably anticipated threats or hazards to the security or integrity of client records and information;*
- (ii) Ensure that the investment adviser safeguards confidential client records and information; and*
- (iii) Protect any records and information the release of which could result in harm or inconvenience to any client.*

(B) The physical security and cybersecurity policies and procedures must cover at least five functions:

- (i) Identify. Develop the organizational understanding to manage information security risk to systems, assets, data, and capabilities;*
- (ii) Protect. Develop and implement the appropriate safeguards to ensure delivery of critical infrastructure services;*
- (iii) Detect. Develop and implement the appropriate activities to identify the occurrence of an information security event;*
- (iv) Respond. Develop and implement the appropriate activities to take action regarding a detected information security event; and*
- (v) Recover. Develop and implement the appropriate activities to maintain plans for resilience and to restore any capabilities or services that were impaired due to an information security event.*

(C) Privacy Policy. The investment adviser must deliver upon the investment adviser's engagement by a client, and on an annual basis thereafter, a privacy policy to each client that is reasonably designed to aid in the client's understanding of how the investment adviser collects and shares, to the extent permitted by state and federal law, non-public

personal information. The investment adviser must promptly update and deliver to each client an amended privacy policy if any of the information in the policy becomes inaccurate.

Effective May 19, 2019, the NASAA membership adopted a model rule requiring investment advisers to establish, implement, update, and enforce policies and procedures related to physical security, cybersecurity, and privacy. The rule implements the CIA Triad (Confidentiality, Integrity, and Availability) as well as the five-function NIST Cybersecurity Framework (National Institute of Standards and Technology). The NIST Framework includes five functions to facilitate enhanced cybersecurity: Identify, Protect, Detect, Respond, and Recover. The Privacy Policy section of the rule is distinct from the Physical Security and Cybersecurity subrules in that it has a client delivery requirement. The Privacy Policy explains to clients how the adviser collects and, if applicable, shares private, non-public information that is protected by the Physical Security and Cybersecurity policies and procedures; to reiterate, the security procedures are not subject to client delivery requirements.

As the Physical Security, Cybersecurity, and Privacy Model Rule has been discussed at length in prior rule releases, it is only briefly reviewed here. For more discussion on the rule, see request for public comment available at the following link: <https://www.nasaa.org/wp-content/uploads/2018/09/NASAA-Request-for-Public-Comment-on-Information-Security-and-Privacy.pdf>.

The May 19, 2019, Model Rule is incorporated in this proposed Policies and Procedures Rule to holistically include all the required policies and procedures in one place for ease of reference of state-registered investment advisers.

E. Code of Ethics, Access Persons, Holdings Reports, and Transaction Reports

A written code of ethics is required as follows:

(5) Code of Ethics.

(A) The investment adviser must establish, maintain, and enforce a written code of ethics that, at a minimum, includes:

(i) A standard (or standards) of business conduct that the investment adviser requires of its supervised persons, which must reflect the investment adviser's fiduciary obligations and those of its supervised persons;

(ii) Provisions requiring the investment adviser's supervised persons to comply with applicable State and Federal securities laws;

(iii) Provisions requiring all of the investment adviser's access persons to report, and the investment adviser to review, their personal securities transactions and holdings periodically as provided below;

(iv) Provisions requiring supervised persons to report any violations of the investment adviser's code of ethics promptly to its chief compliance officer or, provided the investment adviser's chief compliance officer also receives reports of all violations, to other persons designated in the investment adviser's code of ethics; and

(v) Provisions requiring the investment adviser to provide each of its supervised persons with a copy of the investment adviser's code of ethics and any amendments, and requiring the investment adviser's supervised persons to provide it with a written acknowledgment of their receipt of the code and any amendments.

(B) Reporting requirements.

(i) Holdings reports. The code of ethics must require the investment adviser's access persons to submit to its chief compliance officer or other persons designated in the investment adviser's code of ethics a report of the access person's current securities holdings that meets the following requirements:

(a) Content of holdings reports. Each holdings report must contain, at a minimum:

- 1. The title and type of security, and as applicable the exchange ticker symbol or CUSIP number, number of shares, and principal amount of each reportable security in which the access person has any direct or indirect beneficial ownership;*
- 2. The name of any broker, dealer or bank with which the access person maintains an account in which any securities are held for the access person's direct or indirect benefit; and*
- 3. The date the access person submits the report.*

(b) Timing of holdings reports. The investment adviser's access persons must each submit a holdings report:

- 1. No later than 10 days after the person becomes an access person, and the information must be current as of a date no more than 45 days prior to the date the person becomes an access person.*
- 2. At least once each 12-month period thereafter on a date selected by the investment adviser, and the information must be current as of a date no more than 45 days prior to the date the report was submitted.*

(ii) Transaction reports. The code of ethics must require access persons to submit to the investment adviser's chief compliance officer or other persons designated in the investment adviser's code of ethics quarterly securities transactions reports that meet the following requirements:

(a) Content of transaction reports. Each transaction report must contain, at a minimum, the following information about each transaction involving a reportable security in which the access person had, or as a result of the transaction acquired, any direct or indirect beneficial ownership:

- 1. The date of the transaction, the title, and as applicable the exchange ticker symbol or CUSIP number, interest rate and maturity date, number of shares, and principal amount of each reportable security involved;*
- 2. The nature of the transaction (i.e., purchase, sale or any other type of acquisition or disposition);*
- 3. The price of the security at which the transaction was effected;*
- 4. The name of the broker, dealer or bank with or through which the transaction was effected; and*
- 5. The date the access person submits the report.*

(b) Timing of transaction reports. Each access person must submit a transaction report no later than 30 days after the end of each calendar quarter, which report must cover, at a minimum, all transactions during the quarter.

