

SEC Amendments Require Additional Form ADV Disclosures

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On August 25, 2016, the SEC, pursuant to the Amendments in Release No. IA-4509 (the “Amendments”), amended Form ADV to increase the amount of information that registered investment advisors (“RIAs”) must disclose to the Securities and Exchange Commission (“SEC”). Among its many provisions, the Amendments, (1) increase disclosure obligations for Advisors with separately managed accounts; (2) codify umbrella registration RIAs for process; and (3) require that RIAs disclose information regarding social media accounts. The Amendments also require RIAs to maintain additional records related to the calculation and distribution of performance information so the SEC can determine if the RIA is accurately advertising its performance to clients. The Amendments took effect on October 31, 2016, and permit Advisors until October 1, 2017 to become compliant.

Disclosure Regarding Specially Managed Accounts

The Amendments set out new disclosure obligations for specially managed accounts (“SMAs”). RIAs must now disclose the approximate percentage of SMA regulatory assets under management that are invested in several asset categories. These categories include:

- exchange-traded equity securities
- non-exchange traded equity securities
- U.S. government bonds
- U.S. state and local bonds
- sovereign bonds
- corporate bonds – investment grade; corporate bonds – non-investment grade
- derivatives
- securities issued by registered investment companies and business development companies
- securities issued by other pooled investment vehicles
- cash and cash equivalents
- Other

Further, RIAs with at least \$10 billion in total regulatory assets under management in SMAs must disclose this information both at mid-year and at year-end. SMAs must disclose this information only as of year-end.

The Umbrella Registration Procedures

The Amendments also now set out procedures for “umbrella registration” of RIAs that consist of multiple entities but operate as a single advisory business. To qualify for “umbrella registration,” an RIA must satisfy several conditions:

- The filing RIA must maintain its principal office and have a place of business in the United States
- The filing RIA and relying RIAs must advise only private funds and SMAs whose investors are qualified clients that are otherwise eligible to invest in the RIAs’ private funds. The accounts’ investment objectives and strategies must be substantially similar or otherwise related to the RIA private funds
- The advisers must operate under a single code of ethics and single set of written compliance policies and procedures administered by a single compliance officer.
- Each of the relying RIAs and its employees must be subject to the supervision and control of the filing RIA and
- The filing RIA and each relying RIA must be subject to the Investment Advisers Act and examination by the SEC.

Social Media Account Disclosures

The Amendments now require that RIAs identify not only their websites, but also their accounts on social media platforms (e.g., Twitter, Facebook and LinkedIn), social media accounts both those targeted to domestic as well as to foreign clients. The Amendments, however, do not require disclosure of the social media accounts of an RIA’s employees.

A copy of Release No. IA-4509 can be found [here](#).

Please contact Michael E. Storck at (716-853-5100) for further information.

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