

Friday, April 16, 2010, at 4 p.m. EDT

Financial Advisor Webinar Series

Chris Winn

AdvisorAssist

Advisor Compliance Update

Download slides at <http://bit.ly/0416slides>

 **advisors4advisors**

Andrew Gluck, Moderator

Editor, Advisors4Advisors.com

Upcoming Webinars



Bob Casey	Trends In Family- & Multi-Family Offices	April 23
Diane MacPhee	4 Problems Plaguing Advisors & Their Solutions	April 30
Duane Thompson	Financial Services Reform Update	May 7
Larry Baker	Outsourcing Advent Portfolio Accounting & Billing	MarketingSmart Webinar - May 12
Scott Farnsworth	Deeper Connections With Clients Through The Power Of Story	May 14

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• This Week's Blog Posts

- Spending: An Important Factor In Client Planning (Kristen Jankowski)
- Fiduciary Hierarchy Continued (Charles Epstein)
- Incentive Compensation (Sheryl Rowling)
- Your Ideal Client (George Tamer)
- What Does Healthcare Reform Mean For Retirees (Kristen Jankowski)
- PIMCO Bearish, BlackRock Bullish On Treasuries (Mary Rowland)
- Client Service In Flatland: The View from Level One (Scott Farnsworth)
- Do Variable Annuity Owners Have Bragging Rights? (Glenn Daily)
- The iPad For Financial Advisors And Wealth Managers (Bill Winterberg)
- Trends In Tweeting By Five Advisors (Blane Warrene)
- Independent Advisors To Wall Street: Drop Dead (Andrew Gluck)

• 30 Hours Of CFP CE Credit On Webinar Replays

- Managing Portfolio Risk With Stock Collars
- Secure Solutions To Protect Client Data And Comply With New Privacy Laws
- How To Talk To Clients In A Post-Crisis World
- Roth IRA Conversion Techniques

Free membership email should arrive by 7 p.m.

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***Kathleen Iola
Iola Financial Group***

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- 2,000 advisors rely on A4A's Daily Digest
- We assemble your reading list from across the Web
- Mary Rowland, Bob Casey, Andy Gluck scan 60 sites daily

SAMPLE DATA SECURITY POLICIES & PROCEDURES FOR FINANCIAL ADVISORS

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Fiduciary Fitness Program: Report Card

Action Items	Reference Materials	Documentation	Requirements Met	Comments
Fiduciary Education	Reference Guide: Section 2 All Education Modules	Education Module Checklist	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Selecting and Monitoring Fiduciaries Identifying and Monitoring Parties in Interest	Reference Guide: Section 3 Education Modules 1, 2 & 3	Documenting Fiduciaries, Consultants and Service Provider Responsibilities	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	Reference Guide: Section 3 Education Modules 1, 2 & 3			
Selecting and Monitoring Service Providers	Reference Guide: Section 3 Education Modules 4 & 5	Selecting and Monitoring: Consultants, Plan Providers, Auditors Vendor Analysis & Benchmarking Compensation Disclosure	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Selecting and Monitoring Plan Investments	Education Module 6	Investment Policy Statement	<input type="checkbox"/> Yes <input type="checkbox"/> No	
		Investment Scorecard SM	<input type="checkbox"/> Yes <input type="checkbox"/> No	
§404(a) & §404(c) Compliance	Reference Guide: Section 4 Education Module 7	§404(a) & §404(c) Checklist	<input type="checkbox"/> Yes <input type="checkbox"/> No	
		§404(c) Notice & Policy Statement	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Maintaining a Fiduciary File	Reference Guide: Section 4 Education Module 8	Maintaining Your Fiduciary File Checklist	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Investing in Employer Securities	Reference Guide: Section 5 Education Module 9	§404(c) Notice and Policy Statement Addendum	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	Consider Hiring Outside Independent Fiduciary to Handle Securities
Minimizing Risk: Fidelity Bond and Fiduciary Insurance	Reference Guide: Section 6 Education Module 10	Copy of Bond	<input type="checkbox"/> Yes <input type="checkbox"/> No	
		Copy of Policy	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Claims and Appeal Procedures	Reference Guide: Section 7 Education Module 11	Documentation of Claims and Appeals (actual events) <u>Annual Plan Review</u>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Plan Demographic and Document Review	Reference Guide: Section 7 Education Module 12	Sample Notices: ACAs, QACAs and EACAs, Initial QDIA, Annual QDIA, Safe Harbor and Summary Annual Report	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Prohibited Transactions	Reference Guide: Section 7 Education Module 13		<input type="checkbox"/> Yes <input type="checkbox"/> No	

