
This is our annual letter briefly reviewing various issues that our investment adviser clients should consider over the next few weeks.

Federally Registered Investment Advisers

1. Annual Updating Amendment to Form ADV. If your firm is an SEC-registered adviser, it must amend its Form ADV each year on the IARD within 90 days after the end of its fiscal year. For an adviser whose fiscal year ended December 31, 2016, the deadline is March 31, 2017. This annual amendment must update your firm's responses to all items of Parts 1 and 2 of Form ADV.

When you amend Part 1, the IARD will prompt you to indicate the type of amendment. You should select "annual updating amendment," and indicate that the amendment is for 2016. Unlike Part 1, Part 2A is not an online form. Instead, you must upload Part 2A on the IARD as a separate document in text-searchable PDF format. The IARD will not accept any other format, including a PDF file containing a scanned copy of a paper document. An SEC-registered investment adviser is not required to file Part 2B or any amendments to it, but is required to keep its updated Part 2B in its records.

The IARD filing fees for an SEC-registered adviser for an annual updating amendment are (a) \$40 if the adviser's regulatory assets under management ("RAUM") are below \$25,000,000, (b) \$150 if the adviser's RAUM is between \$25,000,000 and \$100,000,000 and (c) \$225 if the adviser's RAUM is over \$100,000,000. Your firm's RAUM is its assets under management that it reports in Part 1A, Item 5.F of Form ADV. You must fund your IARD account with the appropriate amount before you submit the amendment. Information about funding your firm's IARD account is at <http://www.iard.com/accounting.asp>.

The SEC recently adopted amendments to Form ADV that become effective on October 1, 2017, so most investment advisers that have a December 31 fiscal year will not have to complete the updated Form ADV until filing their annual Form ADV update during the first quarter of 2018. Some of the material requirements of the amendments are described in more detail in our letter dated October 21, 2016, which is available at our Insights page at <https://www.sflaw.com/blog-post/sec-amendments-form-adv/>.

2. Other Amendments to Form ADV. In addition to the annual updating amendment, an SEC-registered adviser must amend Part 1A of its Form ADV promptly during the year if (a) any information in Item 1, 3, 9 or 11 of Part 1A becomes inaccurate in any way or (b) any information in Item 4, 8 or 10 (including Schedules A and B) of Part 1A becomes materially inaccurate. Part 2 must be amended promptly whenever any information in it becomes materially inaccurate. If you file an amendment on or after October 1, 2017, you must file using the amended Form ADV that the SEC recently adopted. See Item 1 immediately above.

3. Requirements to Deliver Part 2 to Clients. An SEC-registered adviser whose Part 2A has materially changed since the last annual updating amendment must deliver to clients annually within 120 days after the adviser's fiscal year end either (a) an amended Part 2A, including a material changes summary, or (b) a separate material changes summary that also offers to provide a copy of Part 2A. For an adviser whose fiscal year ended December 31, 2016, the deadline is April 30, 2017. Clients that previously received Part 2B need not be provided with an updated copy of Part 2B unless the disciplinary information disclosed in it has changed materially.

For advisers to private funds, the Part 2 delivery obligation applies to the funds and not to investors in the funds. A private fund is a fund that would be an investment company under the Investment Company Act of 1940 (the "ICA"), but for ICA section 3(c)(1) or 3(c)(7). Most hedge funds, private equity funds and venture capital funds are private funds. To reduce the likelihood of possible claims under the anti-fraud provisions of federal and state securities laws, however, a private fund adviser should consider furnishing Part 2 to each fund investor.

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