



# State Laws & Regulations

## NASAA SERIES

### 63 / 65 / 66 DUMP SHEET

#### Criminal penalties (5-5-3 rule)

- ✓ Penalties if willfully violating law:
  - 5-year statute of limitations
  - \$5,000 maximum fine
  - 3-year maximum jail sentence

#### Civil liabilities

- ✓ Liabilities if unknowingly violating law:
  - 3-year statute of limitations
  - No more than 2 years post-discovery
- ✓ Right of rescission
  - Offer to repurchase security at original cost, plus interest & legal fees, minus income
  - 30 days for client to accept or reject

#### Federal covered advisers

- ✓ Eligible:
  - Advisers with \$100—\$110 million AUM
  - Advisers operating in 15 or more states
- ✓ Mandatory:
  - Advisers exceeding \$110 million AUM
  - Advisers to registered investment companies
- ✓ Must de-register (return to state registration):
  - If falling below \$90 million AUM

#### Federal covered securities

- ✓ Subject to SEC registration, exempt from state registration
  - Exchange-listed securities (+ senior securities)
  - Investment company securities
  - Regulation D offerings

#### Custody

- ✓ Defined as: holding client funds, check meant for 3rd party > 3 business days, access to outside account
- ✓ Requirements (for investment advisers)
  - Ensure state allows custody and inform state administrator on Form ADV
  - Subject to annual surprise audit (filed on Form ADV-E)
  - Send quarterly statements
  - Maintain \$35,000 net worth (vs. \$10,000 required if no custody)

#### Offers & sales

- ✓ Offer: attempt to dispose of, or solicitation of an offer to buy, a security for value
- ✓ Sale: contract of sale of, contract to sell, or disposition of, a security
- ✓ Considered offers and/or sales:
  - Bonus offer of securities
  - Offer of warrants, rights, derivatives, and convertibles
  - Gift of assessable stock
- ✓ Not considered offers and/or sales:
  - Bona fide pledges or loans
  - Stock dividends or corporate actions
  - Gift of non-assessable stock

#### Securities exemptions

- ✓ Exempt securities = government, bank, insurance, common carrier, fed covered, non-profit, promissory notes, employee plans
- ✓ Exempt transactions
  - Private placements (10 or fewer offers to retail investors)
  - Isolated non-issuer transactions
  - Unsolicited non-issuer transactions
  - Certain fiduciary transactions (executor, sheriff, bankruptcy trustee, guardian, conservator)
  - Debt-related transactions (bona fide loans)
  - Transactions between issuers and underwriters
  - Institutional transactions
  - Offer of pre-organization certificates (no more than 10 subscribers, no payments)
- ✓ Notice filing:  
SEC registration only (state exempt), fed covered only, easiest form of registration
- ✓ Coordination:  
SEC + state registration, interstate securities not eligible for fed covered status
- ✓ Qualification:  
State registration only (fed exempt), intrastate securities, hardest form of registration