RPAG-2009-21 To learn more about The Fiduciary Fitness Program, call (877) 360-2480 or visit www.retirementplanadvisorygroup.com

Fiduciary Report Card and 401(k) First Meeting Questions

- Key questions to ask a prospective 401(k) client
- Identify issues most important to a plan sponsor
- Plan sponsor checklist
- Great first meeting tool
- Show depth of services
- Offer value-added services rather than products

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Tasks Flow Chart & Worksheet



An Advisor's Checklist for Creating a Detailed [Performance Reports Workflow](#)

This Performance Reporting workflow has been designed to fit seamlessly into your CRM and work with any Portfolio Accounting System.

The worksheet represents the steps and outcomes every advisor faces regarding their performance reporting process. Use this worksheet with your firm by assigning specific tasks to individuals in order to customize your own Performance Reporting Workflow.



Task	Assigned To	Target Date	Status	Results
DAILY				
Download data files from Custodians, Brokerages & Data Providers				Daily & Weekly: Ability to run ad-hoc reporting from your system
Retrieve positions, transactions, prices, name				
Apply & Reconcile new products, positions, transactions, prices, name, asset comparison				Real-time consolidated web display of client data
Audit new product classifications and price and performance (scrubs)				
Transactions (Credits = Debits)				
Prices (missing)				
Fixed Income Pricing				
WEEKLY				
Audit Reversal Transactions				
Audit Corporate Actions Applied correctly				
Audit Management Fees Applied correctly				
Audit Fixed Income – Coupon Rates				
MONTHLY				
Audit Performance Anomalies (composites)				Monthly: Composites and month-end reporting.
Audit Asset Value Comparison				
Audit Firm-level data (Fee & Payout Schedules, mgt styles, models, investment objectives, product classifications)				Monthly Advisory fee billing
QUARTERLY				
Audit Performance Anomalies				Quarterly: Quarterly Performance reporting, tax reporting and renewal fee billing.
Audit Quarter-End price				
Audit Firm-level data				
Audit Report Settings & Benchmark Blends				

Portfolio Reporting Workflow Worksheet

- Template process
- Input into your CRM
- Assign tasks to staff
- Track reporting process
- Staff accountable

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Keebler Roth Conversion Handout

- Questions to ask clients
- Conversion decision tree
- 10 Reasons To Convert
- Keebler's Tips
- CPA, FA, & Lawyer Checklist

Robert S. Keebler, CPA, MST: The Roth IRA Conversion Decision

Should a client convert to a Roth IRA?

A Roth conversion likely not beneficial—Run the numbers

A Roth conversion could be beneficial—Run the numbers

A Roth conversion will most likely be beneficial—Run the numbers

Bob's Roth Conversion ObservationsSM

1. Every incremental dollar converted is slightly less advantageous than the dollar before it until deductions are phased out and the top tax bracket is reached.
2. Always convert more than the initial numbers suggest and recharacterize if warranted.
3. Recharacterize depressed accounts in November of the year of conversion and reconvert in January.
4. The Roth IRA is the most powerful asset with which to fund a GST exempt trust.
5. There is no bright line rule or "optimum" conversion amount for all individuals, considering that each individual's financial, income tax, and wealth situations are different. If several of the ten reasons are met, it is likely the individual is a good candidate for a Roth IRA conversion.
6. Partial conversions generally provide a better quantitative result than 100% conversions.

Prepared in the line of professional conduct and both in October 2015, as promulgated by the United States Department of the Treasury, nothing contained in this communication was intended or written to be used by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer by the Internal Revenue Service, and it cannot be used by any taxpayer for such purpose. No one should act upon information prior to consulting with their professional advisor. The author disclaims any liability in connection with providing, marketing, or recommending a particular product or service to any individual.

