

Investment Adviser Newsletter

REGISTRATION RENEWALS FOR 2020

The Fall season reminds us that it will soon be time to review your firm and individual registrations through IARD (Investment Adviser Registration Depository). Your renewal statement will be available on IARD beginning November 11th. This year, renewal payments for firm, individual, and branch registrations are due on December 16th.

Be sure to make a timely renewal payment to avoid a lapse in your firm's ability to conduct business. If you are based in Wisconsin and your future plans do not include the renewal of your firm's registration for 2020, please take a minute to send an email to deborah.fabritz@dfi.wisconsin.gov to confirm that you will not be renewing at the end of this year. And don't forget to file your ADV-W at the appropriate time.

Click [here](#) for the 2020 Renewal Program Calendar. If you have questions regarding the renewal process or your firm's status, please contact either the IARD Call Center at (240) 386-4848 or our Examiner of the Day at (608) 266-2139.



IN THIS ISSUE

Renewal Season.....	.1
NASAA Exam Report2
Form U4 Update4
Talking with Regulators..	5
Identity Theft6
Mark Eisenmann Retires	8

PAST NEWSLETTERS

Our periodic newsletter for investment advisers registered in Wisconsin is published twice per year. Past editions can be found [here](#).



NASAA IA COORDINATED EXAM REPORT

The North American Securities Administrators Association (NASAA) recently reported the results of state-registered investment adviser examination data at its annual conference. Every two years, NASAA collects the data from state securities examiners. Data was reported voluntarily by 41 U.S. jurisdictions (including Wisconsin) between January and June 2019.

Deficiencies found in 1,078 routine investment adviser examinations ranked by percentage were books and records (59%), registration (49%), contracts (44%), cybersecurity (26%), fee related matters (21%), brochure delivery, financials, advertising, supervision (all 17%), and custody (15%). The report details the type of deficiency in each category. Cybersecurity related deficiencies were up from 23% during the last series of coordinated examinations in 2017 while the incidence of deficiencies in just about every other category except cybersecurity decreased since 2015, NASAA reported.

“Cybersecurity related deficiencies were up from 23% during the last series of coordinated examinations in 2017.”

The top five cybersecurity-related deficiencies included: no testing of cybersecurity vulnerability, lack of procedures regarding securing or limiting access to devices, lack of procedures related to internet connectivity, weak or infrequently changed passwords, and no or inadequate cybersecurity insurance.

NASAA created a cybersecurity checklist in 2017 which includes 89 assessment areas for state-registered investment advisers to review their cybersecurity practices. To access the checklist, go to: [NASAA Cybersecurity Checklist](#).

NASAA Exam Report...

Based on the 2019 exam data, NASAA recommends the following “Best Practices” as a guide to assist investment advisers in developing compliance practices and procedures:

- Review and revise Form ADV and disclosure brochure annually to reflect current and accurate information.
- Review and update all contracts.
- Prepare and maintain all required records, including financial records.
- Back-up electronic data and protect records. Document checks forwarded.
- Prepare and maintain client profiles or other client suitability information.
- Prepare a written compliance and supervisory procedures manual relevant to the type of business to include business continuity plan and information security policies/procedures.
- Prepare and distribute a privacy policy initially and annually.
- Keep accurate and current financials.
- Calculate and document fees correctly in accordance with contracts and ADV.
- Review all advertisements, including website and performance advertising, for accuracy.
- Implement appropriate custody safeguards, especially for direct fee deduction.
- Review solicitor agreements, disclosure, and delivery procedures.

To view NASAA’s full report, go to [NASAA 2019 Investment Adviser Coordinated Examination Report](#)





KEEPING YOUR U4 FORM UPDATED

State-registered investment adviser firms are required to keep the Form U4 updated for each investment adviser representative, pursuant to [DFI-Sec 5.04\(3\)\(c\)](#). Any amendments to Form U4 must be filed through the Central Registration Depository (“CRD”) within 30 days of the date of the event that requires the filing of an amendment. In addition, investment advisers who are organized as sole proprietors should file a Form U4 with the CRD system in order to have the ability to disclose reportable events such as criminal charges, regulatory actions, customer complaints, and financial disclosure.

A review of the Form U4 for investment adviser representatives is part of our examination program in Wisconsin. It is also a best practice to have written procedures and a system in place to review Form U4 accuracy on a regular basis. The Division of Securities recommends that this review take place on at least an annual basis, such as when submitting the annual ADV amendment.

