

Introduction

On December 22, 2020, the U.S. Securities and Exchange Commission (the “SEC”) adopted significant amendments to the advertising and solicitation rules applicable to registered investment advisers under the Investment Advisers Act of 1940, as amended (the “Advisers Act”), as well as amendments to related rules governing recordkeeping and Form ADV (collectively, the “Amendments”). Specifically, the SEC simultaneously amended Rule 206(4)-1 (the current “Advertising Rule”) and rescinded Rule 206(4)-3 (the current “Cash Solicitation Rule” and, together with the Advertising Rule, the “Existing Rules”) to create a new combined marketing Rule 206(4)-1 (the “Marketing Rule” or the “Rule”), which will comprehensively govern both advertising activities of advisers, as well as how they enter into solicitation/referral arrangements. The SEC also amended Rule 204-2 (the “Books and Records Rule”) under the Advisers Act to account for new recordkeeping obligations relating to the Rule and amended Form ADV to request additional information from advisers regarding their marketing activities.

The Amendments become effective 60 days after publication in the Federal Register (effective date May 4, 2021), and the SEC adopted a compliance date 18 months from the effective date (November 2022). After publication in the Federal Register, early compliance is permissible, but advisers who choose to comply with the Rule prior to the compliance date must comply with all aspects of the Amendments. The Rule does not apply to the marketing activities of registered investment companies or business development companies, as their marketing activities are covered under other rules. However, it does extend to marketing communications to private fund investors. Ref. Investment Adviser Marketing Rule Update (Release No. IA-5653; File No. S7-21-19; effective date May 4, 2021 and a compliance date 18 months from the effective date (November 2022)).

7.01 Definition of Advertising

In accordance with amended Rule 206(4)-1 (“Marketing Rule”), the term Advertisement will apply to:

- (i) Any direct or indirect communication an investment adviser makes to more than one person, or to one or more persons if the communication includes hypothetical performance, that offers the investment adviser’s investment advisory services with regard to securities to prospective clients or investors in a private fund advised by the investment adviser or offers new investment advisory services with regard to securities to current clients or investors in a private fund advised by the investment adviser; and
- (ii) Any endorsement or testimonial for which an investment adviser provides compensation, directly or indirectly, but does not include any information contained in a statutory or regulatory notice, filing, or other required communication, provided that such information is reasonably designed to satisfy the requirements of such notice, filing, or other required communication.

This definition does not include:

- (A) Extemporaneous, live, oral communications;
- (B) information contained in a statutory or regulatory notice, filing, or other required communication, provided that such information is reasonably designed to satisfy the requirements of such notice, filing, or other required communication; or
- (C) a communication that includes hypothetical performance that is provided: (1) In response to an unsolicited request for such information from a prospective or current client or investor in a private fund advised by the investment adviser; or (2) to a prospective or current investor in a private fund advised by the investment adviser in a one-on-one communication. Ref. Investment Adviser Marketing Rule Update (Release No. IA-5653; File No. S7-21-19; effective date May 4, 2021 and a compliance date 18 months from the effective date (November 2022)).

IA representative must submit copies of advertising in advance to the Compliance Department for approval. The Compliance Department will verify that any advertising complies with the latest SEC rules and interpretations.

7.02 **General Prohibitions**

As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts, practices, or courses of business within the meaning of section 206(4) of the Act (15 U.S.C. 80b- 6(4)), it is unlawful for any investment adviser registered or required to be registered under section 203 of the Act (15 U.S.C. 80b-3), directly or indirectly, to disseminate any advertisement that violates any of paragraphs (a) through (d) of this section.

(a) General prohibitions. An advertisement may not:

- (1) Include any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it was made, not misleading;
- (2) Include a material statement of fact that the adviser does not have a reasonable basis for believing it will be able to substantiate upon demand by the SEC;
- (3) Include information that would reasonably be likely to cause an untrue or misleading implication or inference to be drawn concerning a material fact relating to the investment adviser;
- (4) Discuss any potential benefits to clients or investors connected with or resulting from the investment adviser's services or methods of operation without providing fair and balanced treatment of any material risks or material limitations associated with the potential benefits;
- (5) Include a reference to specific investment advice provided by the investment adviser where such investment advice is not presented in a manner that is fair and balanced;
- (6) Include or exclude performance results, or present performance time periods, in a manner that is not fair and balanced; or
- (7) Otherwise be materially misleading.

