

FEB 15 2017

INDIANA SECRETARY OF STATE  
SECURITIES DIVISION

IN THE MATTER OF: )  
 )  
 INVESTMENT ADVISER )  
 FORM ADV AND FORM ADV PART 2 ) 17 – 0001 AO  
 REQUIREMENTS )

INDIANA  
SECRETARY OF STATE

**ADMINISTRATIVE ORDER**

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The Indiana Secretary of State and the Securities Commissioner (“Commissioner”) have determined that it is appropriate and in the public interest to issue an Administrative Order regarding the forms investment advisers must submit and update.

Regulatory Context

Ind. Code § 23-19-4-11(c) states, “...an investment adviser registered or required to be registered under this article shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this article.” 710 Ind. Admin. Code § 4-9-1(a) requires that an application for registration for investment adviser must be filed on Form ADV. 710 Ind. Admin. Code § 4-9-9(a) requires that an investment adviser shall provide each client and prospective client with Form ADV Part 2 or a written document containing at least the information required by Form ADV Part 2. 710 Ind. Admin. Code § 4-9-16(a) states, “Any amendment required under IC 23-19 for an investment adviser shall be made on Form ADV or any successor form in the manner prescribed by that form.”

Background

For many years, Indiana has required investment advisers to complete and maintain a Form ADV and Form ADV Part 2 (“Forms”) according to the manner prescribed by the form. Indiana law also allows the Securities Division (“Division”) to adopt rules and administrative orders outlining the records required to be maintained by Investment Advisers. The Securities Exchange Commission (“SEC”) created the Forms and instructions for the Forms. The SEC instructions are not clear that all investment advisers must complete and update the Forms every year regardless of whether or not changes are otherwise necessary or the information itself has changed. To protect consumers and regulate the industry, Indiana requires every investment adviser to have complete and updated Forms during the entire registration period.

The Form ADV is available to the public so consumers can be informed of pertinent information about the registered investment adviser and is used by the Division to protect consumers and regulate the industry. The Form ADV Part 2 is a brochure that discloses information about the investment adviser. It is necessary for all registered investment advisers to have and maintain the Forms so the public, prospective clients, clients, and the Division have complete and accurate information and disclosures about the investment adviser. Currently, investment advisers are required to update the Forms annually within ninety days of the investment adviser’s fiscal year end even if no information has changed. With this Order the Division is clarifying requirements that have been in place and enforced for several years.

IT IS THEREFORE ORDERED that:

- 1) All investment adviser applicants for state registration in Indiana must complete the Forms when submitting an application for state registration.
- 2) All Indiana registered investment advisers must have complete and updated Forms during the entire registration period.
- 3) "Updated Forms" means all Indiana registered investment advisers must update the Forms within ninety days of the investment adviser's fiscal year end on an annual basis, regardless of whether or not changes are otherwise necessary or the information itself has changed.

DATED at Indianapolis, Indiana, this 15<sup>th</sup> day of February, 2017.



CONNIE LAWSON  
SECRETARY OF STATE

A handwritten signature in black ink, appearing to read "Alex Glass".

ALEX GLASS  
SECURITIES COMMISSIONER