



COMMONWEALTH OF VIRGINIA

State Corporation Commission

DIVISION OF SECURITIES

INVESTMENT ADVISOR
SELF-INSPECTION CHECKLIST

July 2013

Investment Advisor Self-Inspection Checklist

Investment Advisor Self-Inspection Checklist

Registration

- Is the investment advisor properly registered in the IARD System? (§13.1-504 A (ii)) ()
- Are all of the firm's investment advisor representatives properly registered in the IARD System? (§13.1-504 A (ii) and C) ()
- If brokerage commissions are received for client securities transactions, are the broker-dealer agents properly registered? (§13.1-504 A (I) & 504 B) ()
- If the investment advisor issues securities, are those securities properly registered or exempt? (§13.1-507) ()

Disclosure Form ADV

- Are both the Form ADV Part 1 & Part 2 current and updated (21 VAC 5-80-40 A) ()
 1. Filing "promptly" is defined as within 30 days _____
 2. Annual update within 90 days of fiscal year _____
 3. Do not use until you receive acceptance letter _____
- Does the investment advisor provide new and prospective clients with the ADV Part 2? (21 VAC 5-80-190 A) ()
- Is the ADV Part 2 provided at least 48 hours prior to entering into the advisory contract, or at the time of entering the contract? The latter requires the advisor to disclose to clients that they may terminate the contract without penalty within 5 calendar days? (21 VAC 5-80-190 B) ()
- Does the advisor maintain a record of the date the Form ADV Part 2 was given to each client? (21 VAC 5-80-160 A 14) ()
- Does the advisor make an annual offer to give clients a copy of the Form ADV Part 2? (21 VAC 5-80-190 C) ()
- Does the advisor maintain a record of the date that the annual offer of Form ADV Part 2 was made to each client? (21 VAC 5-80-160 A 14) ()

Investment Advisor Self-Inspection Checklist

Advisory Agreement

- Does the written advisory agreement contain provisions to allow for the following: (21 VAC 5-80-200 A 16)
 - A description of the services to be provided by the advisor? ()
 - A description of the terms of the contract? ()
 - The amount of the fee or schedule and any formula used to compute fees? ()
 - Are the fees, as stated in all clients agreements, consistent with the actual fee currently being charged to those clients? (..)
 - If fees for portfolio management are greater than 2% for non-wrap accounts, is disclosure provided in the agreement and the ADV Part 2 to inform clients that those fees may be higher than the industry standard and that similar services may be available for a lower fee? (..)
 - The amount of any prepaid fee to be returned to the customer in the event of termination or nonperformance? The agreement should state whether fees are charged in advance or arrears. ()
 - That no assignment of the contract may be made by the advisor without the customer's consent? ()
 - States whether the contract grants discretionary authority to the advisor if investment supervisory services are provided? ()
- Provides that the advisor shall not be compensated on the basis of a share of the capital gains or appreciation of any portion of clients' funds if investment supervisory services are provided? (§13.1-503 C 1) ()
- If the advisory agreement contains a hedge clause or arbitration clause, does it also indicate that the client has not given up any rights guaranteed under state securities laws? (§13.1-522 F), Section 206 of the Investment Advisors Act of 1940 ()
- Does the advisor maintain copies of all advisory agreements with customers? (21-VAC 5-80-160 A 10) ()
- When the ADV Part 2 is delivered to clients when they sign the advisory agreement, does the agreement include a provision that clients may have 5 days to terminate the agreement without penalty? (21 VAC 5-80-190 B) ()

Supervision

Investment Advisor Self-Inspection Checklist

If the investment advisor employs more than one investment advisor representative, the firm is required to establish, maintain and enforce written supervisory compliance procedures:

- Has the advisor designated a person to supervise the activities of the investment advisor representatives? (21 VAC 5-80-170 C) ()
- Does the investment advisor maintain written supervisory procedures in each business office? (21 VAC 5-80-170 D 1-4) ()
- Do the written supervisory procedures cover the following areas?
 - The review and written approval by the designated supervisor of the opening of each new client account? (21 VAC 5-80-170 D 1) ()
 - The frequent examination of client accounts to detect and prevent irregularities or abuses? (21 VAC 5-80-170 D 2) ()
 - The prompt review and written approval by a designated supervisor of all advisory transactions by investment advisor representatives? (21 VAC 5-80-170 D 3) ()
 - The prompt review and written approval by a designated supervisor of correspondence pertaining to solicitation or execution of all advisory transactions by investment advisor representatives? (21 VAC 5-80-170 D 3) ()
 - The prompt review and written approval of the handling of all client complaints? (21 VAC 5-80-170 D 4) ()
- Does the advisor maintain a policies & procedures manual that includes the firm's: code of ethics, privacy policy, disaster recovery procedures, computer security procedures including back-up and cloud storage policies, and policies covering the use of social media? ()