Ref. Investment Adviser Marketing Rule Update (Release No. IA-5653; File No. S7-21-19; effective date May 4, 2021 and a compliance date 18 months from the effective date (November 2022))

Implementation Strategy

In the event that the Firm produces any Advertisements sent to more than one person (or to one or more persons if the communication includes hypothetical performance) that offers investment advisory services with regard to securities to prospective clients or investors in a private fund advised by the Firm or offers new services with regard to securities to current clients or investors in a private fund advised by the Firm, the designated supervisor will complete the following action items: (i) Review all draft Advertising materials intended to be sent to prospective/current clients or investors in a private fund advised by the Firm to review for any evidence of the general prohibitions #1-7 above; (ii) consider the type of materials to be used and types of audience to receive such materials to ensure that such materials are appropriate based on the communications; (iii) evidence any findings/corrective actions for revisions or approve the materials for distribution; (iv) all approved materials will be maintained in the Firm's Advertising files and organized by date in accordance with books and records requirements.

Testimonial vs. Endorsement

A Testimonial means any statement by a current client or investor in a private fund advised by the investment adviser: (i) about the client or investor's experience with the investment adviser or its supervised persons; (ii) that directly or indirectly solicits any current or prospective client or investor to be a client of, or an investor in a private fund advised by, the investment adviser; or (iii) that refers any current or prospective client or investor to be a client of, or an investor in a private fund advised by, the investment adviser.

An Endorsement means any statement by a person other than a current client or investor in a private fund advised by the investment adviser that: (i) indicates approval, support, or recommendation of the investment adviser or its supervised persons or describes that person's experience with the investment adviser or its supervised persons; (ii) directly or indirectly solicits any current or prospective client or investor to be a client of, or an investor in a private fund advised by, the investment adviser; or (iii) refers any current or prospective client or investor to be a client of, or an investor in a private fund advised by, the investment adviser.

An advertisement may not include any testimonial or endorsement, and an adviser may not provide compensation, directly or indirectly, for a testimonial or endorsement, unless the investment adviser complies with the following conditions:

Required Disclosures

The investment adviser discloses, or reasonably believes that the person giving the testimonial or endorsement discloses, the following at the time the testimonial or endorsement is disseminated: (i) Clearly and prominently: (A) That the testimonial was given by a current client or investor, and the endorsement was given by a person other than a current client or investor, as applicable; (B) That cash or non-cash compensation was provided for the testimonial or endorsement, if applicable; and (C) A brief statement of any material conflicts of interest on the part of the person giving the testimonial or endorsement resulting from the investment adviser's relationship with such person; indirectly, to the person for the testimonial or endorsement; and (iii) A description of any material conflicts of interest on the part of the person giving the testimonial or endorsement resulting from the investment adviser's relationship with such person and/or any compensation arrangement.

Adviser Oversight and Compliance

The investment adviser must have: (i) A reasonable basis for believing that the testimonial or endorsement complies with the requirements of this section, and (ii) A written agreement with any person giving a testimonial or endorsement that describes the scope of the agreed-upon activities and the terms of compensation for those activities.

Disqualification

An investment adviser may not compensate a person, directly or indirectly, for a testimonial or endorsement if the adviser knows, or in the exercise of reasonable care should know, that the person giving the testimonial or endorsement is an ineligible person at the time the testimonial or endorsement is disseminated. This paragraph shall not disqualify any person for any matter(s) that occurred prior to May 4, 2021, if such matter(s) would not have disqualified such person under § 275.206(4)-3(a)(1)(ii) as in effect prior to May 4, 2021 (ii) The material terms of any compensation arrangement, including a description of the compensation provided or to be provided, directly.

Note: Ineligible person means a person who is subject to a disqualifying SEC action or is subject to any disqualifying event, and the following persons with respect to the ineligible person: (i) Any employee, officer, or director of the ineligible person and any other individuals with similar status or functions within the scope of association with the ineligible person; (ii) If the ineligible person is a partnership, all general partners; and (iii) If the ineligible person is a limited liability company managed by elected managers, all elected managers.

