

NASAA 2019

Investment Adviser Section Annual Report

May 2019 | Highlighting 2018 Section Activities



NASAA North American Securities Administrators Association | www.nasaa.org

Introduction

The North American Securities Administration (NASAA) is the oldest international organization devoted to investor protection. NASAA members include 67 state, provincial, and territorial securities administrators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Canada, and Mexico.

NASAA's 2018 Investment Adviser Section Annual Report provides an updated map of the state adviser population in the United States, a profile of the average state-registered adviser, as well as a snapshot of the work of NASAA's Investment Adviser Section over the past year.

Highlights of the report include: (1) the proposal to adopt an Investment Adviser Model Rule for Information Security and Privacy and (2) results from a NASAA survey regarding the prospect of state investment adviser representative continuing education requirements.

The report also provides highlights from section-sponsored training events. In addition to another outstanding annual Investment Adviser Training Conference, the Cybersecurity

and Technology Project Group hosted a cybersecurity workshop for members at the annual Broker-Dealer Training Conference that simulated a data-breach scenario and the Operations Project Group published a useful field guide for state examiners testing firm compliance with business practice rules. Outside of the day-to-day committee activities, the report directs readers to individual state outreach to firms in Indiana, Michigan, and Nebraska.

We hope NASAA members and outside stakeholders, particularly state-registered investment advisers, find this report useful and welcome suggestions from readers on ways to improve future editions. If there is ever anything that either of us can do to help with state investment adviser regulation, please do not hesitate to contact us directly.



Andrea Seidt

Andrea Seidt

Co-Chair of Investment Adviser Section



Linda Cena

Linda Cena

Co-Chair of Investment Adviser Section

SECTION COMMITTEE MEMBERS:

William Carrigan (VT); Alex Glass (IN); Noula Zaharis (GA); Elizabeth Topp (ON), Canadian Liaison; Karla Ferrusquia (MX), Mexico Liaison; A. Valerie Mirko (NASAA), Liaison; Christopher Staley (NSAAA), Liaison

STATE-REGISTERED INVESTMENT ADVISER STATISTICS 2018

The following facts and figures present a snapshot of the current status of state-registered investment advisers.



17,543

Total State-Registered Investment Advisers

Top 5 Most State-Registered IAs*

1. California - 3,009
 2. Texas - 1,288
 3. Florida - 1,085
 4. New York - 849
 5. Illinois - 773
- * As of 12/31/18

325

Average State-Registered Investment Advisers per Jurisdiction

26,719

Total State-Registered Investment Advisers Registrations

Top 5 State-Registered IAs Increase from 2017-2018

1. California - 11
2. Kansas - 10
3. Texas/Ohio (tie) - 9
4. Colorado/Missouri (tie) - 7
5. South and North Carolina (tie) 6

State-Registered IAs East/West of the Mississippi



SEC NOTICE-FILED INVESTMENT ADVISER STATISTICS 2018



10,480

Total SEC Notice Filed Investment Advisers

↑ 4%

Top 5 Most SEC Notice Filed IAs*

1. New York - 1,579
 2. California - 1,526
 3. Texas - 684
 4. Massachusetts - 556
 5. Illinois - 546
- * As of 12/31/18

194

Average SEC Notice Filed Investment Advisers per Jurisdiction

Top 5 SEC Notice Filed IAs Increase from 2017-2018

1. California - 51
2. Pennsylvania/Texas - (Tie) 33
3. Massachusetts - 31
4. Florida - 25
5. Illinois - 24

90,421

Total SEC Notice Filed Investment Advisers Registrations

↑ 5%

SEC Noticed Filed IAs East/West of the Mississippi



PROFILE OF STATE-REGISTERED ADVISERS 2018

QUICK FACTS

WORKFORCE

- 1-2 Person Shops: 80%
- Investment Adviser Representatives: 93%
- Insurance Agents: 51%
- Broker-Dealer Registered Representatives: 40%



State-registered IAs are American Small Businesses.

State advisers work in most every town in every state across the country, mostly in one-to-two person shops staffed with licensed professionals exclusively.

CLIENTS

- Retail Investors: 99%*
- High Net Worth Investors: 1%



Managing Portfolios of Main Street Investors is Primary Focus of State-registered Investment Advisers.