Record Keeping Requirements

Business Formation Records

- Does the advisor maintain, on-site, a record of partnership articles, articles of incorporation, bylaws, charter, minute books and stock certificate books maintained at Registrant's principle office? (21 VAC 5-80-160 E 2) Not required for a sole proprietorship. ()

Investment Advisor Self-Inspection Checklist

Financial Records

- Does the advisor maintain a complete accounting system that contains or provides: ()
 - Complete financial statements (balance sheet and income statement) along with the related trial balances and internal audit papers? (21 VAC 5-80-160 A 6) ()
 - A general ledger reflecting all asset, liability, capital, income and expense accounts? (21 VAC 5-80-160 A 2) ()
 - Journals or other records of original entry such as cash receipts and expense journals? (21 VAC 5-80-160 A 1) ()
 - Checkbooks, deposit tickets, bank statements, canceled checks and bank reconciliations? (21 VAC 5-80-160 A 4) ()
 - All paid and unpaid bills or statements? (21 VAC 5-80-160 A 5) ()

Regulatory Correspondence

- Does the advisor maintain a file for all correspondence with any state or federal agency pertaining to the firm and its representatives? (21 VAC 5-80-160 A 20) ()

General Advertising

- Does the advisor maintain copies of each notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication circulated to two or more persons not associated with the advisor. (21 VAC 5-80-160 A 11) ()
- If an advertisement or other communication recommends a specific security transaction, is there a memorandum explaining the recommendations or are the reasons included in the communication? (21 VAC 5-80-160 A 11) ()
- If a communication cites a performance claim, does the advisor maintain a file with all accounts, books, and internal working papers demonstrating the calculation of the performance claim? (21 VAC 5-80-160 A 16) ()
- Does the advertisement appear to be free from any testimonials or misleading or deceptive statements? (21 VAC 5-80-200 A 13) ()
- Does the advisor's stationary and business cards properly identify the entity as the investment advisor and the agent as the IA representative? Richard W. Grant letter to SEC (September 2, 1983) ()

Investment Advisor Self-Inspection Checklist

Complaints and Litigation

- Does the advisor maintain copies of all customer complaints and written communications received or sent regarding any litigation involving the firm, its representatives or employees? (21 VAC 5-80-160 A 17) ()

Securities Transactions by the Firm its Representatives or other Principals

- Does the advisor maintain a record of the personal securities transactions of all of the firm's investment advisor representatives, as well as the firm's proprietary trading account? (21 VAC 5-80-160 A 12) ()
- Does the advisor maintain a record of the personal securities transactions of principals of the advisor, even if those persons do not provide investment advice? (21 VAC 5-80-160 A 13) ()

Written Agreements

- Does the advisor maintain copies of all agreements related to the investment advisor's business? (21 VAC 5-80-160 A 10) ()

Solicitor Agreements

- For each client that was obtained by means of a solicitor for a fee, does the advisor maintain the following?: (21 VAC 5-80-160 A 15)
 - A written agreement between the solicitor and the other advisor describing the solicitation activities to be engaged in on behalf of the other advisor? (21 VAC 5-80-160 A 15 a) ()
 - A signed and dated acknowledgment from the client evidencing that they received copies of the advisor's ADV Part II disclosure statement, as well as a solicitor's disclosure document? (21 VAC 5-80-160 A 15 b) ()
 - A copy of the solicitor's ADV Part II disclosure statement? (21 VAC 5-80-160 A 15 c) ()
- If the advisor acts as a solicitor is there a written agreement between the solicitor and the other investment advisor? (21 VAC 5-80-190 E) ()
- Does the agreement and the additional ADV Part 2 disclosure required by Rule 21 VAC 5-80-190 E contain all of the mandatory elements of the Rule? ()