(c) Exceptions from reporting requirements. The investment adviser's code of ethics need not require an access person to submit:

- 1. Any report with respect to securities held in accounts over which the access person had no direct or indirect influence or control;*
- 2. A transaction report with respect to transactions effected pursuant to an automatic investment plan in which regular periodic purchases or withdrawals are made automatically in or from investment accounts in accordance with a predetermined schedule and allocation, including a dividend reinvestment plan;*

3. A transaction report if the report would duplicate information contained in broker trade confirmations or account statements that the investment adviser holds in its records so long as the investment adviser receives the confirmations or statements no later than 30 days after the end of the applicable calendar quarter.

(iii) Pre-approval of certain investments. The investment adviser's code of ethics must require its access persons to obtain the investment adviser's approval before they directly or indirectly acquire beneficial ownership in any security in an initial public offering or in a limited offering.

(iv) Small advisers. If the investment adviser has only one access person, it is not required to submit reports to itself or to obtain its own approval for investments in any security in an initial public offering or in a limited offering, if the investment adviser maintains records of all of its holdings and transactions that this section would otherwise require the investment adviser to report.

The Policies and Procedures Rule would impose requirements similar to those required for federal-covered investment advisers by SEC Rule 204A-1, including a code of ethics that clarifies:

- the standards of business conduct the investment adviser requires of its supervised persons;
- the requirement that supervised persons adhere to state and federal securities laws;
- the requirement that access persons (discussed further below) report personal securities transactions and holdings on a periodic basis;
- the requirement that supervised persons report violations to a chief compliance officer; and
- the requirement that the adviser provide a copy of its code of ethics, including any amendments, to its supervised persons.

The Policies and Procedures Rule aligns closely with SEC Rule 204A-1 on this topic and is intended to accomplish the same goals: enhance investment advisers' abilities to fulfill their fiduciary duties to clients.

Code of Ethics: The proposed Policies and Procedures Rule would require all investment advisers to establish, maintain, and enforce written codes of ethics that would guide the business conduct of advisers and their supervised persons. It would reflect the adviser's fiduciary obligations to its clients; legal and regulatory obligations; personal securities transaction reporting requirements; code of ethics violation reporting requirements; and the requirement that the adviser provide a copy of its code of ethics to each of its supervised persons and obtain a signed acknowledgement of receipt from each supervised person.

Reporting Requirements: Access persons have special reporting obligations under the code of ethics requirements. “Access person” includes a supervised person who:

- has access to non-public information regarding any client’s purchase or sale of securities or to non-public information regarding the portfolio holdings of any reportable fund;
- is involved in making securities recommendations to clients; or
- has access to recommendations that are non-public.

Directors, officers, and partners of investment advisers are presumed to be access persons.

Every code of ethics adopted under the proposed Policies and Procedures Rule must require access persons to submit to a chief compliance officer a holdings report detailing the access person’s securities holdings. The reports must identify the title and type of security, the name of the custodian, and the date of the report. The report must be submitted no less than ten days after the person becomes an access person, and at least once every twelve months thereafter. The report must be current as of a date not more than 45 days before the date that the report is submitted.

Access persons must also submit transaction reports to the chief compliance officer about each transaction involving reportable securities in which the access person had a beneficial interest. The report must include the date of the transaction, information about the security, the transactional nature (i.e., buy or sell), the price of the security, and the broker or dealer that effected the transaction. The date the report was submitted must also be included. The reports must be submitted to the chief compliance officer quarterly.

Access persons are not required to submit a report:

- regarding any securities held in accounts over which the access person has no direct or indirect influence or control;
- regarding transactions effected pursuant to an automatic investment plan in which regular periodic purchases or withdrawals are made according to predetermined schedule and allocations; or
- which would duplicate information contained in broker trade confirmations or account statements the adviser holds in its records so long as the adviser receives the confirmations or statements no later than 30 days after the end of the applicable quarter.

The risks associated with advisers breaching fiduciary duties to clients is reduced in the situations described, so the need for reporting under the circumstances is mitigated.

Small Advisers: Some small advisers will not be required to comply with the holdings and transaction report submission requirements; however, the reports still must be created and maintained. If an investment adviser has only one access person – the sole owner or sole proprietor of the investment adviser – then the adviser is not required to submit reports to itself or to otherwise

obtain its own approval so long as the person maintains the reports required by the code of ethics.