State advisers offer a variety of services, but their primary focus is individual portfolio management, which makes sense given their almost exclusive customer base of everyday Main Street Americans. The majority of state advisers also offer broader financial planning services in their practices.

TOP SERVICES

- Individual Portfolio Mgt.
- Financial Planning
- Adviser Selection
- Portfolio Mgt. - Business
- Pension Consulting



FEEES

- Assets Under Management: 85%
- Hourly: 55%
- Fixed: 50%
- Performance: 9%
- Commission: 4%
- Subscription: 2%
- Other: 15%



Innovative Compensation Models Emerging, but AUM Model Prevails.

Most state advisers charge clients a fixed percentage of their AUM as their fee and relatively few charge a commission.

* NOTE: This year's profile of state-registered investment advisers is based on responses collected from the revised Form ADV Part 1 Item 5, which collects more nuanced information regarding the types of advisory clients in Item 5(D). In the 2017 report, approximately 15,143 (90.7%) investment advisers completed the old format of Form ADV Part 1 and approximately 1,553 (9.3%) investment advisers completed the revised format. This year, approximately 16,211 (91.26%) investment advisers completed the revised Form ADV, while only 1,554 (8.74%) used the old format. Based on the data collected from the revised Form ADV Part 1A Item 5(D), investment advisers overwhelmingly serve retail investors – around 99% of state-registered investment advisers' client bases are comprised of retail investors. The remaining 1% mainly include high net worth investors.

Project Group Reports

CYBERSECURITY AND TECHNOLOGY

James McDowell (TN), Co-Chair; Charlie Jarrett (GA), Co-Chair; Jeffrey Eaby (CO), Eric Chandra (CA), Dylan White (MA), Teresa Williams (CT), Demetra Murray (NJ), Chuka Obasuyi (TX), A. Valerie Mirko, (NASAA) Liaison

Securities examiners from NASAA member jurisdictions continued to report cybersecurity-related deficiencies as a top concern in 2018 for the protection of investors within their respective jurisdictions.

The Cybersecurity and Technology Project Group assisted in hosting a “Cybersecurity Workshop” at the 2018 NASAA Broker-Dealer Conference. The workshop included a simulation of a possible data-breach to highlight the criticality of response and planning prior to the actual occurrence of such an event. The project group also assisted NASAA members in their continuous efforts to create cybersecurity materials for the protection of investors.

The project group also created a “Data Inventory Checklist” to assist small firms in tracking the types of client non-public information they maintain, where they store it, and what safeguards they utilize to protect it. Additionally, the project group continued to monitor and update “The NASAA Cybersecurity Checklist for Investment Advisers.” This process coincided with National Institute of Standards and Technology’s (NIST) release of version 1.1 of its “Framework for Improving Critical Infrastructure Cybersecurity” in April 2018.

The IA Cybersecurity and Technology Project Group will continue to monitor the industry for cybersecurity trends; review and update publications to keep pace with the continuously evolving digital landscape; collaborate with groups across NASAA to create content to educate registrants on the importance of cybersecurity and current best practices; and assist groups across NASAA to ensure all member jurisdictions have sufficient bandwidth to fight cyberwarfare.

Project Group Reports

OPERATIONS

Michael Huggs (MS), Chair; Mark Eisenmann (WI); Alisa Goldberg (FL); Elizabeth Guido (NC); Joanne Jones (WA); Brett Radetsky (CO); Kathy Browne (KS); Emily Lee (MA); Brett O'Sullivan (CA); Glen Sgobbo (OH)

The Operations Project Group had another productive year in 2018, which kicked off with a NASAA webinar highlighting three tools developed for examiners during 2017. More than 230 regulators from NASAA member jurisdictions attended the webinar. The featured tools included the new Performance Reporting Calculators, which allow examiners to verify portfolio returns reported or advertised by an adviser; the revised Risk Assessment Tool, which provides a “scoring” of various risk factors based on answers to the adviser’s ADV Part 1A and B; and the new Pre-Exam Questionnaires, which allow examiners to obtain an initial overview of the examinee’s practice prior to an on-site exam visit.

In 2018, the Operations group also modified the Risk Assessment Tool to correspond to the new questions in Form ADV and reviewed exam modules in advance of the new NEMO 2.0 exam software, which is scheduled for release in late 2019. “We are literally going through the modules question by question and instruction by instruction. We’ll continue the process through much of 2019,” said Operations Chair Mike Huggs.