For discussion purposes only. This work is intended to provide general information about the tax and other law applicable to retirement benefits. The author disclaims any responsibility for any loss or damage caused or alleged to be caused, directly or indirectly, by the information contained in this work. This work does not constitute an accounting or legal advice. The individual taxpayer is advised to seek and consult only on their own advice.

Does client anticipate being in a much lower marginal tax bracket in future? **Yes**

Will client die with a substantial charitable bequest? **Yes**

Does client need the IRA funds to meet annual living expenses? **Yes**

Does client have outside funds to pay tax on the conversion? **Yes**

Will the client incur an estate tax upon death? **Yes**

Does client have a long time horizon to let the funds grow? **Yes**

Does client plan to utilize their Unified Credit or GST exemption (if applicable) with IRA assets? **Yes**

Does client have favorable tax attributes that can help offset the majority of the conversion income? **Yes**

10 Reasons to Convert to a Roth IRASM

1. Taxpayers have special favorable tax attributes, including a high basis ratio, charitable deduction carry-forwards, investment tax credits, net operating losses (NOLs), etc. *This is because these attributes reduce the effective tax rate of the conversion.*
2. Suspension of the minimum distribution rules at age 70½ provides a considerable advantage to the Roth IRA holder. *This allows for additional tax-free deferral.*
3. Taxpayers benefit from paying income tax before estate tax (when a Roth IRA election is made) compared to the income tax deduction obtained when a traditional IRA is subject to estate tax. *This is because the IRC § 691(c) deduction is inefficient.*
4. Taxpayers who can pay the income tax on the IRA from non IRA funds benefit greatly from the Roth IRA because of the ability to enjoy greater tax-free yields. *This is because of the ability to move funds from a "taxable" to a "tax-free" tax asset class.*
5. Taxpayers who need to use IRA assets to fund their Unified Credit bypass trust are well advised to consider making a Roth IRA election for that portion of their overall IRA funds. *This is because the exemption is funded on an after-tax basis.*
6. Taxpayers making the Roth IRA election during their lifetime reduce their overall estate, thereby lowering the effect of higher estate tax rates.
7. Because federal tax brackets are more favorable for married couples filing joint returns than for single individuals, Roth IRA distributions won't cause an increase in tax rates for the surviving spouse when one spouse is deceased because the distributions are tax-free. *(See chart on page two.)*
8. Post-death distributions to beneficiaries are tax-free. *This is possibly the most advantageous aspect of a Roth IRA conversion.*
9. Tax rates are expected to increase in the very near future. *Higher tax rates in the future means more tax will be paid on taxable IRA distributions than the tax that would be paid on a conversion at a lower rate.*
10. The ability to recharacterize allows the taxpayer 20/20 "hindsight", effectively allowing them to "undo" conversions that were not advantageous. *This allows the client to create a powerful "heads you win, tails you lie" opportunity that protects against adverse market swings. Later recharacterized funds can be "reconverted".*

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 - Vice President, Business Operations, Evergreen Investments (Wachovia Securities)
 - Assistant vice President, Mutual Fund Administration, Evergreen Investments (Wachovia Securities)