A disqualifying Commission action means an SEC opinion or order barring, suspending, or prohibiting the person from acting in any capacity under the Federal securities laws.

A disqualifying event is any of the following events that occurred within ten years prior to the person disseminating an endorsement or testimonial: (i) A conviction by a court of competent jurisdiction within the United States of any felony or misdemeanor involving conduct described in paragraph (2)(A) through (D) of section 203(e) of the Act; (ii) A conviction by a court of competent jurisdiction within the United States of engaging in, any of the conduct specified in paragraphs (1), (5), or (6) of section 203(e) of the Act; (iii) The entry of any final order by any entity described in paragraph (9) of section 203(e) of the Act, or by the U.S. Commodity Futures Trading Commission or a self-regulatory organization (as defined in the Form ADV Glossary of Terms), of the type described in paragraph (9) of section 203(e) of the Act; (iv) The entry of an order, judgment or decree described in paragraph (4) of section 203(e) of the Act, and still in effect, by any court of competent jurisdiction within the United States; and (v) A Commission order that a person cease and desist from committing or causing a violation or future violation of: (A) Any scienter-based anti-fraud provision of the Federal securities laws, including without limitation section 17(a)(1) of the Securities Act of 1933 (15 U.S.C. 77q(a)(1)), section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b)) and § 240.10b-5 of this chapter, section 15(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(1)), and section 206(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-6(1)), or any other rule or regulation thereunder; or (B) Section 5 of the Securities Act of 1933 (15 U.S.C. 77e); (vi) A disqualifying event does not include an event described in paragraphs (e)(4)(i) through (v) of this section with respect to a person that is also subject to: (A) An order pursuant to section 9(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-9) with respect to such event; or (B) A Commission opinion or order with respect to such event that is not a disqualifying Commission action; provided that for each applicable type of order or opinion described in paragraphs (e)(4)(vi)(A) and (B) of this section: (1) The person is in compliance with the terms of the order or opinion, including, but not limited to, the payment of disgorgement, prejudgment interest, civil or administrative penalties, and fines; and (2) For a period of ten years following the date of each order or opinion, the advertisement containing the testimonial or endorsement must include a statement that the person providing the testimonial or endorsement is subject to a Commission order or opinion regarding one or more disciplinary action(s), and include the order or opinion or a link to the order or opinion on the Commission's website.

Exemptions

The following are exempt from the requirements under testimonials & endorsements:

A testimonial or endorsement disseminated for no compensation or de minimis compensation is not required to comply with paragraphs (b)(2)(ii) (written agreement) and (3) (ineligibility) of this section;

Note: de minimis compensation paid to a person for providing a testimonial or endorsement of a total of \$1,000 or less (or the equivalent value in non-cash compensation) during the preceding 12 months)

A testimonial or endorsement by the investment adviser's partners, officers, directors, or employees, or a person that controls, is controlled by, or is under common control with the

investment adviser, or is a partner, officer, director or employee of such a person is not required to comply with paragraphs (b)(1) (required disclosures) and (2)(ii) (written agreement) of this section, provided that the affiliation between the investment adviser and such person is readily apparent to or is disclosed to the client or investor at the time the testimonial or endorsement is disseminated and the investment adviser documents such person's status at the time the testimonial or endorsement is disseminated;

A testimonial or endorsement by a broker or dealer registered with the SEC under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(a)) is not required to comply with: (A) Paragraph (b)(1) of this section if the testimonial or endorsement is a recommendation subject to § 240.15l-1 of this chapter (Regulation Best Interest) under that Act; (B) Paragraphs (b)(1)(ii) and (iii) of this section if the testimonial or endorsement is provided to a person that is not a retail customer (as that term is defined in § 240.15l-1 of this chapter (Regulation Best Interest) under the Securities Exchange Act of 1934 (15 U.S.C. 78o(a)); and (C) Paragraph (b)(3) of this section if the broker or dealer is not subject to statutory disqualification, as defined under section 3(a)(39) of that Act; and