The group also finalized a substantial reference work with significant contributions from the Regulatory Policy and Review Project Group entitled A Field-Examiner’s Guide to the Model Rule on Unethical Business Practices/ Prohibited Conduct of Investment Advisers from Routine Examination to Enforcement Referral. Material provided in this guide will provide guidance and information for examiners in identifying unethical business practices and gathering evidence relevant to an enforcement referral.

Finally, the group has compiled and is reviewing a dataset of more than 120 state enforcement actions involving investment advisers. The group is analyzing the information to identify common characteristics among respondent firms and individuals. The group also plans to work on an investment adviser supervisory checklist later this year.

Project Group Reports

REGULATORY POLICY & REVIEW

Elizabeth Smith (WA), Co-Chair; Stephen Bouchard (NJ), Co-Chair; Stephen Brey (MI); John Harth (CO); Kevin Moquin (NH); Suzanne Sarason (WA); David Smith (AR); Dylan White (MA)

The Regulatory Policy and Review Project Group worked on a variety of policy matters in 2018. It advanced a cybersecurity model rule project as part of NASAA's cybersecurity initiatives, responded to IA Section requests for research and guidance, continued working with other IA project groups towards completion of IA Section projects, and began new assignments.

The cybersecurity model rule, formally entitled the *Proposed Investment Adviser Model Rule for Information Security and Privacy and Corresponding Recordkeeping and Unethical Business Practice Amendments*, was released for public comment at the 2018 NASAA Annual Meeting in Anchorage, Alaska. The rule would require investment advisers to establish, implement, update, and enforce written physical security and cybersecurity policies and procedures reasonably designed to ensure the confidentiality, integrity, and availability of physical and electronic records and information. The policies and procedures must be tailored to the investment adviser's business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser. Members are expected to vote on the rule proposal in May at NASAA's Spring Meeting.

The project group also assisted the IA Resources and Publications and IA Operations Project Groups toward their completion of a new IA Advertising Handbook and Fiduciary Duty/Dishonest or Unethical Business Practices Guidance for examiners. The project group also assisted NASAA's Investment Adviser Representative Continuing Education Committee in drafting rules to implement continuing education requirements for registered investment adviser representatives.

The project group conducted research into new trends and developments in the investment advisory industry and revisited some old topics of interest. Among those were evolving standards of care for financial professionals and industry responses, new fee models, proposals for model fee tables, regulatory treatment of solicitors, third-party money manager and subadvisor arrangements, robo-advisers, and more.

The Regulatory Policy and Review Project Group's priorities for 2019 include finalizing the investment adviser information security and privacy model rule, facilitating the advancement of an investment adviser representative continuing education model rule, and ongoing initiatives for model rules and guidance regarding investment adviser written compliance policies and procedures, codes of ethics, and proxy voting policies and procedures.

Project Group Reports

RESOURCES & PUBLICATIONS

Lindsay Fedler (WI), Chair; Amber Lovelady (TN), Vice-Chair; Holly Mack-Kretzler (WA); Arlene Ferris-Waks (NJ); Matthew Taylor (MA); Robert Webster (NASAA), Liaison

The Resources & Publications Project Group spent the first half of 2018 working on final revisions to the 2017 *Investment Adviser Section Annual Report*, which was presented in May 2018 at NASAA's Spring Meeting in Washington, D.C. The report highlighted the state-registered investment adviser industry, coordinated examination findings, regulator outreach events for investment advisers and other financial professionals, and all of the work performed by the Section in 2017.

After a successful inaugural report, the project group began a collaborative project with the Regulatory Policy and Review Project Group to develop an investment adviser advertising compliance handbook that state examiners will be able to use and reference in the field when reviewing investment advisers' advertising content. The project group had several discussions about the content, as well as making no action letters and statutes available in an appendix for the examiners to review. This is an ongoing collaboration between the two project groups.

In late 2018, the project group bid a fond farewell to its Chair, Alex Glass, as he joined the Investment Adviser Section Committee. Lindsay Fedler stepped into the chair role, with Amber Lovelady as vice chair.

