

INVESTMENT ADVISER **Compliance Update**

ATTORNEYS AT LAW

OFFICE: 993 LENOX DRIVE LAWRENCEVILLE, NJ 08648-2389

MAILING: PO BOX 5315 PRINCETON, NJ 08543-5315

609-896-9060 (PHONE) 609-896-0629 (FAX)

WWW.STARK-STARK.COM

www.stark-stark.com/business/securities.html

A complimentary service to our clients

Fall 2005

I. REGISTRATION RENEWALS / ANNUAL REVIEW

The time is rapidly approaching to ensure all preparations for the firm's state renewals or SEC notice filings are complete. Failure to properly prepare for the coming filing season may result in the imposition of unnecessary charges by the various regulatory authorities. Note that the majority of jurisdictions will not refund debited fees that result from a firm's failure to timely update its required filings. More importantly, in order to prevent de-registration, which could subject the firm to regulatory discipline and potential civil liability, it is important that the firm does not violate any regulatory filing duties.

If you are a state registered investment adviser, preparations include the following:

- 1) Ensuring the firm's Roster Report includes all current firm investment adviser representatives, and excludes any investment adviser representative that is no longer with the firm;
- 2) Ensuring the firm is properly registered in all required jurisdictions and not registered in any needless jurisdiction;
- 3) Ensuring the firm's state required regulatory documents accurately reflect the current state of the firm's business, including all necessary disclosures; and
- 4) Ensuring the firm is prepared to compile the necessary state specific renewal submission "package."

If you are an SEC registered investment adviser, preparations include the following:

- 1) Ensuring the firm's Roster Report includes all current firm investment adviser representatives, and excludes any investment adviser representative that is no longer with the firm;
- 2) Ensuring the firm is properly notice filed in all required jurisdictions and not notice filed or registered in any needless jurisdiction; and
- 3) Thereafter, in January and February, ensuring the firm's SEC required regulatory documents accurately reflect the current state of the firm's business, including all necessary disclosures, thus completing the required annual amendment. *Note the January and February annual amendment timetable listed herein at Paragraph 3 refers to firms with November, December and January fiscal year ends.

Stark & Stark, P.C. strives to maintain personal and comprehensive relationships with all its clients. As leaders in the counsel of investment adviser regulatory matters, we anticipate and look forward to working closely with you during the coming filing season.

In order to ensure a timely, efficient and, thus, cost effective process, we ask that you complete and return the form enclosed at Page 5 in the self-addressed envelope provided should you seek our counsel during this time.

Should you have any questions relative to the coming filing season, please do not hesitate to contact us at (609) 896-9060, ext. 5470.

II. IMPORTANCE OF COMPLIANCE EXAMINATIONS (ARTICLE ENCLOSED)

In the post Rule 206(4)-7 era, it is exceedingly important for firms to undertake routine compliance audits to ascertain the adequacy and effectiveness of the firm's compliance policies and procedures. Specifically, such mock examinations should consider the firm's current policies and underlying procedures and evaluate the extent to which they should be amended. Enclosed within this package is an article authored by Securities Practice Group Chairman Thomas D. Giachetti, Esquire that was recently published in *Investment Adviser Magazine* on the issue of compliance and regulatory review. Stark & Stark attorneys routinely perform on-site compliance reviews and prepare their clients for SEC and regulatory examinations.

III. STATES ADOPT SEC POLICIES AND PROCEDURES RULE

Many states now require state registered investment advisers to comply with SEC Rule 206(4)-7. Because we fully expect the vast majority of states to adopt the Rule, we strongly recommend that all registered investment advisers comply with the SEC Rule at this time. Compliance requires advisers to (i) adopt policies and procedures designed to prevent violations of applicable securities laws, including the Investment Advisers Act of 1940; (ii) annually review their established policies and procedures for their adequacy and the effectiveness of their implementation; and (iii) designate a chief compliance officer responsible for administering the policies and procedures. To the extent that you require any assistance or have any questions, we will remain available to assist you.

Under the Rule, it is unlawful for a registered investment adviser to provide investment advice unless the adviser has adopted and implemented written policies and procedures reasonably designed to prevent violation of the Advisers Act by the advisory entity or any of its supervised persons. The Rule requires the advisory firm to consider and address its fiduciary and regulatory obligations when formalizing its policies and procedures. The Rule requires only that the policies and procedures be reasonably designed to prevent violation of the Advisers Act, and thus need only encompass compliance considerations relevant to the operations of the adviser. It is expected that smaller advisory firms without conflicting business interests would require much simpler policies and procedures than larger firms that, for example, have multiple potential conflicts as a result of their other lines of business or their affiliations with other financial service firms.

