

WAC 460-24A-170 Minimum net worth requirements for investment advisers. (1) If you are an investment adviser registered or required to be registered under RCW 21.20.040, who has custody of client funds or securities, you must maintain at all times a minimum net worth of \$35,000 unless provided otherwise in this chapter. If you are an investment adviser registered or required to be registered under RCW 21.20.040, who has discretionary authority over client funds or securities, but does not have custody of client funds or securities, you must maintain at all times a minimum net worth of \$10,000.

(2) If you are an investment adviser registered or required to be registered under RCW 21.20.040 who has custody or discretionary authority over client funds or securities, but does not meet the minimum net worth requirements in subsection (1) of this section you must maintain a bond in the amount of the net worth deficiency rounded up to the nearest \$5,000. Any bond required by this section must be in the form determined by the director, issued by a company qualified to do business in this state, and must be subject to the claims of all clients of the investment adviser regardless of the clients' states of residence.

(3) If you are an investment adviser registered or required to be registered under RCW 21.20.040, you must maintain at all times a positive net worth.

(4) Unless otherwise exempted, as a condition of the right to transact business in this state, if you are an investment adviser registered or required to be registered under RCW 21.20.040 you must, by the close of business on the next business day, notify the director if your net worth is less than the minimum required. After transmitting such notice, you must file, by the close of business on the next business day, a report with the director of its financial condition, including the following:

(a) A trial balance of all ledger accounts;

(b) A statement of all client funds or securities which are not segregated;

(c) A computation of the aggregate amount of client ledger debit balances; and

(d) A statement as to the number of client accounts.

(5) For purposes of this section, the term "net worth" means an excess of assets over liabilities, as determined by generally accepted accounting principles, but does not include the following as assets:

(a) Prepaid expenses (except as to items properly classified as assets under generally accepted accounting principles in the United States), deferred charges, goodwill, franchise rights, organizational expenses, patents, copyrights, marketing rights, unamortized debt discount and expense, and all other assets of intangible nature; and

(b) In the case of an individual: Primary residence, home furnishings, automobile(s), and any other personal items not readily marketable;

(c) In the case of a corporation: Advances or loans to stockholders and officers;

(d) In the case of a partnership: Advances or loans to partners; and

(e) For limited liability companies: Advances or loans to members and managers.

(6) For purposes of this section, if you are an investment adviser you will not be deemed to be exercising discretion when you place trade orders with a broker-dealer pursuant to a third-party trading agreement if:

(a) You have executed an investment adviser contract exclusively with your client which acknowledges that a third-party trading agreement will be executed to allow you to effect securities transactions for your client in your client's broker-dealer account;

(b) Your contract specifically states that your client does not grant discretionary authority to you and you in fact do not exercise discretion with respect to the account; and

(c) A third-party trading agreement is executed between your client and a broker-dealer which specifically limits your authority in your client's broker-dealer account to the placement of trade orders and deduction of investment adviser fees.

(7) The director may require that a current appraisal be submitted in order to establish the worth of any asset for the purposes of meeting the minimum net worth requirements in subsection (1) of this section or the positive net worth requirement in subsection (3) of this section.

(8) If you are an investment adviser that has its principal place of business in a state other than this state, you must maintain only such minimum net worth as required by the state in which you maintain your principal place of business, provided you are registered in that state and are in compliance with that state's minimum capital requirements.

[Statutory Authority: RCW 21.20.005, 21.20.020, 21.20.030, 21.20.040, 21.20.050, 21.20.060, 21.20.070, 21.20.080, 21.20.090, 21.20.100, 21.20.330, 21.20.340, 21.20.450, and 21.20.702. WSR 19-03-133, § 460-24A-170, filed 1/18/19, effective 2/18/19; WSR 14-13-068, § 460-24A-170, filed 6/12/14, effective 7/13/14. Statutory Authority: RCW 21.20.450, 21.20.900, 21.20.100, 21.20.050 - [21.20].060. WSR 08-18-033, § 460-24A-170, filed 8/27/08, effective 9/27/08. Statutory Authority: RCW 21.20.450, 21.20.050, 21.20.100. WSR 01-16-125, § 460-24A-170, filed 7/31/01, effective 10/24/01. Statutory Authority: RCW 21.20.450. WSR 97-16-050, § 460-24A-170, filed 7/31/97, effective 8/31/97; Order 304, § 460-24A-170, filed 2/28/75, effective 4/1/75. Formerly chapter 460-24 WAC.]