F. Material Non-Public Information Policies and Procedures

Policies and procedures related to material non-public information are required as follows:

(6) Material Non-Public Information Policy and Procedures. *The investment adviser must establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by the investment adviser or any person associated with the investment adviser.*

Investment advisers and their supervised persons may come in contact with material non-public information which can create an incentive to misuse the information for profit. Having policies and procedures in place to minimize the risk of misuse of material non-public information is important for advisers of all sizes. The proposed Policies and Procedures Rule would require advisers to establish, maintain, and enforce policies and procedures to reduce the risks associated with misuse of material non-public information.

G. Business Continuity and Succession Plans

Business continuity and success plans would be required as follows:

(7) Business Continuity and Succession. *The investment adviser must establish, maintain, and enforce written policies and procedure relating to a Business Continuity and Succession Plan. The plan must provide for at least the following:*

(A) The protection, backup, and recovery of books and records.

(B) Alternate means of communications with customers, key personnel, employees, vendors, service providers (including third-party custodians), and regulators, including, but not limited to, providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities.

(C) Office relocation in the event of temporary or permanent loss of a principal place of business.

(D) Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel.

(E) Otherwise minimizing service disruptions and client harm that could result from a sudden significant business interruption.

On April 13, 2015 the NASAA Membership adopted a model rule requiring investment advisers to establish, implement, and maintain procedures related to a business continuity and

succession plan.³ Inclusion of the April 13, 2015 Model Rule, like the other previously-adopted rules, is intended to compile various required policies and procedures in one rule for ease of use by advisers. It does not create or impose new requirements on state-registered investment advisers.

The Project Group highlights the business continuity and succession planning rule in light of the COVID-19 pandemic and the effect it has had on not only investment advisers, but on the world as a whole. Advisers must have a plan to maintain operations in the event of unforeseen circumstances, including continuity of service to clients and continued compliance with regulatory requirements. Events outside of the ordinary course of business always have, and always will occur; planning for these events inures to the benefit of investors, regulators, and the industry as a whole.

H. Annual Review and Chief Compliance Officer

Annual Review: Subrule (b) of the proposed Policies and Procedures Rule would require the investment adviser, not less than annually, to review the adequacy of the policies and procedures and their effectiveness.

Chief Compliance Officer: Subrule (c) of the proposed Policies and Procedures Rule defines a chief compliance officer as follows:

“[A] supervised person with the authority and resources to develop an enforce the investment adviser’s policies and procedures. The individual designated to serve as chief compliance officer must be registered as an investment adviser representative and must have the background and skills appropriate for fulfilling the responsibilities of the position.”

The chief compliance officer is a person who must be designated by the investment adviser to administer the adviser’s policies and procedures. While not defined under the SEC’s rules, the Project Group believed it was important for state regulators to clarify who can function in the role. This is especially true given that states register and regulate individual investment adviser representatives while the SEC does not have an individual registration category at the federal level for associated persons of federal-covered investment advisers.

One component of the chief compliance officer definition is that the person must have the “authority and resources” to enforce the policies and procedures. This implies that the person has supervisory authority over the adviser’s investment adviser representatives which would bring the person within the definition of “investment adviser representative” under both the 1956 and the 2002 Uniform Securities Acts. By clarifying that the person must be an investment adviser representative, the definition clarifies that the individual must be registered or exempt from registration as necessary under the relevant enabling statute.

An investment adviser who has only one supervised person who is also the owner of the investment adviser is also required to have a chief compliance officer under the Policies and Procedures Rule; there is no small firm adviser exemption from this requirement. The individual who owns the firm is responsible for having the background and skills appropriate to ensuring that

³ <https://www.nasaa.org/wp-content/uploads/2011/07/NASAA-Model-Rule-on-Business-Continuity-and-Succession-Planning-with-gu...pdf>

the firm has properly tailored policies and procedures and for ensuring their implementation. The individual should evidence how he or she implements and enforces those policies and procedures with respect to his or her activities on behalf of the investment adviser.

Additional Definitions: Additional definitions relevant to the policies and procedures adopted in the proposed rule include:

- “Beneficial ownership”, as used in holdings report requirements in the code of ethics subrule, is interpreted in the same manner as it would be under 17 C.F.R. § 240.16a-1 in determining whether a person has beneficial ownership of a security for purposes of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) and the rules and regulations thereunder;
- “Federal securities laws” refers to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Gramm-Leach-Bliley Act, the Sarbanes-Oxley Act of 2002, and rules adopted under these laws, as well as the Bank Secrecy Act as it applies to investment advisers.
- “Fund” means an investment company registered under the Investment Company Act.
- “Limited offering” means an offering exempt from registration under section 4(2) of the Securities Act of 1933.
- “Reportable security” means a security as defined in section 202(a)(18) of the Securities act of 1933. It does not include direct obligations of the United States Government; bankers’ acceptances, bank certificates of deposit; commercial paper, and other high quality short-term debt instruments; shares issued by money market funds; shares issued by open-end funds other than reportable funds; and, shares issued by unit investment trusts exclusively invested in one or more open-end funds, none of which are reportable funds.
- “State securities laws” means all applicable state securities statutes, rules, and regulations, including registration, permit, or qualification requirements thereunder.

