2021 Investment Adviser Coordinated Exams



North American Securities Administrators Association



Exams Overview

- 1206 routine investment adviser examinations
- January 1 July 7, 2021
- 289 IAs first time examined by the state
- 73% of examined US Advisers had AUM > 0
 - 62.8% had AUM > \$30MM
 - 37.2 % had AUM < \$30MM
 - Others were solicitors or financial planners with 0 AUM
- Most exams were conducted remotely



Adviser Stats

- 68.4% of advisers had 1 IAR
- 30% of advisers had > 1 IARs
- 60 IAs affiliated with a BD firm
- 23 IAs advised a pooled investment vehicle
- 177 IAs offered financial planning services
- 62 IAs solely acted as solicitors for other advisers
- 24 IAs payed solicitors for referrals

Top 10 Categories 50% Percent of exams US Advisers with AUM >0 noting at least one 45% deficiency in the category 40% 35% 30% 25% 20% 15% 10% 5% Contracts Contracts Supervision and Compliance Registration Books and Records Advertisine Privacy fees Custody Persons Natters

2021 vs. 2019



1 IAR vs. > 1 IAR



BD-Affiliated vs. Independent IA



Registration



Books and Records



Contracts



Fee formula is not clearly stated

Contract contains impermissible hedge clause(s)

Contracts not in writing

Contract is not properly executed (proper signatures and dates)

Fee is not clearly stated

Other contract state-specific requirements

No clause giving client 48 hours to review ADV before executing contract or 5 days to rescind...

Services in contract are inconsistent with ADV

- Discretionary or non-discretionary authority is not clearly stated
- Contract does not contain a description of services to be provided

Supervision/Compliance



Advertising

		0			
Untrue or misleading statements or omissio qualifications, services, or fees (UBP)					22.63%
qualifications, services, or lees (OBP)					
Insufficient website disclaimer				14.70%	
Other untrue or misleading statements or omissions					
(UBP)			13.	35%	
Testimonials (UBP)		8.3	2%		
Untrue or misleading use of professional designation (UBP)	3.	68%			
Untrue or misleading statements or omissions – exaggerated claims (UBP)	2.90	0%			
Misuse of "RIA" or "IAR"	2.71	%	Found in		
Misleading charts, graphs, formulas or other devices (UBP)	1.55%		Website	Cards/Sta	tionary
Offers reports, analysis, or other services as "free" when costs or other conditions are actually	0.97%			tworking	-
Guarantees of specific results or against loss (UBP)	0.97%				
Untrue or misleading statements or omissions - performance advertising (UBP)	0.77%				
	0% 5	% 10)% 15	5% 20	% 25%

Fees



Custody

0%

Direct Fee Deduction: Improper client invoice (fee, time period, formula, assets in formula)

Other custody issues/concerns

Inadvertent Custody: Failed to keep records documenting the return of inadvertently received funds or forwarding 3rd-party checks

Ability to use client identity (username/passwords) to obtain customer funds or securities without complying with custody requirements

Direct Fee Deduction: Failed to dual invoice client and custodian

Safekeeping: No notice to administrator on ADV that the adviser has custody

Safekeeping: Account statements from adviser – No Independent CPA annual surprise audit

Inadvertent Custody: Failed to either return inadvertently received funds or forward 3rd-party checks within 3 business days

General Power of Attorney: Failed to follow custody requirements

Safekeeping: Account statements from adviser – improper statements

								39.34%
		8.85%						
		8.85%						
	7.2	21%						
	6.23	3%	<u>Othe</u>	er Cus	stody	lssue	<u>S</u>	
	4.26%			atory tee/E		ient a or	iccou	nt
2	.95%							
2	.95%							
2	.95%							
2.	62%							

5% 10% 15% 20% 25% 30% 35% 40% 45%

Senior/Vulnerable Persons



Financial Matters



Privacy





Recommendations to Investment Advisers

- Review and revise Form ADV and disclosure brochure annually to reflect current and accurate information.
- Review and update all contracts. Be aware of e-communications hedge clauses.
- Prepare and maintain all required records, including financial records. Back-up electronic data and protect records. Document checks forwarded.
- Prepare and maintain client profiles or other client suitability info. Maintain due diligence file for recommended products or strategy.
- Prepare a written compliance and supervisory procedures manual relevant to the type of business to include business continuity plan and information security policies/procedures. 1) Policy 2) Who 3) Does what 4) How often 5) How evidenced

Recommendations to Investment Advisers

- Prepare and distribute a privacy policy initially and annually. Be aware of confidential information transmitted via unsecure means.
- Keep accurate and current financials. File timely with the jurisdiction. Maintain surety bond if required.
- Calculate and document fees correctly in accordance with contracts and ADV.
- Review all advertisements, including website and social media for accuracy.
- Implement appropriate custody safeguards, especially for direct fee deduction. Prepare and send appropriate fee invoices to clients.
- Add policies/procedures for seniors/vulnerable persons to include training of personnel.

Questions/Contacts

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