

# Completion of the Form ADV/ IARD Electronic Filing Process

Instructive Guidance and Clarification on the  
Completion and Filing of Form ADV

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# IA Registration Filing Process

- Three Basic Phases:
  - Preparation Phase
    - IARD Entitlement processing
    - Funding IARD Financial Account (Daily Acct.)
  - Filing Phase
    - Part 1 filing through IARD; Part II (hardcopy)
    - Prepare supporting documentation
  - Review/Decision Phase
    - Requests for clarification or additional documents
    - Registration Status; Rendering of decision

# The Form ADV (two parts)

- Part 1 (filed through IARD)
  - Discloses information about an Adviser's overall business, direct/indirect owners, and any previous or existing disciplinary history.
- Part II (hardcopy format)
  - Discloses information about the Adviser's business practices, fee structures, and any conflicts of interest.

# Part 1 of Form ADV

- Transitioning
  - Submit Transition Notice Filing/Registrations
- ADV Filing Types (4)
  - Apply for registration as an IA with the SEC
  - Apply for registration as an IA with one or more states
  - Submit annual updating amendment for FYE
  - Submit other-than-annual amendment

# Part 1 of Form ADV

- Item 1
  - Identifying Information
    - Firm name and address information
    - Pre-populated data in certain areas
    - Item 1.K- Maintenance of Books and Records at a location other than the principal place of business.

# Part 1 of Form ADV

- Item 3
  - Form of Organization
    - Fiscal year end (useful for ADV updates)
    - State of incorporation
- Item 4
  - Successions
    - Usually occurs if one is taking over the business of another investment adviser (or) if the corporate structure or legal status has changed

# Part 1 of Form ADV

- Item 5
  - Information about your Advisory Business (Determines overall size, scope and operational function of the proposed IA firm)
    - Number of Employees
    - Number/type of Clients
      - Definition of “High Net Worth Individual”
    - Compensation Arrangements
    - Assets Under Management
      - “Continuous and Regular” supervisory services
    - Advisory Activities

# Part 1 of Form ADV

- Item 6

- Other Business Activities

(These questions apply to the Applicant)

- Don't disclose those who act as a RR for a BD
- Item 6.A- if your firm is a separate (or wholly owned) subsidiary of a bank, then you are NOT a bank; however, if you are separately identifiable dept. or division of a bank, you must check "yes."

# Part 1 of Form ADV

- Item 7
  - Financial Industry Affiliations
    - Item 7.A(1) and 7.A(3)- do NOT mark if Adviser has employee that is a RR of a BD or IA (disclosure belongs in Item 5.B(1) & (2)); However, you would mark this section if an employee or director had a SEPARATE business as an IA or BD.
    - Item 7.B- GPs of investment related LPs
      - potential custody issues

# Part 1 of Form ADV

- Item 8
  - Participation or Interest in Client Transactions
    - Proprietary Interest in Client Transactions
    - Sales Interest in Client Transactions
      - Applies to dually registered firms/ reps
    - Investment of Brokerage Discretion
      - Item 8.D (Best execution)
      - Item 8.E (Soft dollar arrangements)
      - Item 8.F (Solicitor arrangements)

# Part 1 of Form ADV

## ■ Item 9

### ■ Custody

- Definition of custody
- “Actual” vs. “constructive” custody
- SEC Release No. IA-2044 (July 18, 2002)
- Supporting SEC No Action Letters

## ■ Item 10

### ■ Control Persons

- Mark if any person NOT named in Item 1A, or any of the Schedules A, B or C directly or indirectly controls the Adviser

# Part 1 of Form ADV

- Item 11

- Disclosure Information

(This applies to Adviser AND to any *advisory affiliate* (officers, partners, directors or any person performing similar functions; all persons directly or indirectly controlling or controlled by the Adviser; all current employees other than clerical or administrative))

- Criminal Action DRP
- Regulatory Action DRP
- Civil Judicial Action DRP

# Part 1B of Form ADV

- Item 1
  - State Registration
    - Check all states for which the Adviser is applying
- Item 2
  - Designation of supervisor/compliance officer
  - Bonding questions/DRP Information
  - Item 2.I(1)-(4)- Custody- define “actual” vs. “constructive” custody
    - Supporting no action letters

# Part 1B of Form ADV

- Schedule A
  - Direct Owners and Executive Officers
    - Shareholders with 5% or more of voting rights (unless public co.)
  - Name, title and status acquired
  - Ownership codes
  - Control Person
  - Public Reporting Company?
  - CRD Number or other identifier

# Part 1B of Form ADV

- Schedule B
  - Indirect Owners/Shareholders
    - Only disclose indirect owners if they own 25% or more of a direct owner (i.e. Parent company)
    - “general partnership” under ownership codes
    - Are they a control person?
    - Do they have a CRD Number? (if not, include SSN, IRS#, or Employer ID)

# Part 1B of Form ADV

- Schedule C
  - Amendments
    - If terminating or experiencing a change in ownership for direct owners/executive officers
- Schedule D
  - Explanation/disclosure to Part I questions
    - Provides for further clarification for each appropriate section of Part I

# Part 1B of Form ADV

- Execution pages (3)
  - Domestic Execution Page
  - Non-Resident Execution Page
  - State Registered IA Execution Page
    - Signed by an authorized individual (Primary/Alt. Administrator)
- Completeness Check
  - Submit Part 1 Filing

# IARD Public Disclosure

- In 1996 Congress amended the Investment Advisers Act of 1940 to require that the SEC establish a readily accessible electronic process to respond to public inquiries about investment advisers and their disciplinary information.
- In September 25, 2001, the IARD launched the IARD Public Disclosure Web site located at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov)
- This website displays SEC or State adviser's most recent Form ADV and is updated as each Form ADV are amended.