III. Requests for Comment

The Project Group requests public comment on all aspects of the proposed Policies and Procedures Rule. In particular, the Project Group submits the following questions for public consideration:

1. Do you agree with the proposed structure of the rule? Should all policies and procedures be included in one rule or should they be divided among a larger group of separate rules?
2. Should general policies and procedures and supervisory policies and procedures

be set out in separate rules?

3. Do you agree that NASAA should adopt model rules requiring the same kinds of policies and procedures as those required by the SEC with respect to proxy voting? Should proxy voting and code of ethics requirements be imposed in the manner proposed by the rule?
4. Should the NASAA model rule require the same policies, procedures, and recordkeeping obligations with respect to non-public information as those required by the SEC? Do you believe that state-registered advisers have the same access to and conflicts with respect to non-public information that federal-covered firms and associated persons do?
5. Within the code of ethics requirement, should the NASAA model rule require holdings and transactions reports in the same manner the SEC requires?
6. Should NASAA adopt the same small adviser exemption from holdings and transaction reports as that allowed by the SEC or should it take a different approach? Should the reporting exemption be expanded such that advisers need not prepare the reports but only maintain records? Are there other ways to minimize burdens on small advisers?
7. Is the “chief compliance officer” definition sufficient? If not, what should be added or removed?
8. Do you have any further comment on the proposed rule?

Attachments:

Attachment A: Complete Text of the Proposed Model Rule

Attachment B: Proposed Policies and Procedures Checklist

Attachment A: Complete Text of the Proposed Model Rule

(a) It is unlawful for an investment adviser registered or required to be registered pursuant to [section 201 of the 1956 Act or section 403 of the 2002 Act] to provide investment advice to clients unless the investment adviser establishes, maintains, and enforces written policies and procedures tailored to the investment adviser's business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser. The written policies and procedures must provide for at least the following:

(1) Compliance Policies and Procedures. The investment adviser must establish, maintain, and enforce written compliance policies and procedures reasonably designed to prevent violations by the investment adviser of the Act and the rules that the [Administrator] has adopted under the Act;

(2) Supervisory Policies and Procedures. The investment adviser must establish, maintain, and enforce written supervisory policies and procedures reasonably designed to prevent violations by the investment adviser's supervised persons of the Act and the rules that the [Administrator] has adopted under the Act;

(3) Proxy Voting Policies and Procedures.

(A) If the investment adviser has the authority to vote client securities:

(i) The investment adviser must establish, maintain, and enforce written proxy voting policies and procedures that are reasonably designed to ensure that the investment adviser votes client securities in the best interest of clients. These procedures must include how the investment adviser addresses material conflicts that may arise between its interests and those of the investment adviser's clients;

(ii) Disclose to clients how they may obtain information from the investment adviser about how it voted with respect to their securities; and

(iii) Describe to clients the investment adviser's proxy voting policies and procedures and, upon request, furnish a copy of the policies and procedures to the requesting client.

(B) If the investment adviser does not have the authority to vote client securities then this information must be disclosed to its clients.

(4) Physical Security and Cybersecurity Policies and Procedures. The investment adviser must establish, implement, update, and enforce written physical security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information. The policies and procedures must be tailored to the investment adviser's business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser.

(A) The physical security and cybersecurity policies and procedures must:

- (i) Protect against reasonably anticipated threats or hazards to the security or integrity of client records and information;
- (ii) Ensure that the investment adviser safeguards confidential client records and information; and
- (iii) Protect any records and information the release of which could result in harm or inconvenience to any client.

(B) The physical security and cybersecurity policies and procedures must cover at least five functions:

- (i) Identify. Develop the organizational understanding to manage information security risk to systems, assets, data, and capabilities;
- (ii) Protect. Develop and implement the appropriate safeguards to ensure delivery of critical infrastructure services;
- (iii) Detect. Develop and implement the appropriate activities to identify the occurrence of an information security event;
- (iv) Respond. Develop and implement the appropriate activities to take action regarding a detected information security event; and
- (v) Recover. Develop and implement the appropriate activities to maintain plans for resilience and to restore any capabilities or services that were impaired due to an information security event.

(C) Privacy Policy. The investment adviser must deliver upon the investment adviser's engagement by a client, and on an annual basis thereafter, a privacy policy to each client that is reasonably designed to aid in the client's understanding of how the investment adviser collects and shares, to the extent permitted by state and federal law, non-public personal information. The investment adviser must promptly update and deliver to each client an amended privacy policy if any of the information in the policy becomes inaccurate.

(5) Code of Ethics.

(A) The investment adviser must establish, maintain, and enforce a written code of ethics that, at a minimum, includes:

- (i) A standard (or standards) of business conduct that the investment adviser requires of its supervised persons, which must reflect the investment adviser's fiduciary obligations and those of its supervised persons;
- (ii) Provisions requiring the investment adviser's supervised persons to comply with applicable State and Federal securities laws;

(iii) Provisions requiring all of the investment adviser's access persons to report, and the investment adviser to review, their personal securities transactions and holdings periodically as provided below;

(iv) Provisions requiring supervised persons to report any violations of the investment adviser's code of ethics promptly to its chief compliance officer or, provided the investment adviser's chief compliance officer also receives reports of all violations, to other persons designated in the investment adviser's code of ethics; and

(v) Provisions requiring the investment adviser to provide each of its supervised persons with a copy of the investment adviser's code of ethics and any amendments, and requiring the investment adviser's supervised persons to provide it with a written acknowledgment of their receipt of the code and any amendments.