Investment Advisor Self-Inspection Checklist

Suitability Information

- Does the advisor prepare and maintain written information that forms the basis for the investment advisor's recommendations or investment advice for each client? (21 VAC 5-80-160 A 18) The Division prefers an investment policy statement or similar profile that clearly portrays the Advisor's understanding of each clients' goals, objectives, and tolerance for investment risks. ()

Discretionary Authority or Power of Attorney

- Does the advisor maintain a list of the clients for which it has discretionary authority to effect securities transactions? (21 VAC 5-80-160 A 8) ()
- Does the advisor maintain copies of all powers of attorney and other discretionary powers held by the advisor over client accounts? (21 VAC 5-80-160 A 9) ()
- Is the advisor's actual use of any discretionary authority or power of attorney consistent with the documents granting such authority? (21 VAC 5-80-200 A 4) ()

Client Correspondence

- Does the advisor maintain original copies of correspondence received or sent by the firm or its representatives related to; recommendations or advice, receipt, or delivery of funds or securities, and placing any securities orders? (21 VAC 5-80-160 A 7) ()

Order Memoranda

- Does the advisor prepare a memorandum of each brokerage order given by the firm for the purchase or sale of securities? Required whether or not the order was executed. (21 VAC 5-80-160 A 3) ()
- Does the memorandum include the following:
 - Terms and conditions? ()
 - Individual who placed the order? ()
 - Individual who recommended the transaction? ()
 - Account for which entered? ()
 - Date of entry? ()
 - Bank, broker or dealer who executed order? ()

Investment Advisor Self-Inspection Checklist

- Discretionary authority exercised? ()

Portfolio Management Records

To the extent that the information is reasonably available, does the advisor maintain a securities cross reference listing showing separately:

- For each client the date, amount and price of each security purchased or sold? (History of client transactions) (21 VAC 5-80-160 C 1) ()
- For each security in which any client has a current position, the name and current amount or interest of each client? (Current positions) (21 VAC 5-80-160 C 2) ()

Records Retention

- Are the investment advisor's records retained for a period of five years, the first two years located at the Registrant's office (or easily accessible location)? (21 VAC 5-80-160 E 1-5) ()
- If the advisor maintains books and records on film, an imaging system or on a computer, do the archive procedures satisfy the requirements of the Rule? (21 VAC 5-80-160 H) ()

Disaster Recovery Plan

- Does the Disaster Recovery Plan address all of the following elements required by the Rule? (21 VAC 5-80-160 F) ()
 - The identity of individuals that will conduct or wind down business on behalf of the investment advisor in the event of death or incapacity of key persons? ()
 - Means to provide notification of the death or incapacity of key persons to clients and the Division? ()
 - Notify the Division via the IARD/CRD system within 24 hours
 - Notify clients within five business days
 - Means for clients' accounts to continue to be monitored until an orderly liquidation, distribution or transfer of the clients' portfolio to another advisor can be achieved or until an actual notice to the client of investment advisor death or incapacity? ()
 - Means for the credit demands of the investment advisor to be met? and ()

Investment Advisor Self-Inspection Checklist

- Data backups sufficient to allow rapid resumption of the investment advisor's activities? ()

Privacy

• Does the adviser have a privacy disclosure policy that satisfies the terms of the Gramm-Leach-Bliley Act (GLBA) under 16 C.F.R. § 313 or SEC 17 C.F.R. § 248? (21 VAC 5-80-200 A 14) ()

- Has the adviser provided its clients a copy of its privacy disclosure document on a timely basis? ()

- Does the adviser provide its clients a copy of its privacy disclosure document at least annually? ()

Custody - Exception due Solely to Withdrawal of Fees through Custodian

An investment advisor is not required to obtain an independent verification of client funds and securities maintained by a qualified custodian if all of the following are met: (21 VAC 5-80-146 C 3) ()

• The investment advisor has custody of the funds and securities solely as a consequence of its authority to make withdrawals from client accounts to pay its advisory fee; ()

• The investment advisor has written authorization from the client to deduct advisory fees from the account held with the qualified custodian ()

• Each time a fee is directly deducted from a client account, the investment advisor concurrently: ()

(1) Sends the qualified custodian an invoice or statement of the amount of the fee to be deducted from the client's account; and

(2) Sends the client an invoice or statement itemizing the fee. Itemization includes the formula used to calculate the fee, the amount of assets under management the fee is based on, and the time period covered by the fee. The invoice will notify the client that the custodian will not be checking the accuracy of the fees and this responsibility is the client's.

