

Investment Adviser Compliance Frequently Asked Questions

*****Disclaimer:** *This information is presented as guidance regarding the usual manner in which the Section conducts compliance matters. No legal rights, benefits, or defenses are created by the posting of this guidance. The Division is permitted to conduct matters in the manner it deems fit and may alter its approach on a case-by-case basis. This information in no way binds the department to any specific procedure.****

1. Where can I access the Tennessee Securities Division (Division) Laws and Rules?

The Division's Laws and Rules can be access on the website at the following URL:

<https://www.tn.gov/commerce/securities/industry-professionals/laws-and-rules.html>

2. Where can I find information about the books and records that I am required to maintain?

Information outlining the records that Investment Advisers are required to maintain can be found in Tennessee Securities Rule 0780-04-03-.02(3).

3. Where can I find information about the State of Tennessee's annual reporting requirements for Investment Advisers?

Information outlining the reporting requirements for Investment Advisers can be found in Tennessee Securities Rule 0780-04-03-.02(4). A summary of the annual requirements can be found in the attached document titled "IA Net Capital and Annual Reporting Requirements."

4. Where can I find information about the State of Tennessee's net capital requirements for Investment Advisers?

Information outlining the net capital requirements for Investment Advisers can be found in Tennessee Securities Rule 0780-04-03-.01(6). A summary of these requirements can be found in the attached document titled "IA Net Capital and Annual Reporting Requirements."

5. I have a personal definition of what constitutes a client which I know may not be accurate. Where can I find the State of Tennessee's definition of "client of an investment adviser?"

A safe harbor method of determining who meets the definition of "client of an investment adviser" can be found in Tennessee Securities Rule 0780-04-03-.12.

6. Do I need to have client agreements and suitability documents for all of my clients including any of my family and friends?

Yes. You should have a properly executed client agreement and suitability document for every client.

7. I am considering changing my business or my business model. Can a representative of the Division give me business advice?

No. Please do not ask for general business advice.

8. Where can I find information about what is deemed to be “dishonest or unethical business practices” by an investment adviser or an investment adviser representative?

Information regarding what is deemed to be “dishonest or unethical business practices” by an investment adviser or an investment adviser representative can be found in Tennessee Securities Rule 0780-04-03-.02(6)(c).

9. I am the only employee of my firm. Do I still need a compliance manual?

Yes. Pursuant to Tennessee Securities Rule 0780-04-03-.02(6)(c)(20), it is deemed a “dishonest or unethical business practice” to “[fail] to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse in violation of the Investment Advisers Act or the 1934 Act, or the rules or regulations promulgated thereunder, of material, non-public information by such investment adviser or any person associated with such investment adviser.”

10. What is one of the most common deficiencies that post-registration examiners identify?

A majority of post-registration exams identify discrepancies between the information listed in the firm’s Form ADV and the information contained in the firm’s books and records. Most of these discrepancies relate to the information contained in Item 5 of Form ADV Part 1.