A testimonial or endorsement by a person that is covered by rule 506(d) of Regulation D under the Securities Act of 1933 (§ 230.506(d) of this chapter) with respect to a rule 506 securities offering under the Securities Act of 1933 (§ 230.506 of this chapter) and whose involvement would not disqualify the offering under that rule is not required to comply with paragraph (b)(3) of this section. Ref. Investment Adviser Marketing Rule Update (Release No. IA-5653; File No. S7-21-19; effective date May 4, 2021, and a compliance date 18 months from the effective date (November 2022))

Implementation Strategy

In the event that the Firm provides compensation for any testimonials or endorsements, the designated supervisor will review available records and materials and complete the Firm's Paid Testimonial/Endorsement Checklist to ensure that all required disclosures are included (unless otherwise exempt) at the time the testimonial or endorsement is disseminated and are clearly and prominently disclosing the following information:

- that the testimonial was given by a current client or investor; or the endorsement was given by a person other than a current client or investor, as applicable;
- That cash or non-cash compensation was provided for the testimonial or endorsement, if applicable;
- A brief statement of any material conflicts of interest on the part of the person giving the testimonial or endorsement resulting from the investment adviser's relationship with such person; indirectly, to the person for the testimonial or endorsement.
- A description of any material conflicts of interest on the part of the person giving the testimonial or endorsement resulting from the investment adviser's relationship with such person and/or any compensation arrangement.

Additionally, the designated supervisor will review available documentation and materials to ensure that he/she has a reasonable basis for believing that the testimonial or endorsement complies with the requirements of this section and includes a written agreement with any person giving a testimonial or endorsement that describes the scope of the agreed-upon activities and the terms of compensation for those activities.

The Firm will maintain evidence of paid testimonials and/or endorsements along with supporting materials in the Firm's Advertising files by date in accordance with books and records requirements.

An investment adviser may not include in any advertisement:

Net Performance Requirement

Any presentation of gross performance, unless the advertisement also presents net performance:

(i) With at least equal prominence to, and in a format designed to facilitate comparison with, the gross performance; and (ii) Calculated over the same time period, and using the same type of return and methodology, as the gross performance.

Note: Gross performance means the performance results of a portfolio (or portions of a portfolio that are included in extracted performance, if applicable) before the deduction of all fees and expenses that a client or investor has paid or would have paid in connection with the investment adviser's investment advisory services to the relevant portfolio.

Net performance means the performance results of a portfolio (or portions of a portfolio that are included in extracted performance, if applicable) after the deduction of all fees and expenses that a client or investor has paid or would have paid in connection with the investment adviser's investment advisory services to the relevant portfolio, including, if applicable, advisory fees, advisory fees paid to underlying investment vehicles, and payments by the investment adviser for which the client or investor reimburses the investment adviser. For purposes of this rule, net performance: (i) May reflect the exclusion of custodian fees paid to a bank or other third-party organization for safekeeping funds and securities; and/or (ii) If using a model fee, must reflect one of the following: (A) The deduction of a model fee when doing so would result in performance figures that are no higher than if the actual fee had been deducted; or (B) The deduction of a model fee that is equal to the highest fee charged to the intended audience to whom the advertisement is disseminated.

Prescribed Time Periods

There is a one-, five-, and ten-year time period requirement for the presentation of performance results in an advertisement and the prescribed time periods must end on a date that is no less recent than the most recent calendar year-end, rather than the most recent practicable date.

Any performance results, of any portfolio or any composite aggregation of related portfolios, in each case other than any private fund, unless the advertisement includes performance results of the same portfolio or composite aggregation for one-, five-, and ten-year periods, each presented with equal prominence and ending on a date that is no less recent than the most recent calendar year-end; except that if the relevant portfolio did not exist for a particular prescribed period, then the life of the portfolio must be substituted for that period.

Statements About Commission Approval

Any statement, express or implied, that the calculation or presentation of performance results in the advertisement has been approved or reviewed by the SEC.

Related Performance

Any related performance, unless it includes all related portfolios; provided that related performance may exclude any related portfolios if: (i) The advertised performance results are not materially higher than if all related portfolios had been included; and (ii) The exclusion of any related portfolio does not alter the presentation of any applicable time periods prescribed by paragraph (d)(2) of this section.

