



## **IMPORTANT NOTICE for Idaho Based State Regulated Investment Adviser Firms**

### **AVOIDING COMMON DEFICIENCIES FOUND IN INVESTMENT ADVISER APPLICATIONS**

The Analysts of the Securities Bureau are responsible for reviewing and issuing comment letters to those persons who apply for registration as investment advisers and investment adviser representatives. Avoiding common deficiencies when preparing Form ADV Parts 1 and 2 and investment advisory contracts will help speed up the review of your application.

The most common errors found in an application are related to inconsistencies between Part 1, as filed on the IARD system; the new "plain language" narrative Part 2; and the investment advisory contract.

#### **Form ADV, Parts 1 and 2**

To avoid the most common deficiencies, please follow these guidelines:

- Ensure:
  - The types of clients listed on Item 5.D of Part 1 match Item 7 of Part 2.A.
  - The type of compensation listed on Item 5.E of Part 1 matches Item 5 of Part 2.A.
  - The fee schedule listed in Item 5 of Part 2.A matches the fee schedule in the investment advisory contract.
  - How often fees are billed or deducted as disclosed in Item 5 of Part 2.A. matches the investment advisory contract.
  - Services marked in Item 5.G of Part 1 match the services described in Item 4 of Part 2.A.
  - Discretionary authority marked in Item 8.C of Part 1 matches the discretionary authority described in Item 16 of Part 2.A. Additionally, you must discuss the restrictions or limitations imposed by your clients.
- If you list other business in Item 6 of Part 1, discuss the other business in Item 10 of Part 2.A.
- In Part 2, do not state that the Department of Finance has made a finding as to the accuracy of materials filed with the Department. See [Section 30-14-506 of the Idaho Uniform Securities Act](#).
- Update references in the investment advisory contract from the "ADV Part II" to the newly adopted "ADV Part 2."

#### **Client Contracts**

In addition, the Analysts also review and comment on the applicant's investment advisory contracts(s). [Please refer to Rule 94 and Rule 104.43 of the Rules Pursuant to the Idaho Uniform Securities Act for requirements pertaining to client contracts.](#)

To avoid deficiencies, please follow these guidelines:

- The following items should be discussed in the contract and should be consistent with the information found in Form ADV Parts 1 and 2:
  - A description of services to be rendered by the adviser;

- A fee schedule;
  - Whether fees are charged in advance or in arrears;
  - How often fees are paid;
  - Whether fees are negotiable;
  - Whether fees are withdrawn from the client's account;
  - The firm's termination policy; and
  - A refund policy, if applicable.
- The fee schedule in the contract must match the fee schedule discussed in the Form ADV Part 2. Additionally, the type of compensation described in the contract must match what was described in Item 5 of Part 2.A and the form of compensation marked in Item 5.E of Part 1.
  - It is recommended that the contract contain a client acknowledgement of receipt of the adviser's privacy policy and Part 2.

### **Other Reminders**

- Balance sheet must be accurate. It does not have to be audited but is required to be prepared substantially in accordance with Generally Accepted Accounting Principles (GAAP).
- \$25,000 Indemnity Bond:
  - Must be in the legal name of the investment adviser firm
  - Must be signed by an officer of the firm.
  - The original bond must be on file with this Department. Please make a copy for your records.
- The Idaho Uniform Securities Act and Rules may be found on our website at <http://www.finance.idaho.gov> under *Statutes and Rules*.