(B) Reporting requirements.

(i) Holdings reports. The code of ethics must require the investment adviser's access persons to submit to its chief compliance officer or other persons designated in the investment adviser's code of ethics a report of the access person's current securities holdings that meets the following requirements:

(a) Content of holdings reports. Each holdings report must contain, at a minimum:

1. The title and type of security, and as applicable the exchange ticker symbol or CUSIP number, number of shares, and principal amount of each reportable security in which the access person has any direct or indirect beneficial ownership;
2. The name of any broker, dealer or bank with which the access person maintains an account in which any securities are held for the access person's direct or indirect benefit; and
3. The date the access person submits the report.

(b) Timing of holdings reports. The investment adviser's access persons must each submit a holdings report:

1. No later than 10 days after the person becomes an access person, and the information must be current as of a date no more than 45 days prior to the date the person becomes an access person.
2. At least once each 12-month period thereafter on a

date selected by the investment adviser, and the information must be current as of a date no more than 45 days prior to the date the report was submitted.

(ii) Transaction reports. The code of ethics must require access persons to submit to the investment adviser's chief compliance officer or other persons designated in the investment adviser's code of ethics quarterly securities transactions reports that meet the following requirements:

(a) Content of transaction reports. Each transaction report must contain, at a minimum, the following information about each transaction involving a reportable security in which the access person had, or as a result of the transaction acquired, any direct or indirect beneficial ownership:

1. The date of the transaction, the title, and as applicable the exchange ticker symbol or CUSIP number, interest rate and maturity date, number of shares, and principal amount of each reportable security involved;
2. The nature of the transaction (i.e., purchase, sale or any other type of acquisition or disposition);
3. The price of the security at which the transaction was effected;
4. The name of the broker, dealer or bank with or through which the transaction was effected; and
5. The date the access person submits the report.

(b) Timing of transaction reports. Each access person must submit a transaction report no later than 30 days after the end of each calendar quarter, which report must cover, at a minimum, all transactions during the quarter.

(c) Exceptions from reporting requirements. The investment adviser's code of ethics need not require an access person to submit:

1. Any report with respect to securities held in accounts over which the access person had no direct or indirect influence or control;

2. A transaction report with respect to transactions effected pursuant to an automatic investment plan in which regular periodic purchases or withdrawals are made automatically in or from investment accounts in accordance with a predetermined schedule and allocation, including a dividend reinvestment plan;

3. A transaction report if the report would duplicate information contained in broker trade confirmations or account statements that the investment adviser holds in its records so long as the investment adviser receives the confirmations or statements no later than 30 days after the end of the applicable calendar quarter.

(iii) Pre-approval of certain investments. The investment adviser's code of ethics must require its access persons to obtain the investment adviser's approval before they directly or indirectly acquire beneficial ownership in any security in an initial public offering or in a limited offering.

(iv) Small advisers. If the investment adviser has only one access person, it is not required to submit reports to itself or to obtain its own approval for investments in any security in an initial public offering or in a limited offering, if the investment adviser maintains records of all of its holdings and transactions that this section would otherwise require the investment adviser to report.

(6) Material Non-Public Information Policy and Procedures. The investment adviser must establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by the investment adviser or any person associated with the investment adviser.

(7) Business Continuity and Succession Plan. The investment adviser must establish, maintain, and enforce written policies and procedure relating to a business continuity and succession plan. The plan must provide for at least the following:

(A) The protection, backup, and recovery of books and records.

(B) Alternate means of communications with customers, key personnel, employees, vendors, service providers (including third-party custodians), and regulators, including, but not limited to, providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities.

(C) Office relocation in the event of temporary or permanent loss of a principal place of business.

- (D) Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel.
 - (E) Otherwise minimizing service disruptions and client harm that could result from a sudden significant business interruption.
- (b) Annual Review. The investment adviser must review, no less frequently than annually, the adequacy of the policies and procedures established pursuant to this section and the effectiveness of their implementation.
- (c) Chief Compliance Officer. The investment adviser must designate a supervised person as the chief compliance officer responsible for administering the investment adviser’s policies and procedures.
- (d) Definitions.
- (1) “Supervised person” means any partner, officer, director (or other person occupying a similar status or performing similar functions), or employee of an investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser. The definition includes investment adviser representatives, employees, independent contractors, or other associated persons and supervised personnel, or other person acting on the behalf of the investment adviser.
 - (2) “Chief compliance officer” means a supervised person with the authority and resources to develop and enforce the investment adviser’s policies and procedures. The individual designated to serve as chief compliance officer must be registered as an investment adviser representative and must have the background and skills appropriate for fulfilling the responsibilities of the position.
 - (3) “Act” means the Uniform Securities Act of 1956 or the Uniform Securities Act of 2002, as revised in 2005.
 - (4) “Access person” means:
 - (A) Any of the investment adviser’s supervised persons:
 - (i) Who has access to non-public information regarding any client’s purchase or sale of securities, or non-public information regarding the portfolio holdings of any reportable fund, or
 - (ii) Who is involved in making securities recommendations to clients, or who has access to such recommendations that are non-public.
 - (B) If providing investment advice is the investment adviser’s primary business, all of its directors, officers and partners are presumed to be access

persons.

