HOW TO REGISTER AS A CALIFORNIA REGISTERED INVESTMENT ADVISER

California Department of Business Oversight

1515 K Street, Suite 200

Sacramento, CA 95814

916-322-6270

Please contact an Examiner in the Broker-Dealer/Investment Adviser Division with any questions related to the application process.

Steps to Register

- ✓ **Step 1:** IARD System
- ✓ **Step 2:** Funding the Daily Account
- ✓ **Step 3:** Complete the Form ADV
- ✓ **Step 4:** Submission of Form ADV
- ✓ **Step 5:** Investment Adviser Representatives
- ✓ **Step 6:** Submit Complete Application

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Step 1

Investment Adviser Registration Depository

- Obtain access to the Investment Adviser Registration Depository (IARD) system by submitting a State Registrant Entitlement Packet to FINRA via the IARD website at www.iard.com.
- Form ADV is the Uniform Application for Investment Adviser Registration and **must** be completed by the applicant and filed electronically with the (IARD).

What is the IARD system?

- The Investment Adviser Registration Depository (IARD) is an electronic filing system for Investment Advisers. The IARD system collects and maintains the registration, reporting and disclosure information for Investment Advisers and their associated persons.
- The IARD system supports electronic filing of the revised Forms ADV and ADV-W, centralized fee and form processing, regulatory review, annual renewal process and public disclosure of Investment Adviser information.

INVESTMENT ADVISER REGISTRATION DEPOSITORY
www.iard.com

Why do I need to request entitlement to the IARD system?

- By completing the Entitlement Forms and returning the forms to IARD, you are requesting FINRA to entitle you to access the IARD System for electronic filing. Once FINRA receives the Entitlement Forms, they will establish your IARD User Account and you will be able to access and use the IARD system to make your filings.

Does FINRA regulate investment advisers?

- FINRA ***does not*** have regulatory authority over investment advisers; however, it was chosen to develop, operate, and maintain the IARD system because of its regulatory business and technical expertise and the success of its Web-based licensing and regulation system, Web CRD℠, deployed in 1999.

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Step 2

Funding of the Daily Account

- The fee for filing an application is $125.
- Investment adviser applicants are required to pay their filing fees for applications, renewals, etc. through the IARD system.
- Fund your firm's Flex-Funding Account (CRD/IARD Daily Account) through the IARD system.
- Your firm must have sufficient funds in order to submit filings through the system.
- Insufficient funds will result in a deficient filing.
- Fees are not refundable except as provided in Government Code Sections 13140-13144.

Step 3

Complete the Form ADV

Form ADV Part 1A-1B

- Requires information about the investment adviser's business, ownership, clients, employees, etc.
- Organized in a check-the-box, fill-in-the-blank format.
- State will review the information from this part of the form to process registrations and manage its regulatory and examination programs.
- Investment adviser filings of Part 1 are available to the public on the SEC's Investment Adviser Public Disclosure (IAPD) website at www.adviserinfo.sec.gov.

Form ADV Part 2A-2B

- Part 2A (Firm brochures) and Part 2B (Brochure supplements) are narrative brochures written in plain English that contain information such as:
    - Advisory services offered
    - Fee schedules
    - Disciplinary information
    - Conflicts of interest, and

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    - Educational and business background of management and key advisory personnel of the adviser.

- Brochures should be prepared in accordance with the Part 2A and 2B instructions found at the NASAA website.
- Brochures are the primary disclosure documents that investment advisers provide to their clients.
- When filed, the brochures are available to the public on the IAPD website.

How should I answer the questions in the ADV?

- Some of the questions are asked in the anticipatory form.
    - For example, Item 5.G of Part 1 asks, "What type(s) of advisory services do you provide?" A newly formed applicant should not have any advisory services; however, this question is intended to be answered in the future tense. An investment adviser applicant should answer according to how it plans to operate in the first 90 days.

How should I answer a question if I intend to provide a certain advisory service but have not finalized?