Note: Related performance means the performance results of one or more related portfolios, either on a portfolio by-portfolio basis or as a composite aggregation of all portfolios falling within stated criteria.

Extracted Performance

Any extracted performance, unless the advertisement provides, or offers to provide promptly, the performance results of the total portfolio from which the performance was extracted.

Note: Extracted performance means the performance results of a subset of investments extracted from a portfolio.

Hypothetical Performance

Any hypothetical performance unless the investment adviser: (i) Adopts and implements policies and procedures reasonably designed to ensure that the hypothetical performance is relevant to the likely financial situation and investment objectives of the intended audience of the advertisement; (ii) Provides sufficient information to enable the intended audience to understand the criteria used and assumptions made in calculating such hypothetical performance; and (iii) Provides (or, if the intended audience is an investor in a private fund, provides, or offers to provide promptly) sufficient information to enable the intended audience to understand the risks and limitations of using such hypothetical performance in making investment decisions; Provided that the investment adviser need not comply with the other conditions on performance in paragraphs (d)(2), (4), and (5) of this section.

Note: Hypothetical performance means performance results that were not actually achieved by any portfolio of the investment adviser. (i) Hypothetical performance includes, but is not limited to; (A) Performance derived from model portfolios; (B) Performance that is back-tested by the application of a strategy to data from prior time periods when the strategy was not actually used during those time periods; and (C) Targeted or projected performance returns with respect to any portfolio or to the investment advisory services with regard to securities offered in the advertisement, however: (ii) Hypothetical performance does not include: (A) An interactive analysis tool where a client or investor, or prospective client, or investor, uses the tool to produce simulations and statistical analyses that present the likelihood of various investment outcomes if certain investments are made or certain investment strategies or styles are undertaken, thereby serving as an additional resource to investors in the evaluation of the potential risks and returns of investment choices; provided that the investment adviser: (1) Provides a description of the criteria and methodology used, including the investment analysis tool's limitations and key assumptions; (2) Explains that the results may vary with each use and over time; (3) If applicable, describes the universe of investments considered in the analysis, explains how the tool determines which investments to select, discloses if the tool favors certain investments and, if so, explains the reason for the selectivity, and states that other investments not considered may have characteristics similar or superior to those being analyzed; and (4) Discloses that the tool generates outcomes that are hypothetical in nature; or (B) Predecessor performance that is displayed in compliance with paragraph (d)(7) of this section.

Predecessor Performance

Any predecessor performance unless: (i) The person or persons who were primarily responsible for achieving the prior performance results manage accounts at the advertising adviser; (ii) The accounts managed at the predecessor investment adviser are sufficiently similar to the accounts managed at the advertising investment adviser that the performance results would provide relevant information to clients or investors; (iii) All accounts that were managed in a substantially similar manner are advertised unless the exclusion of any such account would not result in materially higher performance and the exclusion of any account does not alter the presentation of any applicable time periods prescribed in paragraph (d)(2) of this section; and (iv) The

advertisement clearly and prominently includes all relevant disclosures, including that the performance results were from accounts managed at another entity.

Note: Predecessor performance means investment performance achieved by a group of investments consisting of an account or a private fund that was not advised at all times during the period shown by the investment adviser advertising the performance.

Ref. Investment Adviser Marketing Rule Update (Release No. IA-5653; File No. S7-21-19; effective date May 4, 2021, and a compliance date 18 months from the effective date (November 2022))

Implementation Strategy

In the event that the Firm uses performance data in any advertising materials sent to more than one person, or to one or more persons if the communication includes hypothetical performance, the designated supervisor will review advertising materials to ensure the following requirements are met as applicable:

- any presentation of gross performance also includes net performance with equal prominence in a format designed to facilitate comparison and is calculated over the same time period, and using the same type of return and methodology;
- Any performance results of any portfolio or any composite aggregation of related portfolios, includes performance results of the same portfolio or composite aggregation for one-, five-, and ten-year periods, each presented with equal prominence and ending on a date that is no less recent than the most recent calendar year-end;
- There are no statements, express or implied, that the calculation or presentation of performance results in the advertisement has been approved or reviewed by the SEC;
- Any related performance must include all related portfolios;
- Extracted performance must provide, or offer to provide promptly, the performance results of the total portfolio from which the performance was extracted;
- Hypothetical performance must be relevant to the likely financial situation and investment objectives of the intended audience of the advertisement; and provide sufficient information to enable the intended audience to understand the criteria used and assumptions made in calculating such hypothetical performance; and Provide (or, if the intended audience is an investor in a private fund, provides, or offers to provide promptly) sufficient information to enable the intended audience to understand the risks and limitations of using such hypothetical performance in making investment decisions;
- Predecessor performance may be used ONLY if the person or persons who were primarily responsible for achieving the prior performance results manage accounts at the advertising adviser; (ii) The accounts managed at the predecessor investment adviser are sufficiently similar to the accounts managed at the advertising investment adviser that the performance results would provide relevant information to clients or investors; (iii) All accounts that were managed in a substantially similar manner are advertised unless the exclusion of any such account would not result in materially higher performance and the exclusion of any account does not alter the presentation of any applicable time periods prescribed in paragraph (d)(2) of this section; and (iv) The advertisement clearly and prominently includes all relevant disclosures, including that the performance results were from accounts managed at another entity.

7.05

Use of Hedge Clauses

The Firm is permitted to use advertisements, correspondence, and other literature as generated by the Firm which may contain hedge clauses or legends that pertain to the reliability and accuracy of the information furnished.

Restrictions

No client agreement, legend, hedge clause, or other provision shall contain language that is likely to lead Client to believe that Client has waived any right of action against the Firm that is available under state or federal law.

7.06 Financial Planning Referral Programs

The Firm may participate in a financial planning referral program that meets the requirements of *SEC No-Action Letter, International Association for Financial Planning, 6-1-98*, so long as such program does not violate the new combined marketing Rule 206(4)-1 (“Marketing Rule”) of the *Investment Advisers Act* or any other applicable regulations.

7.07 Third-Party Ratings

An advertisement may not include any third-party rating, unless the investment adviser:

Has a reasonable basis for believing that any questionnaire or survey used in the preparation of the third-party rating is structured to make it equally easy for a participant to provide favorable and unfavorable responses, and is not designed or prepared to produce any predetermined result; and

Clearly and prominently discloses, or the investment adviser reasonably believes that the third-party rating clearly and prominently discloses: (i) The date on which the rating was given and the period of time upon which the rating was based; (ii) The identity of the third party that created and tabulated the rating; and (iii) If applicable, that compensation has been provided directly or indirectly by the adviser in connection with obtaining or using the third-party rating. Ref. Investment Adviser Marketing Rule Update (Release No. IA-5653; File No. S7-21-19; effective date May 4, 2021, and a compliance date 18 months from the effective date (November 2022))

Implementation Strategy

In the event the Firm uses or includes any third-party ratings, the designated supervisor will conduct a periodic review available materials and data to establish a reasonable basis for believing that any questionnaire or survey used in the preparation of the third-party rating is structured to make it equally easy for a participant to provide favorable and unfavorable responses and is not designed or prepared to produce any predetermined result; and the Firm reasonably believes that the third-party rating clearly and prominently discloses: (i) The date on which the rating was given and the period of time upon which the rating was based; (ii) The identity of the third party that created and tabulated the rating; and (iii) If applicable, that compensation has been provided directly or indirectly by the adviser in connection with obtaining or using the third-party rating.

7.08 Other Prohibited References

Use of the Term "Investment Counsel"

The term “investment counsel” may not be used unless:

- the person's principal business is acting as an investment adviser; and

- a substantial portion of their business consists of providing investment supervision.

Use of the Designation "RIA"

Neither the Firm nor any person associated with the Firm may use the designation of "RIA" after their name.

Other Prohibitions

It is unlawful for the Firm to represent that it has been sponsored, recommended or approved, or that its abilities or qualifications have been passed upon by any federal or state governmental agency.

Implementation Strategy

The designated supervisor periodically reviews, primarily through email review, Firm related advertising and other materials for any use or reference to the term "investment counsel" or "RIA" when representing investment adviser representatives and/or associated persons of the Firm. Such reviews occur as advertising materials are produced, and spot-checked in periodic reviews

7.09 Recordkeeping Requirements

Investment advisers must make and keep records of all advertisements they disseminate, and certain alternative methods for complying with this provision are available for oral advertisements, including oral testimonials and oral endorsements.