• The investment advisor notifies the commission in writing that the investment advisor intends to use the safeguards provided above. Such notification is required to be given on Form ADV. ()

Investment Advisor Self-Inspection Checklist

- Check Item 9.A. on Form ADV Part 1A as "No" if the only reason the investment advisors have custody is because they engage in direct fee deduction. Also complete Item 2.I. of Form ADV Part 1B. ()

Performance Based Fees

If the advisor provides his services on the basis of a share of the capital gains or capital appreciation of any portion of a client's funds, Does the advisor's agreement with the client meet the following conditions? (§ 13.1-503 C).

- Is the client entering into the contract: ()
 - A natural person or company with \$750,000 under management with the advisor immediately after entering into the contract?
 - Or a natural person or company whose net worth at the time of entering the contract exceeds \$1,500,000? (21 VAC 5-80-220 B)
- Disclosure.: In addition to the disclosure requirements of Form ADV, before entering into a performance fee based contract, does the advisor disclose: ()
 - That the fee arrangement may create an incentive for the advisor to make investments that are riskier or more speculative than would be the case in the absence of a performance fee? (21 VAC 5-80-220 C 1) ()
 - Where relevant, that the advisor may receive increased compensation with regard to unrealized appreciation as well as realized gains in the client's account? (21 VAC 5-80-220 C 2) ()
 - The time period which will be used to measure investment performance throughout the term of the contract and its significance in the computation of the fee? (21 VAC 5-80-220 C 3) ()
 - The nature of any index which will be used as a comparative measure of investment performance, the significance of the index, and the reason the advisor believes the index is appropriate? (21 VAC 5-80-220 C 4) ()
- Does it appear that the contract represents an arms-length agreement between the parties, and that the client alone or together with the client's independent agent, understands the proposed method of compensation and its risks? (21 VAC 5-80-220 D) ()

Investment Advisor Self-Inspection Checklist

Hedge Funds

- Is the hedge fund properly registered or exempt from registration? What exemption is claimed? (§ 13.1-507) ()
- Did the offer and sale of the offering comply with the requirements of the exemption claimed? (§ 13.1- 514) ()
- If the offering involved a federal covered security and was made in reliance upon Reg D 505 or Reg D 506B, did the hedge fund make a notice filing on Form D to the Commission no later than 15 days after the first sale in Virginia? (21 VAC 5-40-30 & 21 VAC 5-45-20) ()
- Were all sales of the offerings sold only by registered broker-dealer agents if so required? (§ 13.1- 504) ()
- Do all of the investors meet the minimum investor qualifications as stated in the private placement memorandum or ADV? (21 VAC 5-80-200 A1) ()
- Is the investment strategy and risk appropriate for all of the non-accredited investors? (21 VAC 5-80-200 A1) ()
- Has the advisor provided each investor with Form ADV Part 2 or made the proper disclosures in the PPM? (21 VAC 5-80-190 D) ()
- If the advisor charges performance based fees, do all investors qualify and have the proper disclosures been made according to Rule 21 VAC 5-80-220 B? ()
- Does the general partner comply with the Division's custody procedures under 21 VAC 5-80-146? ()

This Checklist was developed from the Virginia Securities Act Rules as amended July 1, 2013. It is non-inclusive in that it contains many,

Investment Advisor Self-Inspection Checklist

but not all, of the Division's Rules. It is published here only as an aid to assist registered investment advisors review their firm's policies and procedures for compliance with the Division's Rules.

Investment Advisor Self-Inspection Checklist

Investment Advisor Document Request List

General Recordkeeping Items for all Advisors

- _____ Business formation records
- _____ A list of all persons employed by the firm within the past 24 months. Include:
 - Name
 - CRD#
 - Job title or brief description of job responsibilities
 - Business card
- _____ Accounting records including:
 - Current Balance Sheet and Income & Expense Statement
 - General and subsidiary ledgers
 - Cash receipt, disbursement, and other journals
 - Deposit slips, canceled checks, check registers and bank statements
 - All paid and unpaid bills
 - Any current loan agreements, notes payable, and notes receivable
- _____ A summary of any material changes to the ADV Part 2 disclosure document
- _____ Records providing evidence of the original delivery of the Form ADV Part 2 disclosure brochure to clients
- _____ Records providing evidence of the annual offer or delivery of the Form ADV Part 2 disclosure brochure to clients
- _____ Current versions of all standard advisory agreements in use
- _____ File of all correspondence with any regulatory agencies or self-regulatory organizations for the past 24 months (Registration, renewal, etc.)
- _____ Complaint and litigation files including all documents relating to any client complaints or litigation matters
- _____ Advertisement file including any newspaper or magazine articles, notices, circulars, bulletins, and investment letters sent to two or more persons. Provide a paper or electronic version of any web-sites in use
- _____ List of all social media sites used by the Advisor