The failure to maintain a current Form U4 could lead to regulatory action. This is often the case if investment adviser representatives are dually registered as broker-dealer agents. Our Division has seen FINRA fine and suspend agents as well as broker-dealers terminate an agent’s registration for failure to keep the Form U4 updated.



TALKING WITH REGULATORS

The DFI's Chief Legal Counsel, Matthew R. Lynch, published an article last August entitled "How to Talk to Government Regulators" for the State Bar of Wisconsin. The article addresses common issues faced when lawyers and regulators communicate with each other. Within our Division, we noticed that many of Matt's insights can be applied to communications between Wisconsin investment advisers and the Division's examiners. We recommend reading the [full article on the State Bar's website](#).

In particular, Matt highlights that "Your regulator isn't your adversary." We show up on an exam day to examine your compliance with our rules and statutes and catch any errors before they become bigger issues later on. We would much rather help you get your ADV part 1 and 2 correct and up-to-date so that investors have the information they need to make informed decisions. Keeping appropriate books and records, such as suitability documentation and advisory agreements, helps make sure you and your clients are on the same page. Our end goal with every examination is to provide a value-added service to you and to Wisconsin's investors.

Advisers should never hesitate to ask us questions regarding our rules and statutes. Our [website has a fairly detailed section](#) that can get you started. Also, the Division maintains an "Examiner of the Day" line at 608-266-2139. Please note that we can review with you what the rules say regarding a particular record, advisory practice, or fee, but we cannot give you legal advice.

We encourage you to take a look at Matt's article between now and your next exam.



IDENTITY THEFT PRESENTED BY FRANK ABAGNALE

DFI was pleased to join AARP Wisconsin in welcoming Frank Abagnale for an evening discussing how to protect yourself from identity theft.

Abagnale gained notoriety by successfully posing as an airline pilot, lawyer, and a doctor all while cashing millions of dollars worth of fake checks. The early years of his life were the subject of the movie “Catch Me if You Can,” starring Leonardo DiCaprio. After years on the run, Abagnale was eventually caught and for the past 40 years has used his talents to help fight identity theft with the FBI.



DFI examiners handing out investor education materials during a resource fair held before the presentation.



Identity Theft cont...

As an expert on cybersecurity and identity theft, Abagnale offers the following practical tips on how to protect yourself:

Protect Your Credit

For many, a credit freeze is the best way to ensure that nobody else can maliciously hijack your good credit.

Document Security

A good document shredder (i.e., the micro cut variety) is the first line of defense to prevent your social security number, birth date, full name, address, bank account number, medical record history, and more from getting into the wrong hands.

Social Media Savvy

While social media can be a great tool to connect with far flung friends, it can also help a thief know enough about you to create a convincing profile for fraudulent purposes.

IF A CLIENT
SUSPECTS IDENTITY
THEFT, FEEL FREE
TO SHARE THESE
RESOURCES:

- ◆ Wisconsin Bureau of Consumer Protection

<https://datcp.wi.gov>

- ◆ Federal Trade Commission

[https://
www.identitytheft.gov/](https://www.identitytheft.gov/)



DFI Secretary Kathy Blumenfeld with Frank Abagnale at the AARP Wisconsin event.

MARK EISENMANN RETIRES

Securities Examiner Mark Eisenmann retired this Summer at the end of July. Mark joined the Division of Securities in 2007 and during the past 12 years, interacted with many of our registered investment advisers during the course of their exams and as a result of building ongoing relationships with advisers who reached out to him on a regular basis.

Mark was also a mentor and resource to our other examiners - we all benefited from his thoughtful and experienced approach to securities issues and topics, and greatly miss his comradery within the office.

At the recent annual conference of the North American Securities Administrators Association, Mark was honored with a NASAA Distinguished Service Award for his efforts as a member of the NASAA Investment Adviser



Securities Administrator Leslie Van Buskirk is pictured with Mark's award.

Operations Project Group which tackled various issues impacting the investment adviser community. We wish Mark the best during his retirement!

**MORE WAYS TO
CONNECT WITH
DFI**



The Wisconsin Department of Financial Institutions (DFI) Facebook page provides information on DFI activities, financial literacy, investor education, scam warnings, and other timely news to help protect investors.

Please check out DFI's [Facebook page](#) and share any content that you find useful. Feel free to "like" our page so that you receive future posts in your Facebook newsfeed.

In addition, to keep up with the latest from DFI, follow us on [Twitter](#) and [LinkedIn](#).