Project Group Reports

TRAINING

Lindy Streit (AR), Co-Chair; Denise Walker (WV), Co-Chair; Ryan Anderson (WY); Emily Diaz (TX); William Baldwin (WA); Kelly Lent (CT); Senayet Meaza (DC); Eric Pistilli (PA); Teune Trice (IN); Lindsey Stout (KY) Veronica Rodriguez (CO); James Apistolas (NASAA), Liaison

Each year, NASAA's Training Project Group develops the Investment Adviser Training, an educational and insightful program focused on investment adviser regulation for regulators across NASAA's jurisdictions. The Training Project Group also produces webinars and other training materials available to NASAA members.

The 2018 NASAA Investment Adviser Training focused on tools for investment adviser examiners, including exam techniques, identifying excessive fees, advertising, and evaluating investment products. The training's topics were presented using an Olympics theme, including sessions on examination basics, robo-advisers, complex financial products and cryptocurrency.

There are many benefits of an annual training. It allows regulators to stay up-to-date on emerging trends, provides valuable education to new regulators, and affords jurisdictions the opportunity to learn from one another. It also allows regulators from different jurisdictions to network. The 2018 program put an extra emphasis on networking. The agenda included a short session titled The Importance of Networking, and the reception included activities that encouraged networking. The project group's desire is to always promote working relationships between all training participants.

Project Group Reports

ZONES

Veronica Rodriguez (CO), Chair; Zone 1 (Northeast) Lauren Munschauer (MA); Zone 2 (Southeast) Ricky Martin (MS); Zone 3 (Mid-Atlantic) Staci Morcom (PA); Zone 4 (Central) William Pultinas (OH); Zone 5 (South/Central) Tommy Green (TX); Zone 6 (Mountain) Bryan Crowley (UT); Zone 7 (Western) Henry Tanji (HI); Zone 8 (Canadian) Susan Pawelek (ON)

The Zones Project Group was very active in 2018, continuing its work maintaining the zone communication system, including electronic communication. This served to coordinate information sharing among NASAA members. It also allowed the NASAA Corporate Office and NASAA members to better identify and communicate on issues of importance regarding investment advisers.

Following the success of its 2017 regional group call program, The Zones Project Group held multiple project group calls throughout the year and 10 quarterly zone calls throughout the regions. The calls varied in topic based on the zone. Among discussion topics were: different fee models, reviewing suitability, diminished capacity and senior issues, different types of investment products encountered (i.e. robo-advisers and cryptocurrencies), social media, marketing/advertising, best practices, and challenges encountered during an exam.

The Zones Project Group continued to provide support for the 2018 Investment Adviser Training Group. Zones Project Group members attended the 2018 Investment Adviser Training where they served as table leaders for the breakout sessions. These breakout sessions provided an opportunity for each regional zone to independently discuss topics, challenges, trends and processes impacting the region. For the zones breakout portion of the training, the Zones Project Group provided conference call numbers for the eight zone breakout meetings so those who couldn't attend the training could participate in the discussions.

In line with its goal to support the other project groups with relevant regional information, the Zones Project Group sent out a number of surveys in 2018 and compiled information for the following project groups: Investment Adviser Training, Senior Issues/Diminished Capacity, Cybersecurity, Investment Adviser Operations, and Investment Adviser Resources and Publications.

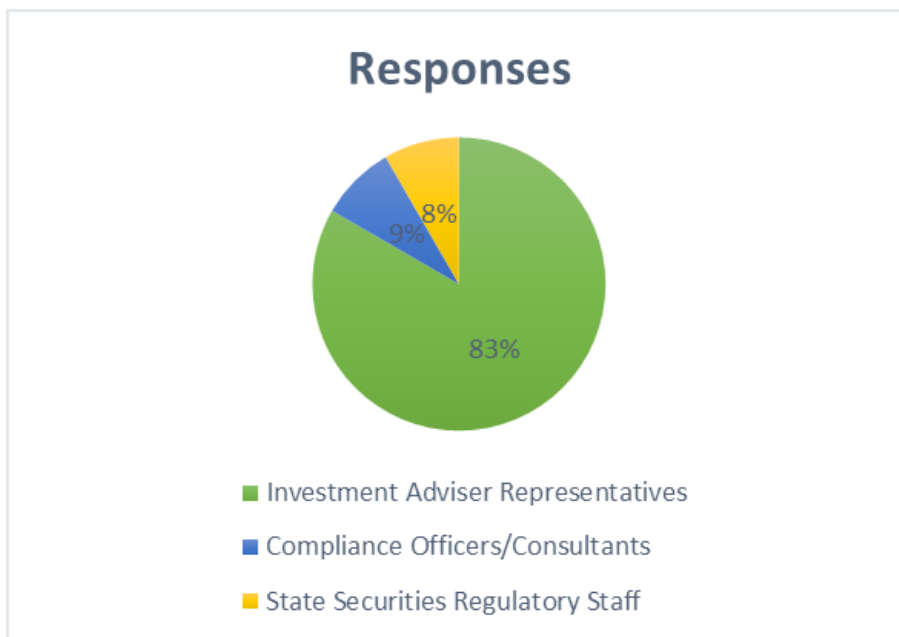
The Zones Project Group will continue to build on this momentum throughout 2019.