Although Rule 206(4)-7 does not enumerate specific elements that advisers must include in their policies and procedures, the SEC has directed firms to take into consideration the nature of its operations. Specifically, the Commission has indicated that each adviser, in designing its policies and procedures, should first identify conflicts and other compliance factors creating risk exposure for the firm and its clients in light of the firm's particular operations, and then design policies and procedures that address those risks. The Commission further indicated that it would expect that an adviser's policies and procedures, at a minimum, should address the following issues to the extent that they are relevant to that adviser:

- Portfolio management processes, including allocation of investment opportunities among clients and consistency of portfolios with clients' investment objectives, disclosures by the adviser, and applicable regulatory restrictions;
- Trading practices, including procedures by which the adviser satisfies its best execution obligation, uses client brokerage to obtain research and other services ("soft dollar arrangements"), and allocates aggregated trades among clients;
- Proprietary trading of the adviser and personal trading activities of supervised persons;
- The accuracy of disclosures made to investors, clients, and regulators, including account statements and advertisements;
- Safeguarding of client assets from conversion or inappropriate use by advisory personnel;
- The accurate creation of required records and their maintenance in a manner that secures them from unauthorized alteration or use and protects them from untimely destruction;
- Marketing advisory services, including the use of solicitors;
- Processes to value client holdings and assess fees based on those valuations;
- Safeguards for the privacy protection of client records and information; and
- Business continuity plans.

STARK & STARK

A PROFESSIONAL CORPORATION

If you have not already done so, and you would like Stark & Stark to prepare policies and procedures for your firm, please complete the Information Form on pages 6-8 of this Compliance Alert and return it to us at your earliest opportunity. It is our intention to begin preparation of policies and procedures in the sequence the Information Forms are received. The fixed fee for the policies and procedures will depend upon: (1) the responses to the questions set forth below on the Information Form; and (2) if the firm is an existing client of Stark & Stark, and pursuant to the engagement, has previously prepared certain portions of the required written policies and procedures.

IV. REQUIRED RULE 206(4)-7 ANNUAL REVIEW

Please remember that pursuant to the requirements of Rule 206(4)-7, it is imperative to review your firm's current policies and procedures on at least an annual basis, and to document that review for compliance and regulatory examination purposes. The purpose of the review is to ascertain the extent to which the firm's current policies, as well as the procedures implemented to effect the policies, require amendment. The review should be conducted by the Chief Compliance Officer, or his/her designee, who should consider the following four items in addition to other relevant issues:

- Compliance matters that arose during the previous year;
- Changes in the advisory firm's business;
- Changes in the activities of any of the firm's advisory affiliates; and
- Changes in the regulations applicable to the advisory firm, including changes to the Investment Advisers Act of 1940, and Rules promulgated thereunder.

This annual review requirement must be memorialized in an organized and coherent manner. To the extent that your firm requires any assistance with this requirement or is interested in obtaining an annual review form, please contact our office.

V. RECEIVE IMPORTANT NEWS AND COMPLIANCE UPDATES VIA RSS

We are always striving to provide our clients with tools to make receiving information important to them as easy as possible. Accordingly, we have recently made available a RSS (really simple syndication) feed through which we will distribute our Compliance Update Newsletter, client alerts, and news about important industry developments.

Subscribing to our RSS feed allows you to receive news and updates from us in a convenient and simple manner. Using RSS frees you from constantly revisiting our website to see what new information has been added since your last visit. Receiving updates via RSS also helps to keep your desk clear of hard copy mailings and reduces the amount of email alert messages coming into your inbox.

RSS feeds are read in a program called an aggregator. This aggregator program runs invisibly and only notifies you when new information has been published through the feed. There are many choices of aggregators for you to use, and we have included a list of them below.

RSS is a relatively new technology that has the potential to revolutionize how businesses communicate in the same way that email has. Realizing the potential of RSS, we encourage our clients to become involved by subscribing to our feed and experiencing for themselves this simplified method of communication.

It is important to note that we will still continue to provide information to you in hard copy form, including client alerts and compliance updates, until you direct otherwise. The main benefit, though, of subscribing to our RSS feed is that you will receive this information on your computer the instant we publish it, and will no longer have to sort through your inbox or shuffle papers on your desk.

Should you have any questions regarding RSS technology and how it can be used, please contact our Director of Business Development Richard DeLuca at rdeluca@stark-stark.com or 609-791-7014. He regularly provides advice on RSS technology to Stark & Stark clients.