- The Form ADV should include information related to services the investment adviser intends to provide within 90 days of registration.
- ADV Forms are fluid documents and can always be amended to include a future service that the investment adviser has added to their advisory services.
    - Amendments should be completed within 30 days of the change.

Step 4
Submission of the Form ADV

- Electronically submit the completed Form ADV 1A-1B to the appropriate jurisdiction in which the applicant wants to register.
- You may register in numerous jurisdictions at the same time.
- The IARD system will conduct a completeness check to capture any incomplete responses.
- After the completeness check and submission, the Form ADV is delivered to the state(s) electronically along with the appropriate filing fees.

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Step 5
Investment Adviser Representatives

- Investment Adviser Representative (IAR) is defined in Corporations Code Section 25009.5(a) as "any partner, officer, director of (or a person occupying a similar status or performing similar functions) or other individual, except clerical or ministerial personnel, who is employed by or associated with, or subject to the supervision and control of, an investment adviser that has obtained a certificate or that is required to obtain a certificate under this law, and who (i) makes any recommendations or otherwise renders advice regarding securities, (ii) manages accounts or portfolios of clients (iii) determines which recommendations or advice regarding securities should be given, (iv) solicits, offers, or negotiates for the sale or sells investment advisory services, or (v) supervises employees who perform any of the foregoing.

Note: Each officer, director or partner exercising executive responsibility (or persons occupying a similar status or performing similar functions) or each person who owns 25% or more is presumed to be acting as an IAR.

- Each IAR rendering investment advisory services on behalf of a registered investment adviser must first be registered in the state.
- If an investment adviser is a sole proprietorship, the Form U4 is required to be filed for the sole proprietor. Note that if you are filing a Form U-4 for a sole proprietor, the $25 registration and renewal fee are waived.
- Submit the Form U-4 and payment of the appropriate filing fees electronically via FINRA's Web CRD system.
- The Form U-4 is the Uniform Application for Securities Industry Registration or Transfer. Representatives of broker-dealers, investment advisers, or issuers of securities must use this form to become registered in the appropriate jurisdictions.

Does California require fingerprint cards for individuals filing the Form U-4?

- California does not require submission of a fingerprint card for investment adviser representatives. Some state regulators may require that a fingerprint card be submitted as part of their registration process.

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What exam(s) are required to register as an investment adviser representative?

- The applicant and each investment adviser representative/associated person ("IAR") (as defined in Section 25009.5(a)) must qualify by passing, within two years prior to the date of filing the application for an investment adviser certificate or becoming engaged as an investment adviser representative,
- (1) the Series 65/Uniform Investment Adviser Law Examination in effect on January 1, 2000 ("2000 Series 65 Examination"),
- or (2) the Series 7/General Securities Representative Examination ("Series 7 Examination") and the Series 66/Uniform Combined State Law Examination ("2000 Series 66 Examination"). Effective, October 1, 2018, FINRA has restructured Series 7 to be Series 7TO. Prior to taking Series 7, individuals must take and pass Securities Industry Essentials (SIE).

Note: Applicants that must satisfy the qualification requirements set forth under CCR § 260.236 can apply for the Series 65 Examination by filing Form U-10 with FINRA.

Are there any exam waivers?

- The requirements of CCR § 260.236(a) do not apply to any investment adviser or investment adviser representative or associated person who has been actively and continuously engaged in the securities business as a broker-dealer, an agent of a broker-dealer, an investment adviser, or an investment adviser representative or associated person without substantial interruption (two or more years) since passing the (a) Series 2 Examination (SECO/NASD Nonmember General Securities Examination) or Series 7 Examination before January 1, 1998, or (b) the Series 65 Examination or Series 66 Examination before January 1, 2000 and the Series 7 Examination.

Are there any exemptions from the exam requirements?

Exemptions – CCR § 260.236(a) does not apply to the following:

- (1) Any individual who has been registered as an investment adviser or employed or engaged as an investment adviser representative or associated person in any state for two consecutive years immediately before the date of filing an application or notice in this state. This provision does not apply to an individual using the exemption in CCR § 260.236(c)(2).

