
adopted by the U.S. Securities and Exchange Commission under any of these statutes, the Bank Secrecy Act (31 U.S.C. 5311-5314; 5316-5332) as it applies to funds and investment advisers, and any rules adopted thereunder by the U.S. Securities and Exchange Commission or the U.S. Department of the Treasury.

4. "Fund" means an investment company registered under the Investment Company Act.
5. "Initial public offering" means an offering of securities registered under the Securities Act of 1933 (15 U.S.C. 77a), the issuer of which, immediately before the registration, was not subject to the reporting requirements of sections 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)).
6. "Limited offering" means an offering that is exempt from registration under the Securities Act of 1933 pursuant to section 4(2) or section 4(5) (15 U.S.C. 77d(2) or 77d(5)) or pursuant to §§ 230.504, 230.505, or 230.506 of this chapter.
7. "Material, nonpublic information" is material information that has not been disseminated in a manner making it available to investors generally. Information is material when it is substantially likely that the information would be important to a reasonable investor making an investment decision or is likely to have a significant impact on valuation.
8. "Purchase or sale of a security" includes, among other things, the writing of an option to purchase or sell a security.
9. "Reportable security" means a security as defined in section 202(a)(18) of the Securities Act of 1933(15 U.S.C. 80b-2(a)(18)), except that it does not include:
 - a. Direct obligations of the Government of the United States;
 - b. Bankers' acceptances, bank certificates of deposit, commercial paper and high quality short-term debt instruments, including repurchase agreements;
 - c. Shares issued by money market funds;
 - d. Shares issued by open-end funds other than reportable funds; and
 - e. Shares issued by unit investment trusts that are invested exclusively in one or more open-end funds, none of which are reportable funds.
10. "State securities laws" means all applicable state securities statutes, rules, and regulations, including, without limitation, the registration, permit or qualification requirements thereunder and the Protection of Vulnerable Adults from Financial Exploitation Act at 11-51-1001, C.R.S.
11. "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 definition includes investment adviser representatives, employees, independent contractors, or other associated persons and supervised personnel, or other person acting on the behalf of the investment adviser.

51-4.13(IA) Net Worth Requirements

A. Liquid Net Worth Requirements:

1. **Positive Liquid Net Worth Requirement for Investment Advisers.** An investment adviser must maintain a positive net worth at all times calculated under the requirements of Rule

51-4.6(IA)(A)(6).

2. Minimum Liquid Net Worth for Investment Advisers with Discretionary Authority. An investment adviser with discretionary authority over client funds or securities must maintain a minimum liquid net worth of ten thousand dollars (\$10,000) at all times, unless the investment adviser is subject to the greater requirements of subdivision (3) below.
 3. Minimum Liquid Net Worth for Investment Advisers with Custody. An investment adviser with custody of client funds or securities must maintain a minimum liquid net worth of thirty-five thousand dollars (\$35,000) at all times, except investment advisors with custody solely because the investment adviser has fees directly deducted from client accounts and the investment adviser complies with the safekeeping requirements in 51-4.10(IA) above and the recordkeeping requirements of 51-4.6(IA);
 4. Notification. An investment adviser must notify the Commissioner by the close of business on the next business day if the investment adviser's liquid net worth is less than the minimum required. After filing the notice, the investment adviser must file a report with the Commissioner of its financial condition by the close of business on the business day following notice including:
 - a. A trial balance of all ledger accounts;
 - b. A statement of all client funds or securities that are not segregated;
 - c. A computation of the aggregate amount of client ledger debit balances; and
 - d. A statement indicating the number of client accounts.
 5. Appraisals. The Commissioner may require an investment adviser to submit a current appraisal to establish the worth of any asset.
 6. Exception for Out-of-State Advisers. An investment adviser with its principal place of business in a state other than Colorado, properly licensed in that state must maintain the minimum capital required by that state.
- B. Surety Bond.
1. Additional Bond Requirement. An investment adviser with discretionary authority or custody who does not meet the minimum liquid net worth requirement of subdivisions (A)(2) and (3) above must also be bonded for the amount of the liquid net worth deficiency rounded up to the nearest five thousand dollars (\$5,000) and file a Form U-SB with the Commissioner.
 2. Exemptions. An investment adviser is exempt from the requirements of subdivision (1) above if the investment adviser:
 - a. Does not have discretionary authority; or
 - b. Has its principal place of business in a state other than Colorado, is properly licensed in that state, and satisfies the bonding requirements of that state.

51-4.14(IA) Performance-Based Compensation Exemption for Investment Advisers

Any licensed investment adviser who wishes to charge a fee based on a share of the capital gains or the capital appreciation of the funds or any portion of the funds of a client must comply with SEC Rule 205-3 (17 Code of Federal Regulations §275.205-3), which permits the use of such fee if the client is a "qualified client" as defined therein.