- (5) “Beneficial ownership” is interpreted in the same manner as it would be under 17 C.F.R. § 240.16a-1 in determining whether a person has beneficial ownership of a security for purposes of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) and the rules and regulations thereunder. Any report required by 17 C.F.R. 275.204A-1(b) may contain a statement that the report will not be construed as an admission that the person making the report has any direct or indirect beneficial ownership in the security to which the report relates.
- (6) “Federal securities laws” means the Securities Act of 1933 (15 U.S.C. 77a-aa), the Securities Exchange Act of 1934 (15 U.S.C. 78a-mm), the Investment Company Act of 1940 (15 U.S.C. 80a), the Investment Advisers Act of 1940 (15 U.S.C. 80b), title V of the Gramm-Leach-Bliley Act (Pub. L. 106-102, 113 Stat. 1338 (1999)), the Sarbanes-Oxley Act of 2002 (Pub. L. 107-204, 116 Stat. 745 (2002)), any rules adopted by the U.S. Securities and Exchange Commission under any of these statutes, the Bank Secrecy Act (31 U.S.C. 5311-5314; 5316-5332) as it applies to funds and investment advisers, and any rules adopted thereunder by the U.S. Securities and Exchange Commission or the U.S. Department of the Treasury.
- (7) “Fund” means an investment company registered under the Investment Company Act.
- (8) “Initial public offering” means an offering of securities registered under the Securities Act of 1933 (15 U.S.C. 77a), the issuer of which, immediately before the registration, was not subject to the reporting requirements of sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)).
- (9) “Limited offering” means an offering that is exempt from registration under the Securities Act of 1933 pursuant to section 4(2) or section 4(5) (15 U.S.C. 77d(2) or 77d(5)) or pursuant to §§ 230.504, 230.505, or 230.506 of this chapter.
- (10) “Purchase or sale of a security” includes, among other things, the writing of an option to purchase or sell a security.
- (11) “Reportable security” means a security as defined in section 202(a)(18) of the Securities Act of 1933(15 U.S.C. 80b-2(a)(18)), except that it does not include:
- (A) Direct obligations of the Government of the United States;
 - (B) Bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements;
 - (C) Shares issued by money market funds;
 - (D) Shares issued by open-end funds other than reportable funds; and
 - (E) Shares issued by unit investment trusts that are invested exclusively in one

or more open-end funds, none of which are reportable funds.

(12) “State securities laws” means all applicable state securities statutes, rules and regulations, including, without limitation, the registration, permit or qualification requirements thereunder.

Attachment B: Proposed Policies and Procedures Checklist and Instructions

Instructions Introduction

Most jurisdictions require their registered investment advisers to establish and implement policies and procedures designed to prevent and detect violations of the applicable state statutes and rules which govern them. Securities examiners typically review your policies and procedures for applicability to your particular business model and state regulations. For many years, written policies and procedures have consistently remained one of the top ten deficiencies noted in investment adviser exams across the country.

As the Chief Compliance Officer, you are probably responsible for preparing, maintaining, and applying your firm's policies and procedures in accordance with your state's regulations. To assist in your compliance efforts, NASAA developed this **Compliance Grid** for use in conjunction with its new Model Rule for Investment Adviser Written Policies and Procedures Under the Uniform Securities Acts of 1956 and 2002.

Use the **Compliance Grid** as a reference sheet to create initial policies and procedures, or use it as a "completeness check" against your current policies and procedures.

Overview of the Compliance Grid

The **left side** of the **Compliance Grid** color-codes and summarizes six main topics in order to identify possible omissions or weaknesses in your current policies and procedures:

- Compliance Policy and Procedures
- Proxy Voting Policy and Procedures
- Information Security
- Code of Ethics
- Material Non-Public Information Policy and Procedures
- Business Continuity and Succession

The rows underneath each main topic describe specific actions or best practices. For each of these rows, the **Compliance Grid** provides four columns on the right-hand side:

- Your policy
- Your procedure for implementing the policy
- The assigned supervisor or responsible person
- How compliance with the procedure is evidenced

The right side of the grid helps determine if you have adopted or implemented policies designed to address the stated issue as well as procedures designed to supervise compliance with those policies. It also identifies who is responsible for overseeing compliance of that particular issue. Under the "How Evidenced" column, indicate with a check mark that your policies and procedures contain a description of the process described in the row.

It is not enough in your written policies and procedures to make a statement such as, "*We supervise our on-site personnel.*" Policies and procedures describe **how** you will prove ("evidence") you

have implemented the stated action, best practice or control. In this example, the policies and procedures must describe the entire process for supervising on-site personnel:

- What exactly constitutes this supervision?
- How often?
- How do you document this supervision?