- (2) Any investment adviser representative or associated person employed by or engaged by an investment adviser only to offer or negotiate for the sale of investment advisory services of the investment adviser.

- (3) Any individual who currently holds in good standing one of the following designations: Chartered Financial Analyst ("CFA") granted by the Association for Investment Management and Research; Chartered Financial Consultant ("ChFC") awarded by The American College, Bryn Mawr, Pennsylvania; Certified Financial Planner ("CFP") issued by the Certified Financial Planner Board of Standards, Inc.; Chartered Investment Counselor ("CIC") granted by the Investment Counsel Association of America; or Personal Financial Specialist ("PFS") administered by the American Institute of Certified Public Accountants.

- An individual who has not been registered in any state for a period of two years is required to comply with the examination requirements unless the individual is using the exemption in CCR § 260.236(c)(2) or (c)(3).

When does the Department require the filing of a Form U4 (paper version)?

- Generally, the Department will require submission of a paper version of Form U4 if it is determined that an individual owner and/or an executive officer does not meet the definition of an investment adviser representative ("IAR") as stated in California Corporations Code Section 25009.5.

    - On this form you only need to complete Item 1 and Items 9 through 15B.

    - If the individual's Form U-4 is on file with CRD and the information reported on Form U-4 is current, please make representation to that fact in your cover letter accompanying any documents filed directly with the Commissioner; it will not be necessary to file a paper version of Form U-4 directly with the Commissioner.

Step 6
Submit Complete Application

- A complete application filing through the IARD system consists of the following:

    - Form ADV Part 1A-1B and Part 2A-2B filed electronically

    - Form U-4 filed electronically

    - Filing fees submitted electronically through IARD

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The following documentation should be filed directly with the California Commissioner of Business Oversight ("Commissioner"). Please note that reference may be made to the California Code of Regulations ("CCR") and California Corporations Code ("Code"). The CCR (rules) and the Code (law) may be found through links on our web site at www.dbo.ca.gov. The link for the rules and the law are at http://ccr.oal.ca.gov and http://www.leginfo.ca.gov/calaw.html, respectively.

Submit the following documents directly to IAAPP@dbo.ca.gov. ***Please include the firm's CRD number for reference.***

- ✓ **Customer Authorization of Disclosure of Financial Records (Form QR 500.261)**
  - **This form should be completed and provided to the Commissioner as part of your original application package. Pursuant to CCR Section 260.231 (i), the form must be legible, and a scanned copy may be submitted via email or mailed directly to the Department. Please refer to *Tips on Avoiding Common Deficiencies Found in Investment Adviser Applications* section for more guidance on completing the form.**
- ✓ **Statement of Citizenship, Alienage, and Immigration Status**
  - **If you are filing as a sole proprietor, a Statement of Citizenship, Alienage, and Immigration Status (Form 250.61) is to be completed.**
  - **This form does not need to be filed with the Commissioner but should be maintained, along with any documents establishing proof thereof, as part of your books and records.**

1. **Conflict of Interest Disclosure (CCR Section 260.238(k))**. Any material conflict of interest relating to you or your representatives and employees that could be reasonably expected to impair the rendering of unbiased or objective advice should be disclosed. Conflicts of interest may include, but are not limited to: (a) compensation arrangements connected with advisory services which are in addition to the advisory fees; (b) other financial industry activities or affiliations; and (c) participation of interest in client transactions. This disclosure should be made in Part 2A of Form ADV.

2. **Financial Planning Conflict of Interest Statement (CCR Section 260.235.2)**. If you provide financial planning services and receive compensation (e.g. commissions, fees) from the sale of securities, insurance, real estate or other products or services recommended in a financial plan, a copy of the conflict of interest statement should be filed directly with the Commissioner. This statement should include, at a minimum, that: (a) a conflict exists between your interests and the interests of your client; (b) your client is under no obligation to act upon your recommendation; and (c) if the client elects to act on any of the

recommendations, the client is under no obligation to effect the transaction through you. Please include the statement in the advisory contract and in Part 2A of Form ADV.