Securities Compliance & Arbitration RSS Feed
<http://www.njlawblog.com/feed-wbsecuritiesblogpostings.rdf>

Aggregators That Can Be Used to Receive RSS Feeds

Abilon - <http://www.activerefresh.com/abilon/>

Displays headlines from RSS Channels in an easy to read format. It is a small, fast, and free program. Adding new channels is as simple as right-clicking and entering the address of the feed.

FeedDemon - <http://www.bradsoft.com/feeddemon/>

Enables you to quickly explore the world of RSS from your desktop without having to visit hundreds of sites. FeedDemon makes RSS as easy to access as your email.

***This is the aggregator program used by Stark & Stark.**

Additional aggregators for Windows based operating systems can be found here -
<http://allrss.com/rssreaderswindows.html>

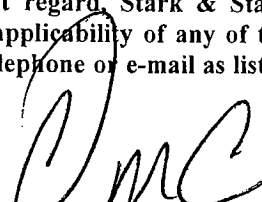
Remember, compliance is an ongoing and constantly evolving process. In that regard, Stark & Stark continues to remain available, at your convenience, to assist you relative to the applicability of any of the above issues to your specific practice. As always, we can be reached directly by telephone or e-mail as listed below.



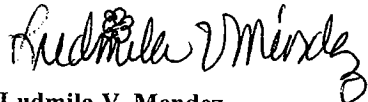
Thomas D. Giachetti
(609) 895-7255
tgiachetti@stark-stark.com



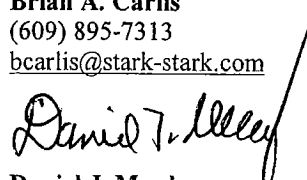
Brian A. Carlis
(609) 895-7313
bcarlis@stark-stark.com



Owen M. Chaplin
(609) 895-7394
ochaplin@stark-stark.com



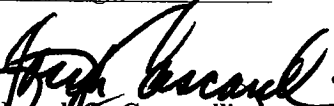
Ludmila V. Mendez
(609) 895-7315
lmendez@stark-stark.com



Daniel J. Munley
(609) 219-7434
dmunley@stark-stark.com



Cynthia S. Ham
(609) 791-7002
cham@stark-stark.com



Joseph C. Cascarelli
(609) 91-7007
jcascarelli@stark-stark.com



Nino Ciappina
(609) 219-7421
aciappina@stark-stark.com



Raymond Amoroso, III
(609) 791-7022
ramoroso@stark-stark.com



Aaron C. Buser
(609) 219-7435
abuser@stark-stark.com

No portion of the *Compliance Update* should be construed or relied upon as legal advice, nor should it be construed, in any manner whatsoever, as the receipt of, or a substitute for, personalized individual advice from Stark & Stark or from any other compliance professional.

Stark & Stark, a 100+ attorney firm with offices in Princeton, New Jersey, Cherry Hill, New Jersey, New York, New York, and Philadelphia, Pennsylvania, represents investment advisers, financial planners, broker-dealers, CPA firms, registered representatives, public and private investment companies (e.g., mutual funds, hedge funds, etc.), and investors throughout the United States.

RENEWALS INFORMATION FORM

Please complete and return this form in the enclosed self-addressed envelope if you would like Stark & Stark, P.C. to perform your renewal/annual amendments.

Firm Name: _____

Firm Address: _____

Contact Person: _____

Contact's Phone Number: _____

Contact's Email Address: _____

Following receipt of this form, we will contact you to commence the process.

RULE 206(4)-7 INFORMATION FORM

1. Name of Adviser: _____

SEC Registered? Yes ___ No ___ State(s) of Registration: _____

2. Address: _____

Phone Number: _____

3. Branch Office Address(es) _____

4. Chief Compliance Officer: _____

In the absence of the Chief Compliance Officer, who shall be designated as the contact person for questions relative to the firm's policies and procedures? _____

(Firm must appoint a Chief Compliance Officer under Rule 206(4)-7)

5. Does the Firm Have a Business Continuity/Disaster Plan: Yes ___ No ___

(If not, please advise via email and we will forward a supplemental form for your completion and return).

6. Proxies: Vote: ___ Don't Vote: ___ Both ___

7. Types of Securities: Mutual Funds ___ Individual Equities ___ Individual Bonds ___

8. Bunch Securities Transactions: Yes ___ No ___

9. Soft Dollars: Yes ___ No ___

10. Referral Fees: Yes ___ No ___

11. Directed Brokerage Arrangements: Yes ___ No ___

If yes, Do clients pay higher transaction fees/commissions than alternative arrangements generally recommended by adviser: Yes ___ No ___

12. Personal Securities Transactions: Does the Firm require that all individuals required to report personal securities transactions, maintain accounts at a specific broker-dealer? Yes ___ No ___

If Yes, the broker-dealer is _____.