Upcoming Webinars



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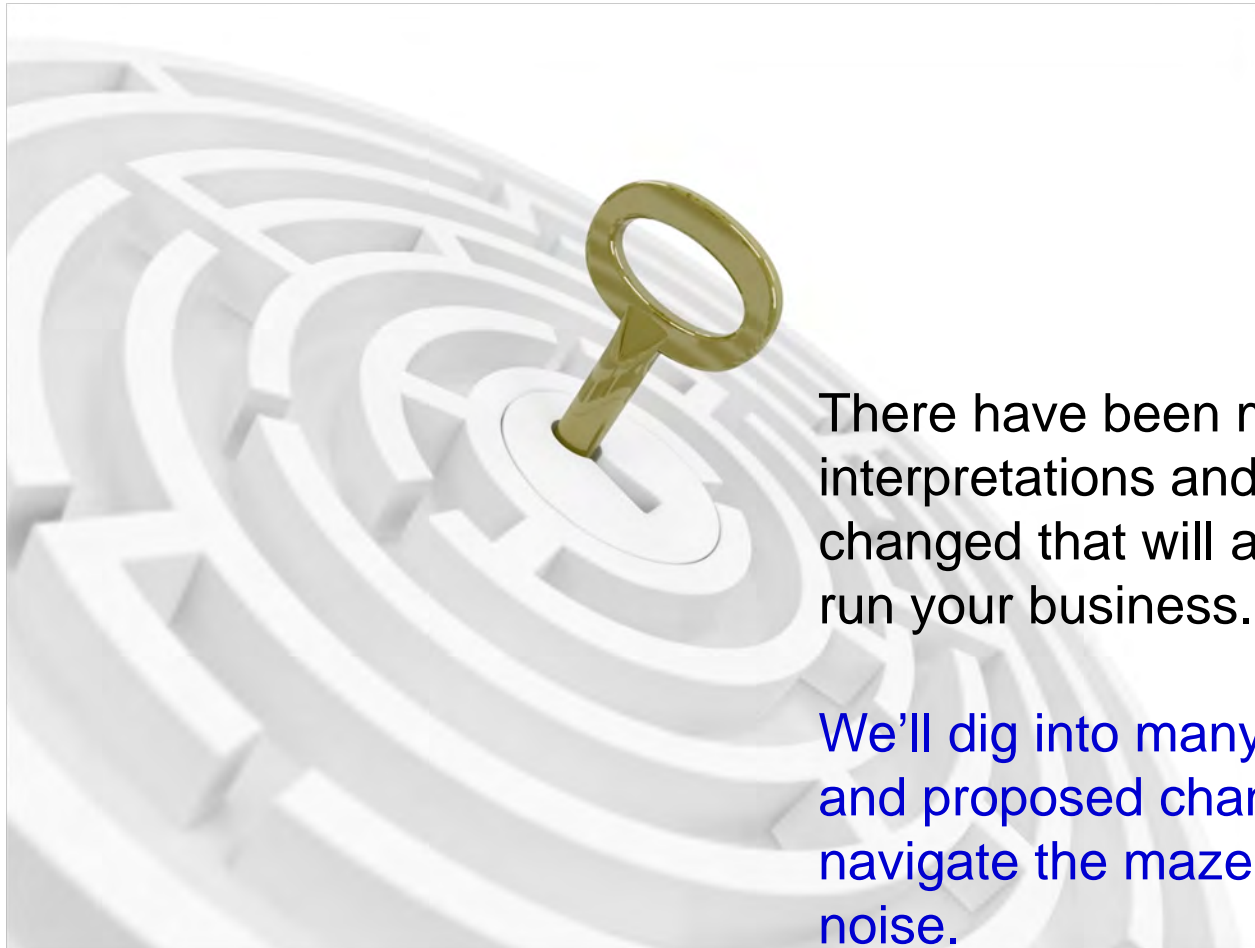
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ADVISOR COMPLIANCE UPDATE

Chris Winn, AdvisorAssist.com



Are you clear on the direction?



There have been many new interpretations and proposed rule changes that will affect how you run your business.

We'll dig into many of the recent and proposed changes to help you navigate the maze and filter the noise.

Today's Topics

- Recent Regulatory Changes
 - Custody Rule
 - Privacy Laws
- Proposed Regulations
 - Overview of proposals
 - Expected outcomes
 - Effect on your business
- Questions and Answers
 - Explore your business

The Custody Rule

Rule 206-4(2) of the Investment Advisers Act of 1940

On December 16, 2009, the Securities and Exchange Commission (the "SEC") adopted amendments to Rule 206(4)-2 (the "Custody Rule") under the Investment Advisers Act of 1940, as amended (the "Advisers Act")¹

- **Effective Date – March 12, 2010**
- **Are you complying? Are you sure?**
- **Do you have:**
 - **Held away accounts?**
 - **Account aggregation processes?**
 - **Facilitate bill payments and drawn downs?**
 - **Access to usernames and passwords?**

¹ *Custody of Funds or Securities of Clients by Investment Advisers, Advisers Act Release No. 2968 (December 30, 2009) (the "Release").*

The Custody Rule - continued

Background

The SEC's objective in amending the Custody Rule was to seek increased protections for investors that entrust their funds and securities to Registered Investment Advisors.

