



**INSTRUCTIONS FOR INVESTMENT  
ADVISERS AND INVESTMENT ADVISER  
REPRESENTATIVES**

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## **I. WHO MUST REGISTER WITH THE NEW JERSEY BUREAU OF SECURITIES**

### **A. Investment Advisers**

The New Jersey Uniform Securities Law (1997) (“the Law”), at N.J.S.A. 49:3-49(g), defines “investment adviser” as any person who, for direct or indirect compensation, engages in the business of advising others, either directly or through publications or writing, as to the value of securities or the advisability of investing in, purchasing, selling, or holding securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities.

Any financial planner or other person who provides investment advisory services to others for compensation as part of a business, or who holds himself out as providing investment advisory services to others for compensation, comes within the definition of “investment adviser.”

An agent of a broker-dealer who uses a corporate name or trade name entity (together “DBA entity”) to provide investment advice away from the broker-dealer, must register the DBA entity with the New Jersey Bureau of Securities (“Bureau”) as an investment adviser unless otherwise exempt.

Exclusions from the definition of an investment adviser can be found at N.J.S.A. 49:3-49(g)(2).

It is unlawful for any person to act as an investment adviser in New Jersey unless that person is registered, exempt or notice filed with the Bureau.

### **B. Investment Adviser Representatives**

N.J.S.A. 49:3-49(s), defines “investment adviser representative” as a person, including but not limited to a partner, officer, or director, or a person occupying a similar status or performing similar functions, or other individual, except clerical or ministerial personnel, who is employed by or associated with an investment adviser registered with the Bureau,

or who has a place of business located in New Jersey and is employed by or associated with a person registered or required to be registered as an investment adviser with the U.S. Securities and Exchange Commission, and who does any of the following:

1. makes any recommendations or otherwise renders advice regarding securities if the person has direct advisory client contact;
2. manages accounts or portfolios of clients;
3. determines recommendations or advice regarding securities;
4. solicits, offers, or negotiates for the sale of or sells investment advisory services; or
5. directly supervises any investment adviser representative or the supervisors of those investment adviser representatives.

Please note, an individual who solicits for the sale of or who sells investment advisory services as described above acts as a “solicitor,” and is required to register as an investment adviser representative.

However, “investment adviser representative” does not include a broker-dealer or broker-dealer agent.

It is unlawful for any person to act as an investment adviser representative in New Jersey unless that person is registered with the Bureau or exempt from registration.

**Investment adviser representatives must register with the Bureau as follows:**

State registered firms:

- Any investment adviser representative with a place of business in New Jersey must register with the Bureau; and
- Any investment adviser representative located outside New Jersey, but doing business in New Jersey must register with the Bureau.

Federally registered notice filing firms:

- Investment adviser representatives must be registered with the Bureau if the investment adviser representative has a place of business located in New Jersey.

### **C. Accountants**

On November 16, 1998, the New Jersey Board of Accountancy adopted regulations permitting accountants in New Jersey to receive commissions, performance fees, and contingent fees from non-attest clients. These regulations can be found at N.J.A.C. 13:29-3.8 and 3.12. These regulations have led many New Jersey accounting firms to explore the possibility of functioning as investment advisory firms. Unless an exemption or exclusion from registration exists, such an accounting firm (or a specially created subsidiary) must register or notice file as an investment adviser with the Bureau, and the designated contact persons to arrange such fees must register as investment adviser representatives with the Bureau.

### **D. Registration Exemptions**

#### *1. Assets under management*

Dodd-Frank establishes a threshold of \$100 million assets under management (AUM) for federally covered investment advisers, with a buffer of \$90 - \$110 million for fluctuation of AUM. In New Jersey, all investment advisers with \$100 million (\$90 million) or less under management will be required to register with the Bureau unless they fall between \$25 million and \$100 million and are required to be registered in 15 or more states, or the investment adviser qualifies for an exemption under Rule 203A-2 of the Investment Advisers Act of 1940.

#### *2. De Minimis Exemption*

If the investment adviser firm has five clients or fewer in New Jersey during any consecutive period of 12 months the firm is not required to register with the Bureau. N.J.S.A. 49:3-56(g).

## **II. HOW TO REGISTER WITH THE NEW JERSEY BUREAU OF SECURITIES**

### **A. Investment Adviser Registration Depository (IARD)**

The Bureau uses the IARD to process data and fees regarding both investment advisers and investment adviser representatives. The IARD is sponsored by the states (including New

Jersey) and the U.S. Securities and Exchange Commission, and is operated by FINRA. Further information about the IARD can be obtained from its website, <http://www.iard.com>. For IARD user information and questions, you can contact the IARD support line at (240) 386-4848.

The following forms and fees should be processed through the IARD:

- Form ADV (firm registration);
- Form U-4 (investment adviser representative registration);
- Form ADV-W (investment adviser withdrawals);
- Form U-5 (investment adviser representative withdrawals);
- Investment adviser initial and renewal fee payments (\$200 per firm/year); and
- Investment adviser representative initial and renewal fee payments (\$50 per representative/year).

Single person firms set up as sole proprietorships need only pay an investment adviser firm fee. This does not apply if the firm is incorporated or an LLC. To determine if you need to pay both fees, contact the Bureau.

Additional information and documentation required for registration or notice filing must be sent in paper format to the Bureau, as more fully described below.