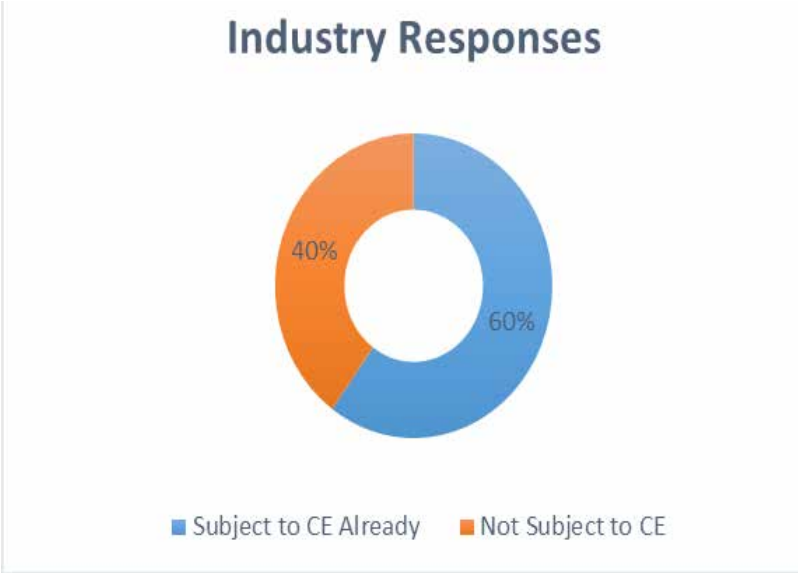
INVESTMENT ADVISER REPRESENTATIVE CONTINUING EDUCATION SURVEY

NASAA’s Investment Adviser Continuing Education Committee has been exploring implementing an investment adviser representative continuing education (“IAR CE”) requirement, which would create an incentive and opportunity for investment adviser representatives to stay current with industry and regulatory developments, and contribute to the quality of advice and professionalism that investment adviser representatives provide their clients. Additional information is available on NASAA’s website (www.nasaa.org) under Industry Resources > Investment Advisers.