3. **Performance Fees Disclosure Statement**. If you receive, or will receive, compensation based on capital gains or capital appreciation (performance fee), you must comply with the provisions of CCR Section 260.234. Disclosure should be made in the advisory contract and in Part 2A of Form ADV that the performance fee will only be charged in accordance with the provisions of CCR Section 260.234.

4. **Advisory Fee (CCR Section 260.238(j))**. An advisory fee charged to your client(s) should be reasonable in light of the type of services to be provided, your experience and expertise, the sophistication and bargaining power of the client, and whether you have disclosed that lower fees for comparable services may be available from other sources. Disclosures should be made in the advisory contract and in Part 2A of Form ADV showing that the advisory fee is reasonable in light of the above.

5. **Proof of Compliance with Qualification Requirements**. If you are filing as a sole proprietor, proof of compliance with the qualification requirements found in CCR Section 260.236 should be filed directly with the Commissioner, if such information is not available on CRD.

6. **California Corporation Securities Filing**. If you are a California – formed corporation as disclosed on Part 1A, Item 3C of Form ADV, the offer and sale of securities in your corporation must be qualified, unless exempt, pursuant to California Corporations Code ("Code") Section 25110. The definition of "security" is found in Code Section 25019. If exempt, the firm should file an appropriate limited offering exemption notice ("LOEN") pursuant to either Code Section 25102(f).
   Note: If the authority to offer and sell the securities is exempt, please file LOEN and pay the applicable fee electronically via DBO Self-Service Portal DocQNet.
   Should you have general filing questions, please contact our Customer Services Office at our toll-free number (1-866-275-2677). Note that the Department's legal counsels are not allowed to provide legal advice or determine the applicability of any aforementioned laws or regulations. Please consult your private legal counsel regarding such matters.
   Please be advised that any issuer that fails to file the notice as provided by the rule of the commissioner shall, within 15 business days after discovery of the failure to file the notice or after demand by the commissioner, whichever occurs first, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110. Such fee will equal two hundred dollars ($200) plus one-fifth of one percent of the aggregate value of securities sought to be sold in California up to a maximum fee of two thousand five hundred dollars ($2,500) per Code Section 25608.

7. **California Limited Liability Company ("LLC") Securities Filing**. If you are a California-formed limited liability company as disclosed on Part 1A, Item 3C of Form ADV, with at least one passive/non-managing member, the offer and sale of securities in your limited liability company must be qualified, unless exempt, pursuant to California Corporations Code ("Code") Section 25110. The definition of "security" is found in Code Section 25019. If exempt,

the firm should file an appropriate limited offering exemption notice ("LOEN") pursuant to either Code Section 25102(f).

Note: If the authority to offer and sell the securities is exempt, please file LOEN and pay the applicable fee electronically via DBO Self-Service Portal DocQNet.

Should you have general filing questions, please contact our Customer Services Office at our toll-free number (1-866-275-2677). Note that the Department's legal counsels are not allowed to provide legal advice or determine the applicability of any aforementioned laws or regulations. Please consult your private legal counsel regarding such matters.

Please be advised that any issuer that fails to file the notice as provided by the rule of the commissioner shall, within 15 business days after discovery of the failure to file the notice or after demand by the commissioner, whichever occurs first, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110. Such fee will equal two hundred dollars ($200) plus one-fifth of one percent of the aggregate value of securities sought to be sold in California up to a maximum fee of two thousand five hundred dollars ($2,500) per Code Section 25608.

8. **Foreign Business Entities Offering Securities Interests in California.** Pursuant to California Corporations Code ("Code") Section 25110, the offer and sale of securities in California must be qualified, unless exempt. The definition of "security" is found in Code Section 25019. If exempt, the firm should file an appropriate limited offering exemption notice ("LOEN") pursuant to either Code Section 25102(f).