If the row topic does not apply to your practice, you may wish to write “N/A,” cross out the inapplicable row or otherwise record the topic as moot (e.g., “*All advisers work from the main office. Firm does not have off-site personnel.*”).

Hints for Using the Compliance Grid

Multi-purpose: NASAA designed the **Compliance Grid** for use by all types of registered investment advisers, from single-member firms to those with multiple investment adviser representatives and staff. In smaller firms, there may be only one assigned supervisor. Larger firms may split supervisory duties among different individuals. Some jurisdictions do not require an *assigned supervisor* for a single-member advisory firm.

In all cases, regulators expect compliance with applicable law, so make sure you implement any required policies and procedures for the state or states where you are registered. Each office of the investment adviser should contain a current copy of the policies and procedures.

Main topics: Some of the six color-coded main topics may not be applicable to your advisory practice. For example, if your firm does not vote proxies for its clients, it does not need a procedure describing how it memorializes the basis for its voting decisions. However, your firm would have a *compliance policy* stating it does not vote client proxies.

Rows: Use the right-hand columns to cross-reference the specific practices described in each row. Assign a supervisor/responsible person to the action or practice as appropriate.

Some of the rows listed on the **Compliance Grid** may not be applicable to your advisory practice. For example, if your firm manages investment portfolios but never produces written financial plans for its clients, it does not need a policy describing the financial planning process, fees and software used to create the plan. Instead, it would have a *compliance policy* stating it does not provide financial planning.

If your Form ADV describes financial planning as an option for clients to consider, then you must create policies and procedures for the financial planning process, even if you have never actually had a financial planning client.

“Off the Shelf” Compliance Manuals

Some firms purchase “template” policies and procedures manuals but never customize them to the adviser’s actual business model. “Off the shelf” manuals are often generic and often cover business practices not applicable to state registered advisers. Often, these standard manuals outline

duties or functions which simply are not manageable by a small firm. In addition, these manuals frequently reference SEC rules which may differ from the particular state's rules. Your compliance manual should reflect the business you conduct and the states rules with which you must comply.

Compliance Policies and Procedures	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Duty to Supervise				
a. Compliance Inspections				
i. On-site personnel				
ii. Off-site personnel				
2. Designation of Chief Compliance Officer and Supervisory Responsibility Structure – job descriptions				
3. Compliance risk assessment procedures				
4. Annual compliance review and testing				
5. Compliance Policies – updating/amendments				
6. Acknowledge Receipt by supervised persons				
Registration/Licensing	Policy	Procedure	Assigned Supervisor	How Evidenced
1. State Regulatory Requirements				
2. Dual Licensing				
a. Permitted under what circumstances				
b. Compensation: advisory fee, commission or both				
3. Firm (Form ADV Parts 1 and 2; 2A and 2B client brochure)				
b. Calculating regulatory assets under management,				
c. Custody				
iii. Deducting fees from client accounts				
iv. SLOAs and Bill Paying				
v. Trustee or Power of Attorney				
vi. Pooled Investment Vehicles				
A. Accredited investor, non-accredited investor, qualified clients				
B. Audit of Fund				
C. Custodian(s)				
D. Gatekeeper/independent party				
E. Limited Partnership or LLC Agreement				
F. Management of Fund by General Partner, Managing Member, or separate IA				
G. Subscription Agreement				
d. Financial and disciplinary disclosure – Part 2A				
e. Branch/Satellite Locations (Form BR)				
f. Procedures for delivery of Form ADV				
g. Amendments and Material Changes to Form ADV; Summary of Material Changes				
h. Conflicts of Interest – disclosure				
i. Firm Financial Statement (balance sheet) and Net Worth/Bonding Requirement				
j. Withdrawal/Termination: Firm/ADV-W				

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k. Annual Requirements				
i. Annual Updating Amendment Form ADV Part 1 and 2,				
ii. Renewal – annual filing of financial statement or balance sheet				
4. IA Representative Licensing (Form U-4)				
a. Solicitors and referrals (referral fees paid or received)				
b. Outside business activity/employment				
c. Professional designation and certification verification				
d. Personal trading accounts/activity				
e. Prohibited transactions/Restricted List				
f. Financial and Disciplinary Action Disclosure				
g. Amending Form U-4				
h. Withdrawal/Termination: Form U-5				
Advertising	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Definitions of advertising				
a. Business Cards/Letterhead, Website, Social Media, Seminars, Radio/TV, other				
2. Review and approval process				
3. Documentation				
4. Use of third-party rating services				
5. Prohibited references				
a. Testimonials and Endorsements				
b. Guarantees, Misleading Language				
c. Use of “RIA” and “IAR”				
6. Performance Advertising				
a. Model or hypothetical portfolios				
b. Comparisons to indices				
7. Social Media – business and personal use				
Advisory and Investment Activity	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Portfolio management process				
a. Due Diligence/Research Securities				
b. Due Diligence Third-party Advisers				
i. Initial and ongoing due-diligence				
c. Consistency with client investment objectives				
d. Management strategies/models				
e. Valuation of assets				
2. Financial Planning process				
a. Financial Plan delivery and/or software access				
b. Ongoing services/fees				
3. Alternative Investment Activities: Alternative Investments, Pooled Investment Vehicles, Private Placements, Variable Contracts				
4. Proprietary trading of an adviser and personal trading activities of supervised persons				
5. Trading practices and prohibited transactions				
a. Allocation of aggregated trades				

