

660:11-7-43. Disclosure requirements [AMENDED]

(a) **Disclosure delivery requirement.** In furtherance of compliance with the standards of ethical practices specified in 660:11-7-42, every investment adviser, registered or required to be registered under the Securities Act shall, in accordance with the provisions of this section, furnish each advisory client and prospective advisory client with a written disclosure statement, ~~which may be a copy~~ The disclosure statement must include ~~of~~ Part ~~4~~2A of its Form ADV ~~(also known as a brochure) including Schedule F and~~, if applicable, ~~or written documents containing at least the information then so required by any~~ Part ~~4~~2B of ~~the~~its Form ADV ~~(also known as a brochure supplement) and Appendix 1 if offering a wrap fee program including Schedule F, if applicable~~; provided however, delivery of the required statement need not be made in connection with entering into a contract with a client:

(1) that is an investment company; ~~contract or a contract~~

(2) for personal advisory services; ~~or~~

(3) who is an officer, employee or other person related to the adviser that would be a qualified client of the adviser under 17 CFR § 275.205-3(d)(1)(iii).

(b) **Time of delivery.** An investment adviser shall deliver the statement required by (a) of this section to an advisory client or prospective advisory client:

(1) not less than 48 hours prior to entering into any written ~~or oral~~ investment advisory contract with such client or prospective client, or

(2) 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.

(c) For purposes of this section, "entering into" does not include an extension or renewal without material change of any investment advisory contract which is in effect immediately prior to such extension or renewal.

(d) **Annual delivery requirement.** Unless exempted as provided in (a) of this section, an investment adviser annually shall, without charge, deliver or offer in writing to deliver upon written request to each of its advisory clients the statement required by this section. Any statement requested in writing by an advisory client pursuant to an offer required by this subsection must be mailed or delivered within seven (7) days of the receipt of the request.