Investment Advisor Self-Inspection Checklist

- ___ Compliance manual or written supervisory procedures
- ___ Operations/Procedures Manual which may contain:
 - The firm's Code of Ethics
 - Disaster recovery plan
 - Privacy policy
 - Computer security policies, back-up procedures, and cloud storage
 - Electronic signature policies
 - Policies and procedures for the use of social media sites
- ___ Records and work papers supporting any performance claims made by the advisor in any advertisements or in any statements to customers
- ___ A copy of any brochures, pamphlets, or other promotional materials furnished to clients or prospective clients within the past 24 months
- ___ All written client correspondence, including e-mail, sent or received by the firm and its representatives for the past 12 months. (For us to review your e-mail you must convert your files to .PDF format or Microsoft Outlook PST format)
- ___ A copy of the firm's Privacy Disclosure Policy. Plus, copies of letters or other evidence that clients are provided a copy of the firm's privacy policy annually
- ___ A list of all persons to whom cash referrals were paid during the past year

Portfolio Managers:

- ___ Order memoranda for the past 12 months: The trade or daily transaction blotter recording the purchase, sale, receipt or delivery of securities for clients
- ___ Securities cross reference listing showing the current positions in each client's account, as well as a history of the client's transactions
- ___ Records of trading activities including the brokerage account statements and transaction confirmations for:
 - The firm's proprietary trading or investment accounts
 - Personal accounts of the firm's IARs that provide investment advice
 - Personal accounts of the firm's principals

Investment Advisor Self-Inspection Checklist

_____ A list of all portfolio management and other clients currently under written contract. Please include:

- Name and account number
- The current balance of the client's assets under management
- Indicate whether the advisor has discretionary authority
- Indicate which clients are directly or indirectly related to the advisor or any of its affiliated/related persons and to whom they are related

_____ A list of all clients terminated within the last 12 months, including the reason for termination

For ALL portfolio management clients please provide the following documents and records:

_____ The current and all previous investment advisory agreements

_____ All power of attorney and discretionary authority documents if not incorporated directly into the advisory agreement

_____ The investment policy statement or other written information for each client that forms the basis for suitability determinations and the advisor's recommendations

_____ Copies of any performance reports prepared by the advisor for the client

_____ The most recent fee invoices and/or billing statements to clients and custodians

_____ The most recent monthly or quarterly client account statements from the custodian. If you deduct client fees through the custodian provide the statement which shows the fee withdrawal

Financial Planners:

_____ A list of all financial planning clients for whom the advisor prepared a financial plan in the last 12 months

_____ Copies of the all financial plans prepared in the past 12 months

_____ A data sheet summarizing the fees charged to the financial planning clients

Investment Advisor Self-Inspection Checklist

Solicitors:

- _____ A copy of the agreement/contract with all third party advisors
- _____ A copy of the third party advisor's ADV Part 2 disclosure brochure
- _____ Client's written acknowledgement of receipt for the third party advisor's ADV Part 2 disclosure brochure and solicitor's disclosure document
- _____ Record of income received from the third party advisors
- _____ Client files for all clients referred to a third party advisor for a fee

Hedge Funds:

- _____ A copy of the prime brokerage agreement with the custodian
- _____ A copy of all agreements with any other firms performing services for the fund or the advisor, including partnership accounting or calculating performance
- _____ A copy of the Form D or other statement claiming exemption from securities registration. Be prepared to explain the firm's exemption status
- _____ A copy of the offering documents including:
 - Prospectus
 - Offering Memorandum
 - Partnership or Operating Agreement
 - Subscription Agreement
 - Investor Questionnaire
- _____ A list of all person that received a copy of the offering documents
- _____ A list of all members and their original capital contributions
- _____ Copy of the most recent audited financial statement