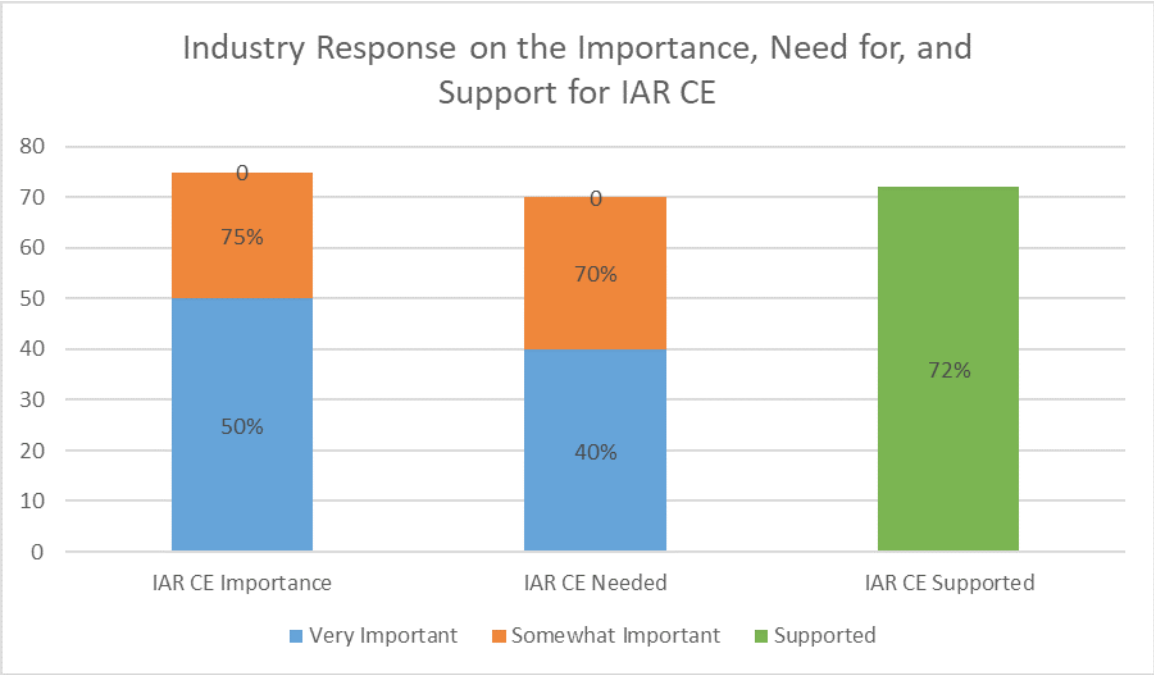
Following a survey of NASAA members, which indicated strong support for IAR CE, NASAA conducted a survey of industry stakeholders between February and April 2018 regarding the potential implementation of IAR CE.

Of the approximate 1,200 respondents, about 1,000 were investment adviser representatives and approximately 100 were compliance consultants or compliance officers who were not registered as investment adviser representatives. The remaining 100 responses came from staff of state securities regulators.





Regarding current continuing education requirements, more than 60% of the 1,100 industry respondents already were subject to continuing education, often due to a CFP designation and/or FINRA registration.



Seventy-five percent of industry respondents indicated that IAR CE was at least somewhat important, with 50% reporting they felt IAR CE was important or very important, and almost 70% reported it was at least somewhat needed in their jurisdiction, with 40% viewing the need as critical. Finally, 72% indicated they would support the creation of a continuing education program for investment adviser representatives.

INVESTMENT ADVISER OUTREACH

Indiana Securities Division's 5th Annual Investment Adviser Conference

On October 4, 2018, the Indiana Securities Division held its annual Investment Adviser Conference at the Indiana Government Conference Center in Indianapolis. 2018 marked the fifth year the Division has presented a conference. The conference has grown from a one-hour presentation on exam basics to the half-day format presented in 2018. Topics included senior financial exploitation, the exam process and common deficiencies, registration basics and common deficiencies, custody, and cybersecurity.

Indiana Securities Commissioner Alex Glass opened the conference with welcoming remarks and a discussion regarding Indiana's Senior Financial Exploitation law. The Division noticed a distinct drop-off from Broker-Dealers to Investment Advisers when it came to reporting suspected exploitation, so there was a need to educate those in attendance about the law. Commissioner Glass took the opportunity to discuss the severity of the issue and why Indiana moved forward with mandatory reporting legislation. He walked through the statute requirements of reporting and holding a distribution of funds.

Nevada Securities Division's Mathew Fink, who serves as the Vice Chair for the NASAA Cybersecurity and Technology Project Group gave a cybersecurity presentation via webinar. His presentation focused on cybersecurity awareness and trends. Cybersecurity is identified by investment advisers in Indiana as their largest area of concern and a top priority in their practices. Attendees were urged to take advantage of the many cybersecurity resources available from NASAA and other regulators. The cybersecurity presentation led to the most questions from the audience and resulted in a number of follow-up inquiries for the Division.

Investment adviser registration made its inaugural appearance and was well received. Firm registration, individual registration, solicitors, renewals and common deficiencies were all covered. The examination process, which has been a staple of the conference, was refreshed. The content included a step-by-step walkthrough of the examination process and what to expect from the Division at each step. Common exam deficiencies and ways to correct them were discussed. The Division's annual questionnaire was also reviewed.