   Note: If the authority to offer and sell the securities is exempt, please file LOEN and pay the applicable fee electronically via DBO Self-Service Portal DocQNet.

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   Please be advised that any issuer that fails to file the notice as provided by the rule of the commissioner shall, within 15 business days after discovery of the failure to file the notice or after demand by the commissioner, whichever occurs first, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110. Such fee will equal two hundred dollars ($200) plus one-fifth of one percent of the aggregate value of securities sought to be sold in California up to a maximum fee of two thousand five hundred dollars ($2,500) per Code Section 25608.

9. **Custody (General Partner, Managing Member or Trustee)**. If you act as a general partner for a partnership, managing member for a limited liability company, or trustee for a trust in which your advisory clients are either partners of the partnership, members of the limited liability company or beneficiaries of the trust, you have custody of client funds or other assets. As such, you will need to comply with the minimum financial requirements as found in CCR Section 260.237.2. This section requires that you maintain a minimum net worth of $35,000, preferably at least $42,000 to preclude the filing of monthly reports. You should file directly with the Commissioner a balance sheet and worksheet as described in our email under

Financial Information. Please note that if you follow the safeguards found in Item 2I(2)(a), Part 1B of Form ADV, you will not be considered to have custody of clients funds or securities.

10. **Custody (CPA)**. If you or your affiliated CPA firm has signatory authority for a client's checking account, you have custody over that client's funds. As such, you are subject to the minimum financial requirements as found in CCR Section 260.237.2 which requires that you maintain a minimum net worth of $35,000, preferably at least $42,000 to preclude the filing of monthly reports. If you have signatory authority, you should file directly with the Commissioner a balance sheet and worksheet. If you do not have signatory authority, please so state in your cover letter accompanying any documents filed directly with the Commissioner.

The following is a list of items that you should be familiar with when filing an application for an investment adviser certificate. Please take a moment to review these items and, if applicable, take whatever steps are necessary to ensure compliance.

11. **Securities Filing (Limited Partnership)**. If you offer and sell interests in a limited partnership, the interests in the limited partnership should be qualified pursuant to Code Section 25110 or the appropriate limited/small offering exemption notice should be filed. If you have any questions concerning this item, please contact our Customer Services Office at our toll free number 1-866-ASK-CORP (1-866-275-2677).

12. **Third Party Trading Agreement (CCR Section 260.237.2(f))**. If you are not exercising discretion when you place trade orders for your clients, the third party trading agreement executed between your client and your client's broker-dealer should specifically limit your authority in your client's account to the placement of trade orders and deduction of investment adviser fees.

13. **Solicitor Reporting and Disclosures**. If you pay, or intend to pay, a referral fee to another person ("solicitor") for client solicitations (Item 8F, Part 1 of Form ADV): (a) the solicitor should be reported as an investment adviser representative by filing Form U-4 and the $25 reporting fee with the Central Registration Depository ("CRD") and (b) the solicitor should provide the advisory client with a current copy of your written disclosure statement (Part 2 of Form ADV or brochure) and a copy of the solicitor's written disclosure document.

14. **Third Party Adviser**. If you refer your clients to a third party money manager or adviser, you should ensure that the money manager or adviser is properly licensed or registered as an investment adviser. You will be required to provide written assurance of your due diligence.

15. **Secretary of State Filings**. Most companies doing business in California are required to make filings with the California Secretary of State. Prior to conducting business as an investment adviser in California, you should contact the Secretary of State to determine their filing and reporting requirements. Their web site address is http://www.ss.ca.gov.

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Tips on Avoiding Common Deficiencies Found in Investment Adviser Applications

Avoiding common deficiencies when preparing Form ADV Parts 1 and 2 and investment advisory agreements will help to speed up the review of your application.

The most common errors found in an application are related to inconsistencies between Part 1, as filed on the IARD system; the narrative Part 2; and the investment advisory agreement/contract.