## **B. Items to File**

### **1. *New Jersey Home State***

In addition to the forms and fees required to be processed through the IARD, the following items must be mailed to the Bureau:

- A financial statement accompanied by a notarized certification attesting to the accuracy of the information contained in the financial statement;
- Sample investment advisory contract;
- Sample business card, letterhead, brochure, circular, advisory newsletter, form letter, advertisement, or sales literature intended for distribution to prospective clients; and
- In the event that the New Jersey registration was prompted by a withdrawal from SEC registration, a copy of the Form ADV-W filed to withdraw from SEC registration.

## 2. *Home State not New Jersey*

In addition to the forms and fees required to be processed through the IARD, the following items must be mailed to the Bureau.

- A financial statement accompanied by a notarized certification attesting to the accuracy of the information contained in the financial statement;
- Sample investment advisory contract;
- Sample business card, letterhead, brochure, circular, advisory newsletter, form letter, advertisement, or sales literature intended for distribution to prospective clients;
- In the event that the New Jersey registration was prompted by a withdrawal from SEC registration, a copy of the Form ADV-W filed to withdraw from SEC registration; and
- A written declaration that the investment adviser is in compliance with the requirements of its home state as to books and records, bonding, and net capital.

## 3. *SEC Registered State Notice Filers*

Only the forms and fees required to be filed through the IARD are required.

### **C. Investment Adviser Representative Registration**

Prior to registering investment adviser representatives in New Jersey, the investment adviser firm must be registered or notice filed in New Jersey.

Investment adviser representative registration is commenced by electronic transmission of the applicant's Form U-4 to the IARD. The IARD will automatically deduct the New Jersey fee of \$50 from the firm's IARD account. If the applicant needs to take an examination, the examination series number should be noted on the Form U-4. The IARD will automatically deduct the examination fee from the firm's IARD account.

### 1. *Criminal History Background Check*

Every individual applying for registration as an investment adviser representative must submit to being fingerprinted for a criminal history background check. The State of New Jersey has contracted with a vendor, MorphoTrust, to perform this service. MorphoTrust has established permanent sites throughout New Jersey as well as several mobile units available.

Prior to contacting MorphoTrust, each applicant MUST complete the Certification and Authorization Form for a Criminal History Background Check (“Authorization Form”), NJBOS Form 4. The Authorization Form must be mailed to the Bureau. Once the Bureau receives the Authorization Form, a letter will be mailed or emailed to you with further instructions on how to schedule an appointment with MorphoTrust. If you are not located in New Jersey, the letter will provide further instructions on how to submit fingerprints to the Bureau. If you were fingerprinted by MorphoTrust after November 2003 as part of the criminal history background process for registration by the Bureau or the New Jersey Division of Consumer Affairs, you do not need to be fingerprinted again. However, a criminal history background check must be performed each time an application for registration is submitted. The letter will provide further details on payment for the criminal history background check.

Please note, applicants who are currently registered through the CRD/IARD do not need to submit to this process if they have already had a criminal background check through FINRA.

#### **D. Renewals**

##### *1. Investment Advisers*

Investment adviser registrations and notice filings are effective for one calendar year (or less) and expire on December 31 of each year. Registrations and notice filings must be renewed annually for the investment adviser to remain current. The renewal fee is \$200. For all investment advisers, pay the renewal fee through the IARD. No additional paperwork is involved.

##### *2. Investment Adviser Representatives*

Investment adviser representative registrations are effective for one calendar year (or less) and expire on December 31 of each year. Registrations must be renewed annually for the investment adviser representative to remain current. The renewal fee is \$50. For all investment adviser representatives, pay the renewal fee through the IARD. No additional paperwork is involved.



#### **E. Amendments**

Amendments to Form ADV must be filed with the IARD within 30 days, whenever there is a material change in any answer. There is no fee for such amendments.

Amendments to Form U-4 must be filed with the IARD within 30 days, whenever there is any material change to the information previously reported on the Form U4. There is no fee for such amendments. N.J.A.C. 13:47A-3A.2

#### **F. Withdrawals**

Investment adviser withdrawals must be made by filing a Form ADV-W with the IARD. Investment adviser representative withdrawals must be made by filing a Form U-5 with the IARD. Withdrawals become effective 30 days after receipt of an application to withdraw or within such other period of time as the Bureau Chief may determine by rule or order.

### **III. EXAMINATION REQUIREMENTS**

The examination requirement for investment adviser representative registration is satisfied with proof of a passing score on one of the two following examinations:

- The Uniform Investment Adviser Law Examination (Series 65); or
- The General Securities Representative Examination (Series 7) and the Uniform Combined State Law Examination (Series 66).

#### **A. Waivers**

The Bureau Chief may grant a waiver from the investment adviser representative examination requirement, based on a written request detailing the applicants' knowledge, training, and experience in the securities field. A minimum of two year's advisory experience in the securities field is required.

The examination requirement for investment adviser representative registration may be waived for a person who holds one of the following designations or certifications:

- Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.;

- Chartered Financial Consultant (ChFC) awarded by The American College, Bryn Mawr, Pennsylvania;
- Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants;
- Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; or
- Chartered Investment Counselor (CIC) awarded by the Investment Adviser Association.

#### **B. Grandfather Provisions**

Certain broker-dealer agents are grandfathered, i.e. they are exempt from taking the investment adviser representative examinations. For further information, please call the Bureau and request the Investment Adviser Representative Grandfathering Orders, or consult 2A Blue Sky L. Rep. (CCH) Paras. 40,692H, 40,692I, and 40,692L.

#### **C. Requests for Examinations**

Normally, examinations are requested by appropriate entries on Form U-4 filed with the IARD. The Bureau does not “sponsor” any person for any examination. Also, the Bureau does not provide exam preparation courses or literature, or recommend or endorse any providers of exam preparation courses.