

September 29, 2009

NASAA Outlines Best Practices For Investment Advisers

Coordinated IA Examinations Spotlight Deficiencies in Key Areas

WASHINGTON, D.C. (September 29, 2009) – The North American Securities Administrators Association (NASAA) today released an updated series of recommended best practices that investment advisers should consider in order to improve their compliance practices and procedures.

“By identifying these deficiencies, our goal is to help investment advisers minimize the risk for regulatory violations by strengthening their internal compliance programs. Our best practices are designed to assist advisers in meeting compliance challenges while providing better services to their clients,” said NASAA President and Texas Securities Commissioner Denise Voigt Crawford.

Crawford said the best practices were developed after a series of coordinated examinations of investment advisers by 35 state and provincial securities examiners revealed a significant number of problem areas. Crawford said examinations of 458 state-level investment advisers conducted between January and May 2009 revealed 1,887 deficiencies in 13 compliance areas.

The 2009 examinations were conducted under the guidance of NASAA’s Investment Adviser Operations Project Group. The top five categories with the greatest number of deficiencies involved registration, books and records, unethical business practices, supervision and financials.

The examinations revealed that:

- The top trouble spots in the area of registration were inconsistencies between parts I and II of form ADV and failing to amend form ADV in a timely manner.
- In the area of preparing and maintaining current and accurate books and records, the top deficiencies included not maintaining suitability information, not properly safeguarding records and not backing up data.
- The leading unethical business practice deficiencies involved missing or no contracts and other contract-related issues, and misrepresenting qualifications, services and fees.
- The most common supervision deficiencies were a failure to have any written supervisory/compliance procedures or having inadequate procedures in place.
- Financial deficiencies included inaccurate financials, insufficient or inaccurate net worth, no bank reconciliations and poor financial conditions.

Other areas with deficiencies included privacy, advertising, fees, custody, solicitors, investment activities, performance reporting and hedge funds. Crawford noted that issues involving non-accredited investors and registration-exemption issues were the two greatest deficiencies among hedge fund advisers. The complete results of the examinations are available [here](#).

Based on the results of the 2009 coordinated exams, NASAA recommends the following “Best Practices” as a guide to assist advisers in the development of compliance practices and procedures.

Recommended Best Practices

- Review and revise the Form ADV and disclosure brochure annually to reflect current and accurate information.
- Review and update all contracts.
- Prepare and maintain all required records including financial records. Back-up electronic data and protect records.
- Prepare and maintain client profiles.
- Prepare a written compliance and supervisory procedures manual relevant to the type of business.
- Prepare and distribute a privacy policy initially and annually.

- Keep accurate financials. File timely with the jurisdiction. Maintain surety bond if required.
- Calculate and document fees correctly in accordance with contracts and ADV.
- Review and revise all advertisements, including website and performance advertising, for accuracy.
- Implement appropriate custody safeguards, if applicable.
- Review solicitor agreements, disclosure, and delivery procedures.

NASAA is the oldest international organization devoted to investor protection. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Puerto Rico, Canada, and Mexico.

For more information:

Bob Webster, Director of Communications

202-737-0900