13. Does the Firm maintain a formal Investment Committee: Yes ___ No ___

14. **New Client Process:** Does the Firm have a formal client information process, whereby the client completes/Firm completes an Information Form or Questionnaire to ascertain client investment objectives(s)? Yes ___ No ___ If not, we strongly recommend that the Firm begin to do so.
15. **Initial Public Offerings:** Does the Firm (to the extent available) purchase for its clients?
Yes ___ No ___
If Yes: With Discretion: Yes ___ No ___ ; or Only upon unsolicited client request: Yes ___ No ___
16. Does the Firm reconcile/confirm trade executions on a next day daily basis? Yes ___ No ___
17. Do the Firm's clients' account custodians forward comprehensive account statements (i.e., reporting all account transactions/debits/fees, etc) directly to the client at least quarterly? Yes ___ No ___
A "No" answer raises custody issues.
18. In addition to the custodian, does the Firm provide supplemental reports to clients? Yes ___ No ___
If yes, How frequent: _____
Does the Firm rely upon the account values reported by the custodian? Yes ___ No ___
If No, what additional procedures does the Firm utilize? _____
19. **Asset Management:** Discretionary ___ Non-Discretionary ___ Both ___
Does the Firm exercise discretion over ERISA assets? Yes ___ No ___
If Yes, does the Firm maintain an ERISA bond? Yes ___ No ___
20. **Privacy Policy:** In addition to forwarding the required annual Privacy Notice to clients, does the Firm maintain a written Privacy Policy to be executed by all of its employees/associated persons?
Yes ___ No ___ The Policy is required under Regulation SP.
21. **Composite Performance Reporting:** Yes ___ No ___
22. Does the Firm advertise to the public? Yes ___ No ___
23. Does the Firm maintain a web site? Yes ___ No ___
If Yes, does the site contain required regulatory disclosures? Yes ___ No ___
24. Does any related person of the Firm serve as a Trustee for client accounts? Yes ___ No ___
If Yes, Do the account custodians forward comprehensive account statements (i.e., reporting all account transactions/debits/fees, etc.) directly to the Grantor, Beneficiaries or Co-trustee (who is unrelated to the Firm) at least quarterly? Yes ___ No ___ A "No" answer raises custody issues.

25. Is the Firm, or a related person thereof, an investment adviser to a private investment Fund (i.e., hedge fund, etc)? Yes ___ No ___
26. Is the Firm, or a related person thereof, an investment adviser to a registered investment company (i.e. mutual fund)? Yes ___ No ___
27. Does the Firm maintain clients in foreign countries? Yes ___ No ___
If Yes, has the Firm voluntarily adopted AML policies? Yes ___ No ___
(AML policies are not yet required registered investment advisers.)
28. Is the Firm (or an affiliated entity) registered as a broker-dealer? Yes ___ No ___
29. Is the Firm (or an affiliated entity) licensed as an insurance agency? Yes ___ No ___
30. Are any investment adviser representatives of the Firm affiliated with a broker-dealer as registered representatives? Yes ___ No ___
If Yes, do they transact commission business with Firm clients? Yes ___ No ___
31. Are any investment adviser representatives of the Firm licensed insurance agents? Yes ___ No ___
If Yes, do they transact commission business with Firm clients? Yes ___ No ___
32. Do you receive referral fees from broker-dealers? Yes ___ No ___
33. Does the firm compensate brokers for referrals by effecting securities transactions through them?
Yes ___ No ___
34. Does the firm charge performance-based advisory fees to any of its clients? Yes ___ No ___
35. Does the firm maintain a "restricted list" of securities in which employees may not invest?
Yes ___ No ___ (This is not a requirement.)

IMPORTANT NOTE: THE FIRM MUST BE AWARE THAT THE PREPARATION OF APPROPRIATE POLICIES AND PROCEDURES MAY REQUIRE CORRESPONDING CHANGES IN FIRM PRACTICES AND/OR REVISIONS TO THE FIRM'S WRITTEN DISCLOSURE STATEMENT AND/OR ADVISORY AGREEMENTS. THESE CHANGES ARE OUTSIDE THE SCOPE OF THE PREPARATION OF THE REQUIRED POLICIES AND PROCEDURES, AND WE WILL REMAIN AVAILABLE TO ASSIST WITH SAME UPON YOUR REQUEST FOR US TO DO SO.

NAME OF FIRM: _____

By: _____

Date: _____

Print Name