

NASAA SERIES 63/65/66 DUMP SHEET

State laws and regulations



<p>Broker-dealers Definition: person engaged in business of effecting transactions in securities for the account of others or for his own account Registration form: Form BD Exclusions from registration:</p> <ul style="list-style-type: none"> • Agents, issuers, and banks • Vacation rule • Institution rule • Canadian (limited registration) 	<p>Agents Definition: individual representing a broker-dealer or issuer in effecting securities transactions Registration form: Form U4 (agent & BD file) Reg. withdrawal form: Form U5 (agent & BD file) Exclusions from registration:</p> <ul style="list-style-type: none"> • Vacation rule • Institution rule • Clerical roles • Representing an issuer while offering exempt securities or performing exempt transactions 	<p>Person Any natural person (individual) or organization able to enter into binding contracts Non-persons: minors, incapacitated, deceased</p>	<p>Investors Institutional = organization investing a pool of capital (money) on behalf of others Retail = individual investing for their own goals or on behalf of a family</p>
<p>Investment advisers Definition: person offering securities Advice as a regular Business for Compensation Registration form: Form ADV (Part 1, 2A, 2B) Reg. withdrawal form: Form ADV-W Exemptions from registration:</p> <ul style="list-style-type: none"> • Vacation rule • Institution rule • De minimis rule • Private fund advisers <p>Exclusions from registration:</p> <ul style="list-style-type: none"> • Investment adviser representatives (IARs) • LATE professions (incidental) • BDs and agents (no advisory fees) • Media programs if general advice • Fed covered advisers (excl. from state) • Banks and savings institutions 	<p>Investment adviser representatives (IARs) Definition: any partner, officer, director of, or securities advice-providing employee of an IA Registration form: Form U4</p> <ul style="list-style-type: none"> • If representing state IA = filed by IA • If representing fed cov'd IA = filed by IAR <p>Reg. withdrawal form: Form U5</p> <ul style="list-style-type: none"> • If representing state IA = filed by IA • If representing fed cov'd IA = filed by IAR <p>Exemptions from registration:</p> <ul style="list-style-type: none"> • Vacation rule • Institution rule • De minimis rule 	<p>Federal covered advisers Eligible:</p> <ul style="list-style-type: none"> • Advisers with \$100 - \$110 million AUM • Advisers operating in 15 or more states <p>Mandatory:</p> <ul style="list-style-type: none"> • Advisers exceeding \$110 million AUM • Advisers or registered investment companies <p>Must de-register (go back to state registration)</p> <ul style="list-style-type: none"> • If falling below \$90 million AUM 	<p>Federal covered securities Subject to SEC reg, exempt from state:</p> <ul style="list-style-type: none"> • Exchange-listed securities (+senior) • Investment company securities • Regulation D offerings
<p>State administrator Responsibilities:</p> <ul style="list-style-type: none"> • Registration & regulation of persons • Registration & regulation of securities • Enforcement of general securities laws • Enforcement of anti-fraud provisions <p>Jurisdiction exists if:</p> <ul style="list-style-type: none"> • Client or professional in state during... • A securities offer or transaction <p>Punitive actions</p> <ul style="list-style-type: none"> • May deny, suspend, or revoke registration • Must be in public interest and break law <p>Record retention enforcement</p> <ul style="list-style-type: none"> • Investment advisers = 5 years • Broker-dealers = 3 years • Records in past 2 years rapidly available 	<p>Vacation rule (no office in state) No registration if engaging current clients visiting a state</p> <p>Institution rule (no office in state) No registration if only engaging institutions</p> <p>De minimis rule (no office in state) No registration if 5 or fewer retail clients in a state</p> <p>Criminal penalties (5-5-3 rule) Penalties if willfully violating law:</p> <ul style="list-style-type: none"> • 5 year statute of limitations • \$5,000 maximum fine • 3 year maximum jail sentence <p>Civil liabilities Liabilities if unknowingly violating law</p> <ul style="list-style-type: none"> • 3 year statute of limitations • No more than 2 years post-discovery <p>Right of rescission</p> <ul style="list-style-type: none"> • Offer to repurchase security at original cost, plus interest & legal fees, minus income • 30 days for client to accept or reject 	<p>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</p> <p>Considered offers and/or sales:</p> <ul style="list-style-type: none"> • Bonus offer of securities • Gift of assessable stock • Offer of warrants, rights, derivatives, and convertibles <p>Not considered offers and/or sales:</p> <ul style="list-style-type: none"> • Bona fide pledges or loans • Gift of non-assessable stock • Stock dividends or corporate actions <p>Investment adviser representatives (IARs) Defined as: holding client funds, check meant for 3rd party > 3 business days, access to outside acct</p> <p>Requirements (for investment advisers):</p> <ul style="list-style-type: none"> • 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 req if no custody) 	<p>Securities exemptions Exempt securities = gov't, bank, insurance, com carrier, fed cov'd, non-profit, prom notes, emp. plans</p> <p>Exempt transactions:</p> <ul style="list-style-type: none"> • 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, conserv.) • Debt-related transactions (bona-fide loans) • Transactions between issuers and underwriters • Institutional transactions • Offer of per-organization certificates (no more than 10 subscribers, no payments) <p>Registration methods:</p> <ul style="list-style-type: none"> • Notice filing: SEC reg only (state exempt), fed cov'd only, easiest form of registration • Coordination: SEC + state reg, interstate securities not eligible for fed cov'd status • Qualification: state reg only (fed exempt), intrastate securities, hardest form of registration