Impact Areas:

- “Due Inquiry” of “Qualified Custodians”
- Independent Verification – “Surprise Exams”
- Delivery of Account Statements
- Policies and Procedures
- Operational Independence - Exemption
- Additional Disclosures
- Frequent Questions

The Custody Rule - continued

Definition of Custody

A Registered Investment Advisor is deemed to have custody if they hold, either directly or indirectly any security or funds belonging to a client, including:

- Physical possession of client securities or funds
- Power of Attorney or authorization that allows the Advisor to withdraw securities or funds from a client's account with direct instruction to the custodian
- Serve as the Trustee to a Trust that have possession or authority
- General Partner to a Limited Partnership that gives the Advisor authority to access securities or funds.

The Custody Rule - continued

The Approved Amendments

1. The definition of "custody" has been expanded to provide that an adviser has custody of client assets that are directly or indirectly held by an adviser's "related person" (i.e., any person controlling, controlled by or under common control with the adviser).

Affected activities:

1. Serving as the Trustee for client accounts
2. Access to friends and family accounts

Actions:

1. Avoid custody-related situations, unless completely necessary
2. Enlisted third party administrators
3. Require dual signatures, including client

The Custody Rule - continued

The Approved Amendments – Due Inquiry

- Advisor firms that deduct their fees from client accounts requires that the firm needs to conduct a “*due inquiry*” in order to establish a basis that the qualified custodian sends account statements to each client no less frequently than quarterly.
- To accomplish the “due inquiry” requirement, firms can either request receipt of account statements sent to each of their clients; or, the advisor may request a receipt of a written confirmation from the custodian that the account statement was sent to each client.
- Advisors need to be aware that accessing the custodian’s account statements on their website **will not** satisfy the “*due inquiry*” requirement because it does not confirm the account statement was actually delivered to the client.

The Custody Rule - continued

The Approved Amendments – Fee Deductions

Advisors that have technical custody solely due to the deduction of their fees from the client account at the custodian were granted a reprieve. The Final rule **DOES NOT** require an Advisor to obtain annual surprise examinations if the activities are limited to fee deductions.

That said...

Virtually all states require at a minimum that an advisor must:

1. Have an agreement with the client authorizing the fee deduction
2. Providing an invoice to the custodian that details the fees to be deducted
3. Validates that the custodian is sending a statement at least quarterly
4. **Send the client a communication that identifies the fees deducted, the assets in which the fee was based, the period of time and the methodology.**

The Custody Rule - continued

The Approved Amendments – Surprise Exams

If an Advisor is deemed to have custody, the Advisor will need to undergo an annual surprise examination for all client assets in which the Advisor has access or custody.

Requirements:

1. First exam must take place by December 31, 2010, unless the Advisor became subject to the Rule after March 12, 2010 (then it is the latter of six months or December 31, 2010)
2. Must have a written agreement with a PCAOB-Registered accounting firm
3. Will require physical inspection of funds and all securities, including privately offered securities

The Custody Rule - continued

The Approved Amendments – Policies and Procedures

Advisors policies and procedures will need to be amended!!

- Periodic testing on a sample basis of fee calculations for client accounts to determine their accuracy of the calculation
- Testing of the overall reasonableness of the amount of fees deducted from all client accounts for a period of time based on the Advisor's aggregate assets under management
- Segregating duties between the Advisor's personnel responsible for processing billing invoices and those personnel responsible for reviewing the invoices for accuracy, as well as employees responsible for reconciling those invoices with deposits of advisory fees by the custodian into the Advisor's account.
- Procedures for conducting "due inquiry" of the Custodian(s)
- Policies for the receipt or access to Client accounts.

The Custody Rule - continued

SEC vs. State Advisors

A common question posed by Advisors is whether a state Advisor is subject to the amendments to the Custody Rule?

The answer is not cut and dry.

