

Adviser Compliance for 2013, Part IV: Review Your Code of Ethics

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Advisers must be sure that their annual compliance review includes the firm's code of ethics. Under the Adviser's Act, all SEC registered advisers are required to adopt and enforce a written code of ethics, which is applicable to all of the adviser's supervised persons.

The rule specifically requires an [adviser's code of ethics](#) to set forth standards of ethical conduct and require compliance with federal securities laws. It must be reviewed annually to assess the effectiveness of its implementation.

When reviewing your firm's code of ethics, it is important to verify that as a minimum it contains the following:

- A standard (or standards) of business conduct that the adviser requires of its supervised persons reflecting the adviser's fiduciary obligations;
- Provisions requiring supervised persons to comply with Federal securities laws;
- Provisions that require all "access persons" to report their personal securities transactions and holdings periodically;
- Provisions requiring supervised persons to report any violations of the code of ethics promptly to the CCO; and
- Provisions requiring the adviser to provide each of its supervised persons with a copy of the code of ethics and any amendments, and to receive a written acknowledgment of their receipt.

"Supervised person" means any partner, officer, director (or other person occupying a similar status or performing similar functions), or employee of an investment adviser, or other person who provides investment advice on behalf of the investment adviser and is subject to the supervision and control of the investment adviser.

The SEC defines an "access person" as supervised persons: (A) Who has access to nonpublic information regarding any clients' purchase or sale of securities, or nonpublic information regarding the portfolio holdings of any reportable fund, or (B) Who is involved in making securities recommendations to clients, or who has access to such recommendations that are nonpublic. If providing investment advice is your primary business, all of your directors, officers and partners are presumed to be access persons.

As part of the annual review process, advisers may need to amend the code of ethics to reflect changes to the firm's operations or regulatory developments. One example are the new "pay-to-play" rules. If you do make amendments, don't forget to make the corresponding changes to Form ADV Part 2A, Item 11.

Please also ensure that all supervised persons are trained to comply with it. Simply having the document on file is not enough. Please tweet or [e-mail me at Eckerle Law](#) with any comments or questions.

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