

THE NATIONAL LAW REVIEW

SEC Announces a New ADV Rule

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Today, the SEC [announced](#) the adoption of amendments to several rules under the Investment Advisers Act of 1940 and to Form ADV, the investment adviser registration and reporting form. Although there is a long lead-in time to get in compliance with the new rules and Form ADV, advisers should consider beginning work now to ensure compliance by next year. The SEC proposed the Form ADV amendments in May 2015 and the final release addresses three areas:

(i) The adopted amendments will require advisers to aggregate information about the separately managed accounts they advise and, according to the adopting release, are designed to improve the depth and quality of the information collected by the SEC. The enhanced information also will be used to facilitate the SEC's risk management initiatives and risk-based exam program.

(ii) The amendments incorporate a method for adviser entities operating a single advisory business to register with the SEC using a single Form ADV (*i.e.*, umbrella registration). These changes relate to the [2012 No-Action Letter of the Office of Investment Adviser Regulation to the American Bar Association, Business Law Section](#), which provided a method for certain affiliates of a registered adviser to "rely" upon the registration of its affiliated adviser when conducting a single advisory business. These amendments formally incorporate this concept into Form ADV and are intended to make the availability of umbrella registration more well known to advisers and provide more data and a clearer picture of registrants utilizing umbrella registration to the SEC.

(iii) The amendments make other clarifying, technical, and other amendments to current items and instructions, which are based upon the staff's experience with the current Form ADV and responses to inquiries from advisers and their service providers.

Additionally, the SEC has adopted various rule amendments, including amendments to the "books & records" rule, Rule 204-2, related to making and keeping records related to performance calculations and rates of return communicated in writing by an adviser to any person, as well as certain other technical amendments.

The amendments become effective 60 days after publication of the adopting release in the Federal Register. Compliance with the revised books & records rule will be required with respect to any communication circulated after Oct. 1, 2017. Any initial Form ADV filing or amendment to an existing Form ADV that is filed on or after Oct. 1, 2017, will be required to comply with the amended Form ADV. The SEC does not expect the electronic filing system (the IARD) to be able to accept the amended Form ADV until around the time of the 2017 compliance date, so it does not appear that early adoption will be an option.

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