

WAC 460-24A-145 Investment adviser brochure rule. (1) **General requirements.** Unless otherwise provided in this rule, if you are an investment adviser registered or required to be registered pursuant to RCW 21.20.040, you must, in accordance with the provisions of this section, deliver to each advisory client and prospective advisory client:

(a) A brochure which may be a copy of Part 2A of your Form ADV or written documents containing the information required by Part 2A of Form ADV. The brochure must comply with the language, organizational format and filing requirements specified in the Instructions to Form ADV Part 2;

(b) A copy of your Part 2B brochure supplement for each individual:

(i) Providing investment advice and having direct contact with clients in this state; or

(ii) Exercising discretion over assets of clients in this state, even if no direct contact is involved;

(c) A copy of your Part 2A Appendix 1 wrap fee brochure if you sponsor or participate in a wrap fee account;

(d) A summary of material changes, which may be included in Form ADV Part 2 or given as a separate document; and

(e) Such other information as the director may require.

(2) **Delivery.**

(a) **Initial delivery.** Except as provided in (c) of this subsection, you must deliver the materials required by this section to an advisory client or prospective advisory client (i) not less than forty-eight hours prior to entering into any investment advisory contract with such client or prospective client, or (ii) at the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five business days after entering into the contract.

(b) **Annual delivery.** Except as provided in (d) of this subsection, if there have been any material changes that have taken place since the last summary and brochure delivery to your clients, you must:

(i) Deliver within one hundred twenty days of the end of your fiscal year a free, updated brochure and related brochure supplements which include or are accompanied by a summary of the material changes; or

(ii) Deliver a summary of material changes that includes an offer to provide a copy of the updated brochure and supplements and information on how the client may obtain a copy of the brochure and supplements. You must mail or deliver any materials requested by the client pursuant to such an offer within seven days of the receipt of the request.

(c) **Other-than-annual delivery.** If the instructions to Form ADV require you to file an other-than-annual amendment, and if the amendment adds disclosure of an event or materially revises information already disclosed about an event in response to Item 9 of Part 2A of Form ADV, or Item 3 of Part 2B of Form ADV, you must promptly deliver the following to each client:

(i) The amended brochure or brochure supplement, along with a statement describing the material change in disciplinary information; or

(ii) A statement describing the material change in disciplinary information and an offer to deliver the amended brochure.

(d) **Exception for certain clients.** You are not required to deliver the materials set forth in (1) of this section to:

(i) Clients receiving advisory services solely pursuant to a contract for impersonal advisory services requiring a payment of less than two hundred dollars;

(ii) An investment company registered under the Investment Company Act of 1940; or

(iii) A business development company as defined in the Investment Company Act of 1940 and whose advisory contract meets the requirements of section 15c of that act.

(3) **Electronic delivery.** You may deliver the materials required by this section electronically if you:

(a) In the case of an initial delivery to a potential client, obtain a verification that readable copies of the materials were received by the client;

(b) In the case of deliveries other than initial deliveries, obtain each client's prior consent to provide the materials electronically;

(c) In the case of deliveries through a passive delivery system such as a web site or portal, you notify the client when the materials become available on the system;

(d) Prepare the electronically delivered materials in the format prescribed in subsection (1) of this section and the instructions to Form ADV Part 2;

(e) Deliver the materials in a format that can be retained by the client in either electronic or paper form; and

(f) Establish procedures to supervise personnel transmitting the materials and prevent violations of this rule.

(4) **Delivery to limited partners.** If you are the adviser to a limited partnership, a limited liability company, or a trust, then you must treat each of the partnership's limited partners, the company's members, or the trust's beneficial owners, as a client. For purposes of this section, a limited liability partnership or limited liability limited partnership is a "limited partnership."

(5) **Omission of inapplicable information.** If you render substantially different types of investment advisory services to different advisory clients, you may provide them with different disclosure materials, provided that each client receives all applicable information about services and fees. The disclosure delivered to a client may omit any information required by Part 2 of Form ADV if such information is applicable only to a type of investment advisory service or fee which is not rendered or charged, or proposed to be rendered or charged, to that client or prospective client.

(6) **Other disclosure obligations.** Nothing in this section relieves you from any obligation to disclose any information to your advisory clients or prospective advisory clients not specifically required by this rule under chapter 21.20 RCW, the rules and regulations thereunder, or any other federal or state law.

(7) **Definitions.** For the purposes of this rule:

(a) "Contract for impersonal advisory services" means any contract relating solely to the provision of investment advisory services:

(i) By means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

(ii) Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

(iii) Any combination of the foregoing services.

(b) "Entering into," in reference to an investment advisory contract, does not include an extension or renewal without material change of any such contract which is in effect immediately prior to such extension or renewal.

[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-145, filed 1/18/19, effective 2/18/19; WSR 14-13-068, § 460-24A-145, filed 6/12/14, effective 7/13/14. Statutory Authority: RCW 21.20.450 and 21.20.110 (1)(g). WSR 02-19-093, § 460-24A-145, filed 9/17/02, effective 10/18/02. Statutory Authority: RCW 21.20.450, 21.20.050, 21.20.100. WSR 01-16-125, § 460-24A-145, filed 7/31/01, effective 10/24/01. Statutory Authority: 1998 c 15 § 9. WSR 99-03-052, § 460-24A-145, filed 1/15/99, effective 2/15/99.]