# Part II of Form ADV

- **Hardcopy Version**
  - Pages 1-6 (Items 1 through 14)
    - Q&A format for identifying firm information
  - **Schedule F (Continuation Sheet)**
    - Provides clarification to Part II responses in narrative form
  - **Schedule G (Balance Sheet)**
    - If has custody of funds or securities or prepayment of fees (6 or more months in advance)
  - **Schedule H (Wrap fees)**

# Part II of Form ADV

- Page 2
  - Item 1- Advisory Services and Fees
    - Provide accurate disclosure on specific types of advisory services offered and time allocation
    - Item 1.B discusses FP services- cross reference with Item 5.E of Part 1 – Comp. Arrangements; 5.G of Part 1- Advisory Activities
    - Item 1.C must cross reference with Item 5.E of Part 1- Compensation Arrangements
  - Item 2- Type of Clients
    - Should cross reference with Item 5.D of Part 1

# Part II of Form ADV

- Page 3
  - Item 3- Types of Investments
    - Complete only those that actually apply to the services as offered by the Adviser
  - Item 4- Methods of Analysis
    - Complete only those sections that apply to your current methods
    - Since these sections are NOT all inclusive, include anything that does not fit into these responses in “Other” Section and explain in Schedule F

# Part II of Form ADV

- Page 4
  - Item 5- Education and Business Standards
    - List standards of education/business experience
    - Most want minimum qualifications; some want CFP or CFA designations specific to practice
  - Item 6- Education and Business Background
    - List each executive officer and member of the investment committee (limit 5)
    - Include name, year of birth, formal education, and business background

# Part II of Form ADV

- Page 4
  - Item 7- Other Business Activities
    - List other business activities (cross reference with Other Business Activities as stated Item 6 of Part I; and Form U-4 disclosures)
  - Item 8- Other Financial Industry Activities or Affiliations
    - Item 8.A- cross reference with Item 6.A and Item 7.A of Part 1
    - Item 8.D- cross reference with Item 7.B on Part 1

# Part II of Form ADV

- Page 5
  - Item 9- Participation or Interest in Client Transactions
    - Must cross reference with Item 8 of Part 1
    - Provide explanation on Schedule F
  - Item 10- Conditions for Managing Accounts
    - Is there a minimum dollar amount?
    - Most Advisers will set a minimum (Utility Costs)

# Part II of Form ADV

- Page 5
  - Item 11- Review of Accounts
    - List the reviews and reviewers:
      - Reviews- frequency of review and triggering factors
      - Reviewers- number of reviewers, titles, and number accounts assigned
    - Nature and frequency of reports to clients
      - Quarterly or monthly or more frequent depending on client's specific instructions.
      - FP services- no regular reports unless requested .

# Part II of Form ADV

- Page 6
  - Item 12- Investment or Brokerage Discretion
    - Cross reference to Item 8.C of Part 1
    - Item 12.B cross references with Item 8.D of Part 1
  - Item 13- Additional Compensation
    - Item 13.A- cross reference with Item 8.E of Part 1 (“soft dollar” Arrangements)
    - Item 13.B- cross reference with Item 8.F of Part 1 (Solicitor arrangements)

# Part II of Form ADV

- Page 6
  - Item 13- Balance Sheet
    - Adviser must provide a balance sheet if:
      - It has custody of customer funds or securities  
(OR)
      - If Adviser requires prepayment of more than \$500 in fees per client and 6 months or more in advance  
(seen in large IA consulting firms as retainer fees)

# Part II of Form ADV

- Schedule F
  - Provides for further clarification and disclosure of material info. in narrative form
- Schedule G
  - Provides disclosure on Balance sheet information
- Schedule H
  - Wrap fee disclosures

# Part II of Form ADV

- Schedule F (Key Areas on Interest)
  - Plain English- customize disclosure language for intended audience (institutional vs. retail)
  - Conflicts of Interest disclosures- transparency is key to accurate disclosure of conflicts
  - Detail how the firm charges or “captures” fees
    - Are fees captured in advance or in arrears?
    - Are the fees excessive? (3% guideline)
    - More disclosure is better than not enough

# Final Preparation of Form ADV

- Review Part 1 of Form ADV (IARD)
- Review Part II of Form ADV
  - Reconcile Responses (cross reference items)
  - Finalize applicable Schedules
- Prepare Supporting documentation
  - State specific documentation
  - Contracts/Agreements
- Submit Registration Packet for Review