For example, if an investment adviser provides an advertisement orally, the adviser may, instead of recording and retaining the advertisement, retain a copy of any written or recorded materials used by the adviser in connection with the oral advertisement. If an adviser's advertisement includes a compensated oral testimonial or endorsement, the adviser may, instead of recording and retaining the advertisement, make and keep a record of the disclosures provided to investors. Further, if an adviser's disclosures with respect to a testimonial or endorsement are not included in the advertisement, then the adviser must retain copies of such disclosures provided to investors.

The final rule does not prescribe or prohibit any particular method of maintaining records. Rather, it requires the adviser to maintain and preserve these records "in an easily accessible place for a period of not less than five years, the first two years in an appropriate office of the investment adviser, from the end of the fiscal year during which the investment adviser last published or otherwise disseminated, directly or indirectly, the . . . advertisement."

It is permissible for an adviser to store records using email archives (including in cloud storage or with a third-party vendor), provided that the adviser can promptly produce records in accordance with the recordkeeping rule and statements of the SEC. Ref. Investment Adviser Marketing Rule Update (Release No. IA-5653; File No. S7-21-19; effective date May 4, 2021 and a compliance date 18 months from the effective date (November 2022))

Implementation Strategy

In the event that the Firm produces, distributes, or otherwise utilizes any advertisement including any compensated testimonial or endorsement, the Firm will retain a copy of any written or recorded materials used by the Firm in connection with the advertisement in accordance with books and records requirements. The Firm may maintain its records electronically via approved cloud storage vendor for a period of not less than five years, the first two years from the end of the fiscal year during which the Firm last published or

otherwise disseminated, directly or indirectly, such advertisements. See Exhibit 6.01 Books & Records Requirements herein for further details.

7.10 Political Contributions by Certain Investment Advisers: Ban on Third-Party Solicitation

“Pay to Play” Practices by Investment Advisers

The SEC has adopted rule 206(4)-5 under the Investment Advisers Act of 1940 that prohibits an investment adviser from providing advisory services for compensation to a government client for two years after the adviser or certain of its executives or employees (“covered associates”) make a contribution to certain elected officials or candidates. The rule also prohibits an adviser from providing or agreeing to provide, directly or indirectly, payment to any third party for a solicitation of advisory business from any government entity on behalf of such adviser, unless such third parties are registered broker-dealers or registered investment advisers, in each case themselves subject to pay to play restrictions. Additionally, the rule prevents an adviser from soliciting from others, or coordinating, contributions to certain elected officials or candidates or payments to political parties where the adviser is providing or seeking government business. The rule also requires a registered adviser to maintain certain records of the political contributions made by the adviser or certain of its executives or employees.

The SEC has extended the date by which advisers must comply with the ban on third-party solicitation in rule 206(4)-5 under the Investment Advisers Act of 1940, the “pay to play” rule. The SEC has extended the compliance date in order to ensure an orderly transition for advisers and third-party solicitors as well as to provide additional time for them to adjust compliance policies and procedures after the transition.

THE FIRM'S POLICY IS TO PROHIBIT POLITICAL CONTRIBUTIONS OF ANY KIND BY THE FIRM OR ANY OF ITS AFFILIATED PERSONS TO OR FOR THE BENEFIT OF ANY OFFICIAL WITH ANY OVERSIGHT OR OTHER RESPONSIBILITY FOR MANAGEMENT OF PUBLIC INVESTMENT FUNDS. Persons in doubt about a particular contribution should review it in advance with the Firm's designated CCO.

Contributions which in the aggregate do not exceed \$350 in the aggregate to any one official per election are accepted. And there is a mechanism for obtaining relief from the SEC on a case by case basis. "Covered associate" includes, in addition to a general partner, managing member, executive officer or other similar individual, an employer who solicits a government entity for the adviser and his/her supervisor and any political action committee controlled by any of them. "Government entity" includes not only the state or "instrumentality" of the state or political subdivision but any "pool of assets" established by the state or subdivision, including a defined benefit plan or a state general fund or a "plan or program of a government entity."