Form ADV, Parts 1 and 2

To avoid the most common deficiencies, please follow these guidelines:

- Services marked in Item 5.G of Part 1 match the services described in Item 4 of Part 2.A.
- The type of compensation listed on Item 5.E of Part 1 matches Item 5 of Part 2.A.
- The fee schedule listed in Item 5 of Part 2.A matches the fee schedule in the investment advisory agreement/contract.
- The manner and frequency of fees paid as listed in Item 5 of Part 2 matches the investment advisory agreement/contract.
- Discretionary authority marked in Item 8.C of Part 1 matches the discretionary authority described in Item 16 of Part 2.A. In addition, you must discuss any restrictions or limitations imposed by your clients.
- If you list other business in Item 6 of Part 1, discuss the other business in Item 10 of Part 2.A.
- In Part 2, do not state that you are "registered with the U.S. Securities and Exchange Commission" or "registered under the Investment Advisors Act of 1940."
- If you are registering or registered with one or more state securities administrators and you receive more than $500 in fees per client six months or more in advance, include both the required balance sheet and financial condition disclosures for Items 18.A and 18.B of Part 2.
- Update references in the investment advisory agreement from the "ADV Part II" to "ADV Part 2."

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Completing the Customer Authorization form

- "Name of" and "Name of Licensee" should disclose the legal name of the firm unless the investment adviser is a sole proprietorship
- "at" should indicate a place of business or a Location
- Signed "By" should disclose the signature and printed name of the firm's control person
- "Licensee's Department of Business Oversight File Number" should indicate the firm's CRD number. The same disclosure should be made on the Verification Form and the Minimum Financial Requirement Worksheet.

Investment Advisory Agreements

In addition, the Examiners also review and comment on the applicant's investment advisory agreement(s). To avoid deficiencies, please follow these guidelines:

The following items should be addressed in the agreement and should be consistent with the information found in Form ADV, Parts 1 and 2:

- A description of services to be rendered by the adviser;
- A fee schedule;
- Whether fees are charged in advance or in arrears;
- How often fees are paid;
- Whether fees are negotiable;
- Whether fees are withdrawn from the client's account;
- The firm's termination policy; and
- A refund policy, if applicable.

- Description of any conflicts of interest and disclosure of reasonable advisory fees; disclosures of lower fees being available from other sources.

- The fee schedule in the agreement must match the fee schedule discussed in the Form ADV Part 2. Additionally, the type of compensation described in the contract must match what was described in Item 5 of Part 2.A and the form of compensation marked in Item 5.E of Part 1.

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Common areas of inconsistencies on Part 1, Part 2A and 2B (Grid Form)

Topic	ADV I Item	ADV 2A Item	ADV 2B Item
Employees as Registered Reps	5B(2)	10A	4A
Employees are insurance agents	5B(5)	10C	4B
Use of solicitors	5B(6), 8H	14B	
Types of clients	5D	7 (may not match if the firm is just starting up)	
Compensation	5E	5A 5E 10D 14	4A, 4B
Performance Fees	5E	6, 19C	
Assets under management	5F	4 (may not match, but must be w/in 90 days)	
Services provided	5G	4	
Wrap Program	5I	4D, if so, Appendix 1 is required	
Advise on limited security types	5J	4B	
Other financial business	6A	5E, 10A,10B, 10C	
Other business or services	6B	19B	
Financial industry affiliations	5B, 7A	10A, B, and/or C, 19E	
Private Fund Adviser - Please submit: Limited Partnership Agreement, Private Placement Memorandum, and Subscription Agreement	7B	4, 5, 10C	

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Your interest in client trades	8A	11B, 11C, 11D	
Sales interest in client trades	8B, 5B, 7B	11B	
Discretion	8C	4, 16, 18B	
Related brokers	8D, 8F	10A, 10C	
Recommend brokers	8E	12A	
Soft dollars	8F, 8G	12A	
Receive pay for referrals	8I	10D, 14A	5
Custody	9	15, 18B	
Disciplinary disclosures	11	9, 19D	3, 7
Direct Owners	Schedule A	4, 19A	

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