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b. Block trading				
c. Best execution and order routing				
d. Economic benefit from securities transactions/soft dollar arrangements				
e. Directed brokerage				
f. Disclosures to clients and regulatory restrictions				
g. Fraudulent transactions, transfers or disbursements				
i. Receiving instructions via email; wire transfers				
h. Insider trading – prevention and detection				
i. Principal Transactions/Agency Cross Transactions				
j. Correcting trading errors				
i. Trading error notification				
ii. Benefit or Loss due to error				
Client Accounts/Relationship	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Account opening/closing procedures				
a. Client financial information, client address/phone/email address of record, investment objectives, investment experience, risk tolerance, time horizon, suitability information, other information about client				
i. Updating client information				
b. Documents to be maintained in client files				
c. Investment policy statement				
d. Account closing procedures				
2. Account statements and Confirmation of Transactions				
a. Custodian				
b. Prepared by investment adviser				
3. Brochure Disclosure (Form ADV Part 2, Part 2A and 2B)				
a. Initial delivery, amendments and material changes				
4. Contract				
a. Complete description/disclosure of services and corresponding fee(s)				
b. Calculation of fees, fee invoices, fees payable in advance or arrears, payment method (deduction of fee from account vs remittance by client), performance fees				
c. Waiver of compliance/hedge clauses				
d. Authority to vote proxies				
e. Assignment of contract				
f. Discretionary authority/non-discretionary authority				
g. Custody of client funds or securities; custodian(s)				
h. Brochure delivery				
i. Termination provisions (breach of contract/non-performance; remedy; refund of prepaid fees)				
j. Governing law				
5. Correspondence guidelines: to/from clients including electronic communication				
6. Complaints				
7. Gifts (to/from)				
8. Vulnerable Adults				

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a. Diminished Capacity (clients and licensee)				
b. Financial Exploitation				
c. Training-signs to look for				
i. Reporting, third party notification, delaying transactions				
Custody and Discretionary Authority	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Discretion/Non-Discretionary Authority				
a. Written vs. oral authorization				
b. Unauthorized Trading				
2. Custody				
a. Access to accounts via client’s user identification login and password				
b. Deduction of advisory fees from client accounts				
c. Inadvertent Custody				
d. Pooled Investment Vehicles				
i. Accredited investor, non-accredited investor and qualified client				
ii. Audit of Fund; CPA				
iii. Custodian(s)				
iv. Gate keeper/independent party				
v. Management of fund by general partner/managing member vs. separate IA				
vi. Limited Partnership or LLC Agreement				
vii. Subscription agreement				
e. SLOAs and Bill Paying				
f. Trustee or Power of Attorney				
g. Documentation and client instructions				
h. Money Transfers				
Books and Records	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Specific books/recordkeeping requirements				
2. Financial Records				
3. Third Party Agreements				
4. Check Handling Procedures				
5. Electronic Delivery of Client Documents				
6. Retention				
7. Security of books and records – back up copy				
Proxy Voting Policies and Procedures	Policy	Procedure	Assigned Supervisor	How Evidenced
Disclose information about policies and procedures				
1. Information as to whether the IA does or does not vote client proxies				
2. Authority from client(s) to vote proxies (in client contract)				
3. Class Action Lawsuits				
4. Description of how clients obtain information on how the IA voted proxies				

5. Voting proxies in the best interest of the client (s)				
6. Retain:				
a. Proxy statement received				
b. Documents utilized by IA that memorialize the basis for voting decision				
c. Records of votes IA casts on behalf of clients				
d. Record of client requests for proxy voting information and evidence of IA response				
Information Security	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Cybersecurity:				
a. Identify, Protect, Detect, Respond, Recover				
b. Email and Fax communication requesting transfer of money or securities				
c. Antivirus, Antimalware, Firewall				
d. Due diligence of third party vendors				
2. Education and training for:				
a. Staff				
b. Clients				
Code of Ethics	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Standards of business conduct				
2. Personal Securities Transactions/Trading/Investing in IPOs				
3. Include code of ethics in ADV Part 2, Item 11				
4. Insider trading policy				
5. Special Reports to management				
6. Anti-Money Laundering policy				
Material Non-Public Information Policy and Procedures	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Privacy policy and procedures to protect customers nonpublic personal information				
a. Types of permitted disclosure				
b. Sharing information:				
i. As required by law				
ii. Disclosing information with affiliated and non-affiliated third parties				
iii. Service providers – due diligence of third party vendors				
A. Non-disclosure agreements				
2. Privacy Notice				
a. Initial and Annual Delivery of Privacy Notice				
Business Continuity and Succession	Policy	Procedure	Assigned Supervisor	How Evidenced
1. Business Continuity Plan				

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a. Natural disaster				
b. Key person loss (incapacity or death)				
2. Business succession plan				