

NSCP CURRENTS

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Q&A: IARD Conversion

By Michelle Jacko

Q: What bugs did the pilot IARD filers uncover with respect to the conversion?

A: While the IARD system may be simple to operate, data entry, especially for larger advisory firms, is laborious and sometimes frustrating. In particular, here are some of the “bugs” you may encounter.

Bug No. 1 - Notice Filings

One of the first fields is the Notice Filing section for states. IARD allows the filer to electronically provide notice filings to the states in which it is currently registered. Fees are deducted only once per year, typically on December 31. Since most firms just paid renewal fees in December, it is very important to check off those states in which you have already paid fees or you may be “double billed” - which is what happened to some pilot program participants who failed to make a transition filing before electronically filing the Form ADV. Also, only check states where you pay a

separate investment advisory fee and do not transition states where you are exempt or make courtesy filings.

Bug No. 2 - Filing Type

Another section that confused pilot program participants was the selection of filing type. The Commission received several calls as to whether participants should select the “annual amendment” filing or “other-than annual amendment.” For advisers who are submitting their first electronic filing, select “annual filing amendment.” On the other hand, if you are submitting your first electronic filing and more than 90 days have passed since your fiscal year end, select “other-than annual amendment.”

Bug No. 3 - Disciplinary Reporting Pages

In most instances, dual registrants are able to use their CRD number to readily download information to IARD, which is particularly helpful for Disciplinary Reporting Pages (DRPs). But for advisory firms who are not dually registered, the process is arduous. If your firm has an af-

filiated broker-dealer, you may not “link” the advisory firm to the broker-dealer for purposes of downloading information from CRD. Instead, the adviser is given a new CRD number and you must re-enter all information as it appears in the DRP section. However, one benefit to this process is that it allows compliance officers to review what was reported and how. When you enter information, consider (1) writing the disclosures in “plain English” and (2) further explaining the circumstances surrounding the DRP. For example, if an advisory affiliate were charged with a misdemeanor for a college prank that occurred less than ten years ago, explain the circumstances surrounding the disciplinary action to give the reader a clearer understanding of the offense. Remember, the Commission intends for the new Part 2 to be a marketing document, similar to a prospectus for clients, and it is important to carry this theme consistently in both Parts 1 and 2.

Bug No. 4 - Enter Information in the Order Requested on IARD

One complaint by pilot pro-

The above Q&A was submitted by Michelle Jacko. Ms. Jacko is CEO of Core Compliance & Legal Services, Inc. in San Diego, CA.

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gram participants was the loss of information that occurred when they did not complete a particular section in its entirety or they did not enter things in the order requested on the IARD system. For example, let's say you have obtained some responses for Schedule A and begin entering data, later realizing that you do not have all the required information. Even if the participants "saved" the information, when they came back to continue the filing, the data was not there! To avoid this potential pitfall, filers are urged to print-out in hardcopy Form ADV Part 1 to first review what items require completion, and then research and document all information prior to beginning data entry on IARD. Much of the time you will spend on the IARD conversion is researching additional information that was not included in the old Part I. Also, some sections of ADV Part II, such as Schedule I, are incorporated in Part 1, so you may want to keep Part II by your side for quick reference.

But even after you think you've thoroughly researched everything required on the hard-copy form, don't be surprised if your research is not finished. Depending upon your answers, periodic "pop-up windows" may appear that are not evident on the hard-copy form. For example, if you respond "yes" to holding registrations with Foreign Financial Regulatory Authorities, a window will "pop-up" requesting the English Name of Foreign Financial Regulatory Authority as well as

the name of the Country. These windows are not visible on the hard copy form and do not appear until after you answer the question.

Bug No. 5 - Wrap Fee Programs

For firms that have a large number of wrap fee programs, expect your ADV Part 1 to lengthen dramatically. For each program, you must list the name of the wrap program and the name of the sponsor. For investment advisers who have several programs with one sponsor, you must list all of the programs in separate fields. Warning: this may be a laborious process, depending upon the number of sponsors.

Bug No. 6 - Contacting the SEC

In speaking with pilot program participants, the SEC was not always available to answer their questions. When calling the Pilot Program hotline, you will be greeted by a recording requesting that you leave your name, firm name, telephone number and detailed question(s). Sometimes a staff member called back within two hours. At other times, it took three to five days to receive a response, and in some rare instances, participants did not receive a response at all.

Bug No. 7 - Amount of Time Required for IARD Conversion

Do not procrastinate completing Form ADV Part 1. While the Commission stated that the approximate time for completing the IARD conversion is typically 120 hours, many of the large advisory firm pilot program participants required additional time to research

wrap programs, control person information and/or DRPs that were non-disclosable items in the past. Begin now so that you won't have to struggle to meet the filing deadline.

Final Thoughts

To insure that your data will not be lost and that all applicable disclosures are made: (1) Start gathering data early for the new Form ADV Part 1. In particular, collect information for Adviser Affiliates early, as this may take some time. For dual registrants, do not recapture DRP disclosure data for Adviser Affiliates if they have an accurate filing with CRD. (2) Let the IARD system guide you through the process. Do not skip around sections or check buttons just to see what necessary fields may be required. If this occurs, the IARD system may "trigger" you to complete items that are not applicable to your firm, thereby causing havoc when you run a completeness check prior to submitting Form ADV Part 1. (3) Use the "next" buttons provided, rather than your browser arrows to ensure that your data is being received and saved. (4) Utilize the "Completeness Check" button to make certain that you have completed all necessary fields before filing the document with the SEC. (5) Be sure to include your CRD number on all checks.

While pilot program participants may have encountered some of these bugs, IARD is a vast improvement over the former Part I, and future filings will not be as painstaking. □

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