

The logo for HedgeOp Compliance, featuring a blue swoosh that curves over the text "HEDGEOP COMPLIANCE".

HEDGEOP COMPLIANCE

The 2010 Excellence in Compliance Seminar Series
Topic: The New ADV Part 2 – What You Need to Know

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Agenda

- Introduction to HedgeOp
- What are the big changes?
- When is the switch required?
- The New Part 2
 - Part 2A
 - Part 2B
- What is “Plain English”?
- Filing, Initial Delivery and Updating Requirements
- Q&A

Introduction to HedgeOp

- HedgeOp was founded in 2001.
- HedgeOp provides ongoing, pro-active compliance support of varying levels to about 40 different investment advisers with over \$70B in AUM.
- HedgeOp also provides project-based compliance support services and due diligence research and reporting services.
- HedgeOp also offers a patented compliance workflow, monitoring and report software application – ComplianceTrak (which includes platform for electronic filing, and automated review of, personal securities transactions)
- HedgeOp has a staff of 40 professionals working in offices in NYC and Boston.

ADV Part 2 – What Are the Big Changes?

- No more check-the-box answers!
- Responses must be in “Plain English”
- ADV Part 2A is publicly filed and publicly available
- Now required to specify what changes/amendments are made

When is the Switch Required?

- If your firm is already registered and your fiscal year ends on or after December 31, 2010 – must include the new brochure with the annual update of Part 1 due on March 30, 2011
- If your firm is not registered and plans to register on or after January 1, 2011 – the new rules will be applicable upon filing

The New Part 2

- Part 2A is the firm brochure
- Standard format – 18 items of disclosure
 - If not applicable – must still have the item and reference -- “Not Applicable”
 - NOTE – Instructions specifically state that an adviser may be required to disclose more than what is required by the 18 items under its fiduciary obligations to ensure:
 - It makes full disclosure of all relevant and/or material conflicts of interest and business practices
 - It obtains informed consent from its clients/investors

Part 2A – The 18 Items of Disclosure

- Cover page – name, business address, contact information, website address and date of brochure
- Material changes
- Table of contents
- Advisory business
- Fees and compensation
- Performance-based fees and side-by-side management

Part 2A – The 18 Items of Disclosure

- Methods of analysis, investment strategies and risk of loss
- Disciplinary information
- Other financial industry activities and affiliations
- Code of Ethics, participation or interest in client transactions and personal trading
- Brokerage practices

Part 2A – The 18 Items of Disclosure

- Review of accounts
- Client referrals and other compensation
- Custody
- Investment discretion
- Voting client securities
- Financial condition of the adviser

Part 2B – Brochure Supplement

- Which key personnel (Supervised Persons) are required to have brochure supplements?
- 6 Items of disclosure about Supervised Persons
 - Educational background and work experience
 - Material disciplinary history
 - Other substantial business activities
 - Material conflicts of interest
 - Sources of additional compensation (other than a client)
 - Procedures for monitoring Supervised Persons and the person responsible for monitoring

What is Plain English?

- Principles
 - Effective communication with your clients/potential clients
 - Provide clearly written, meaningful, current disclosure
 - Write for your audience – your clients, investors and potential clients/investors
 - Include information that you think would be relevant if you were a potential client or investor.
 - What would you want to know about your firm?
- Method
 - Use
 - Short sentences
 - Active voice
 - Concrete, everyday words
 - Bullet point lists or examples to present more complicated information
 - Avoid
 - Defined terms, legal or business jargon
 - Multiple negatives

What is Plain English?

- When in doubt - remember the purpose behind the switch to Plain English!!
- Quote from SEC Chairman Mary L. Schapiro –
 - *“These changes are designed to provide clients with greater information about the individuals who will provide them with investment advice”...“These amendments will help transform the brochure into a plain English narrative that is well suited to serve investors’ needs and describes the adviser’s conflicts, compensation, business activities, and disciplinary history.”*

Filing, Initial Delivery and Updating Requirements

- FILING – Part 2A (the Brochure) and any updates are required to be electronically filed via the IARD system and will be publicly-available.
- FILING – Part 2B (the Supplement) and any updates are NOT required to be electronically filed and will NOT be publicly-available

Filing, Initial Delivery and Updating Requirements

- INITIAL DELIVERY - Part 2A (the Brochure) must be delivered to a prospective client (or investor in a fund) prior to or at the time that the advisory contract is entered into with the client
- INITIAL DELIVERY - Part 2B (the Supplement) must be provided before or at the time that the Supervised Person starts to provide advisory services to the client in question

Filing, Initial Delivery and Updating Requirements

- **UPDATING – Part 2A (the Brochure)**
 - Interim Updates: promptly, whenever information becomes materially inaccurate
 - Deliver to clients only if changes regard disciplinary information
 - Disclose all material changes to clients (even if no delivery requirement)
 - Annually, including summary of material changes
 - Deliver to clients within 120 days of the end of the adviser's fiscal year
- **UPDATING – Part 2B (the Supplement)**
 - Promptly, whenever any information becomes materially inaccurate
 - May be delivered electronically

Questions & Answers

Thank you for your interest.

If you would like to see a demo of ComplianceTrak or ELF, please email us at: info@hedgeop.com.

Disclaimer

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