JACKO LAW GROUP, PC

Top 10 Considerations for Investment Adviser Annual Reviews

1. Gather all past Deficiency Letters from the SEC. Ensure that all deficiencies noted have been corrected.

2. Perform a GAP Analysis utilizing existing controls. This would include a list of all customer complaints within the last 12 months, branch office examination most common deficiencies, “red flags” on your exception reports and internal audit findings.

3. Evaluate how your Business Products and Services have changed over the last year. Identify conflicts of interest that need to be mitigated or eliminated and policies and procedures which need to be created and/or updated.

4. Assess whether there have been any Rule Promulgations, Guidance Statements or No-Action Letters that could impact your policies, procedures and processes and update accordingly.

5. Consider having a Mock SEC Exam conducted. Test to see if the firm’s risks are managed effectively. This independent review will help provide a non-biased view of the “tone at the top,” the strength of the firm’s written policies and procedures and the adequacy of the tests performed by the investment adviser; *i.e.,* are you capturing what you really want to.

6. Clearly define your associated persons’ Roles and Responsibilities It is imperative that the investment adviser analyze the applicable regulatory requirements and prohibitions and detail *how* the firm will meet those requirements, *who* is responsible for them and *what* methods will be followed. (E.g. The firm will need to provide guidance on what the proxy voting committee should do if an apparent conflict exists with committee members and the securities for which they are voting.)

7. Training. Once policies and procedures are updated and roles and responsibilities are defined, training must occur to ensure that associated persons and applicable business units know what they are accountable for a various area.

8. Disclose! Disclose! Disclose! The adviser’s role as a fiduciary is to disclose all material information to its clients. In order to make full and fair disclosure, the adviser will need to identify conflicts of interest and disclose those conflicts in its Form ADV, contracts and other sales/marketing material. To ensure that conflicts are identified, eliminated or mitigated, test your firm’s internal controls. Assess your staff, technology solutions, training requirements and needs for enhanced policies and procedures in order to mitigate conflicts and disclose accordingly.

9. Develop an Annual Review Committee and Compliance Calendar. During committee meetings, discuss your assessment of the annual review tests and propose solutions to areas that may require enhancement. Particularly for smaller firms, consider technology applications and outsourcing solutions and budget your resource needs accordingly for next year. Present senior management with a compliance calendar, illustrating what reviews you will conduct during which quarters and inform them of the resources that you may need to conduct testing.

10. Remember that Compliance is Everyone’s Responsibility. Written policies and procedures are designed for the *firm*. They are not merely the Compliance Department’s policies. In order to assess the effectiveness of the investment adviser’s compliance program, consider doing the following.
    a. Interview firm personnel for their knowledge of policies and current procedures, sales practices and compliance concerns.
    b. Evaluate the strength of the firm’s books and records, controls and culture of compliance.
    c. Enhance your Annual Review by determining what was not addressed last year and include in this year’s annual review testing process.

1350 Columbia Street, Suite 300
San Diego, CA 92101
TEL 619-298-2880 • FAX 619-298-2882
www.jackolg.com