- Many states have previously enacted or are in the process of developing similar rules on the safeguarding of investors.
- Some states have enacted rules that are more concise and restrictive of Advisors, especially relating to the deduction of fees.
- When a particular state regulation does not specifically address a regulatory area, it is good practice to default to the Investment Advisers Act of 1940 or other applicable regulations.
- Additional regulatory reform will likely result alignment of rules.

The Custody Rule - continued

Amendments to Form ADV

Regardless of where you fall in the wake of the custody rules, now is the time to review your Form ADV 1, II and Schedule F.

- ADV 1, Item 9 - Custody
- ADV 1 , Item 7 – do you have a related person performing any activities?
- Form ADV Part II
- Schedule F – describe all relevant business practices
- Schedule F – disclose any potential conflicts of interest
- Part 1B – State Advisors – Are you really sending your clients statements with the methodology you used to calculate?

The Custody Rule - continued

Common Issues and Concerns

Some of the common questions that Advisors have been asking include:

- I have access to log into a clients' held away account to get balances. That can't be custody, right?
- My custodian has always sent the client a statement, do I really need to inform them of how I calculated the fee?
- I assist my clients with bill payment from their brokerage accounts. For instance, this week I wired funds to the CPA on their behalf. Any issues?
- My client needs regular distributions from her account to cover RMD and living expenses. I generally liquidate and transfer funds to her joint account at her bank. I assume this is OK, because I received limited authorization initiate these transactions and the custodian has no issue?
- I am the manager to a limited partnership and have been responsible for bill payment. Can I continue this without an administrator?

New Rules to consider

There is more to come, so be prepared!

The regulators, politicians and trade groups have been hard at work trying to get form the controls of the coming years. We have seen some of these items affect our firms already.

- Privacy
- Data Security
- Redefining advertising in the connected world
- Electronic signatures
- Books and Records
- Defining oversight entities

Where will it all end up? As it may be too early to say where and when change will come, it is reasonable to expect change in the coming year.

New Rules - continued

Shift from SEC to State for Advisors under \$100 million

The potential shift of oversight from SEC to State oversight for Advisors with Assets under Management up to \$100 million. If there is a shift from SEC to States, what can Advisors expect?

- A more thorough front-end review
- Increased registration fees
- Routine examination fees
- Registration delays

So, is this good or bad for Advisors?

New Rules - continued

Privacy Rules

Consumer protection on private data is not going away.

- Do you do business in a state that has evolving rules?
- Do you collect a combination of social security numbers and other personally identifiable information?
- Do you perform routine testing and due diligence of your service providers?
- How do you store and deliver client documents?

Privacy law changes in connection with technology changes really do require a formal self-assessment for your firm.

New Rules - continued

Social Media and Communications

The regulators are struggling to keep pace with the growth of social media channels

- Do you “Tweet”?
- How many people recommend you on LinkedIn?
- How are you documenting these advertisements?
- Are your posts contributions or “advice”?
- How do you protect your clients from your network?
- How do you protect yourself from your personal life?
- Regulators, Compliance Officer, FBI, and others are getting plugged in. Expect regulation, expect costs for technology and guidance to protect your firm.

New Rules - continued

How to prepare?

Regulatory change may take time, but so will adopting change. Be prepared!

- Find trusted resources to keep you current
- Do not be afraid to call the SEC or the State(s) with questions
- Do not cover up mistakes – fix them, prevent reoccurrence and move on
- Start building a plan for your business
 - What changes will you need to make
 - Prioritize the risk areas
 - What changes can I start to make now
- Make sure ADV and Compliance Program are always up to date

Tuning Your Compliance Program

The recent rules changes and pending regulatory changes are just the beginning. You must have a compliance program that enables the Advisor to prevent, detect, correct and adapt to changes in the relevant securities laws.



Minimum requirements include:

- Written Supervisory Procedures
- Code of Ethics
- Privacy Policy
- Business Continuity Plan
- Books and Records Retention Plan
- Email monitoring and retention
- Client Agreements and Investment Policy Statements
- Annual testing and assessment plan

A cookie-cutter program won't hold up to scrutiny by regulators.

Questions

If you have questions that do not get answered during this session, please feel free to contact me at:

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