Custody continues to be an area of confusion for many Indiana firms, so a significant portion of the conference was dedicated to explaining the key elements of custody and the implications of having custody. A new Statement of Policy regarding custody requirements of investment advisers with standing letters of authorization (SLOA) arrangements was released the day of the conference. The new policy was discussed at length and many questions were answered. The conference concluded with a list of additional resources and Division contacts for further assistance.

Seats for the conference maxed out more than a month in advance and led to a number of advisers being added to a waitlist. The Division will seek a larger venue in 2019 to accommodate the growing audience. Commissioner Glass comments that "The annual investment adviser conference is a great way to connect with Indiana firms to make sure they have the information necessary to be compliant and successful. The conference continues to grow in attendance and sophistication and industry feedback has been extremely positive."

INVESTMENT ADVISER OUTREACH

A Year of Investment Adviser Outreach in the Cornhusker State

The Nebraska Department of Banking and Finance (NDBF) was very active in providing eight presentations to financial professionals in Nebraska throughout 2018. The NDBF sponsored two of its own outreach events, paired up with several financial professional services organizations, such as, the National Association of Insurance and Financial Planners (NAIFA) and the Financial Planners Association (FPA), as well as the Association of Certified Fraud Examiners (ACFE) and Financial Industry Regulatory Authority (FINRA).

Claire McHenry, Deputy Director of the NDBF's Bureau of Securities, commented that when she addresses an audience, she tries to tailor the discussion to a topic they are interested in, whether its registered persons interested in regulatory updates and examination trends, or investigators interested in learning more about securities fraud and common enforcement issues.

The year kicked off with a February presentation in Lincoln hosted by NAIFA, where Deputy Director McHenry gave an overview of the Bureau and its priorities, with an emphasis on FinTech and cryptocurrencies. She gave a similar presentation to the Financial Planning Association of Nebraska in Lincoln in March as well. Both groups were particularly interested in hearing about how ICOs worked, recent enforcement actions, and how cryptocurrency would be treated by the SEC and states.

In March, the NDBF's Director Mark Quandahl participated in a NDBF roundtable discussion of the challenges and opportunities posed by financial technology. The discussion included a regulator panel

comprised of banking commissioners from Nebraska, Kansas, Iowa, and Missouri and an industry panel with panelists from CBW Bank, IBM, and Alpha BTC. The two panels addressed how to protect consumers without stifling innovation. The roundtable included a lively discussion on the future and use of distributed ledger technology in the financial industry, and updates on state and SEC enforcement actions.

In October, Deputy Director McHenry participated in a panel to discuss state securities regulation updates at a FINRA District Compliance meeting in Omaha. This included discussion of the broker-dealer sweep on heightened supervision released a few weeks prior at the NASAA Annual Meeting in Anchorage, Alaska. She, along with Director Quandahl, and Deputy Director for Financial Institutions Kelly Lammers, presented on the same topic to Kutak Rok at the end of the year, in addition to other regulatory, compliance and litigation issues for banking and financial services professions through 2018. Both groups were very interested in the results of the broker-dealer coordinated examinations and NASAA's concerns.

Deputy Director McHenry also delivered a SeniorSafe presentation in Omaha for the FPA Nebraska's Wealth Management Conference. Nebraska Department of Health and Humus Services and Adult Protective Services representatives were available to answer questions and were a great resource.

In December, Bureau Counsel Mike Cameron and McHenry presented a webinar on Nebraska's requirements for state-registered investment advisers regarding business continuity and succession planning, best practices, and tips the advisers could use to create and revise their plans.

INVESTMENT ADVISER OUTREACH

2018 Investment Adviser Outreach in Michigan

Michigan's Corporations, Securities and Commercial Licensing Bureau held two important half-day outreach seminars during 2018. The first seminar was held in Troy on Wednesday, October 17, 2018, and the second on Thursday, October 18, 2018 in Grand Rapids.

The seminars had the primary goal of introducing investment advisers and broker-dealers to Michigan's new securities rules and discussing how those new rules would affect their businesses. In addition, there were segments on preparing for an exam- including most common deficiencies and best practices- and a segment on handling suspected elder abuse within their client base.

Securities Manager Linda Cena welcomed guests and thanked them for attending. Keynote speaker Ryan Painter with the Prosecuting Attorney's Association

of Michigan, presented on "Vulnerable Adults & Community Awareness."

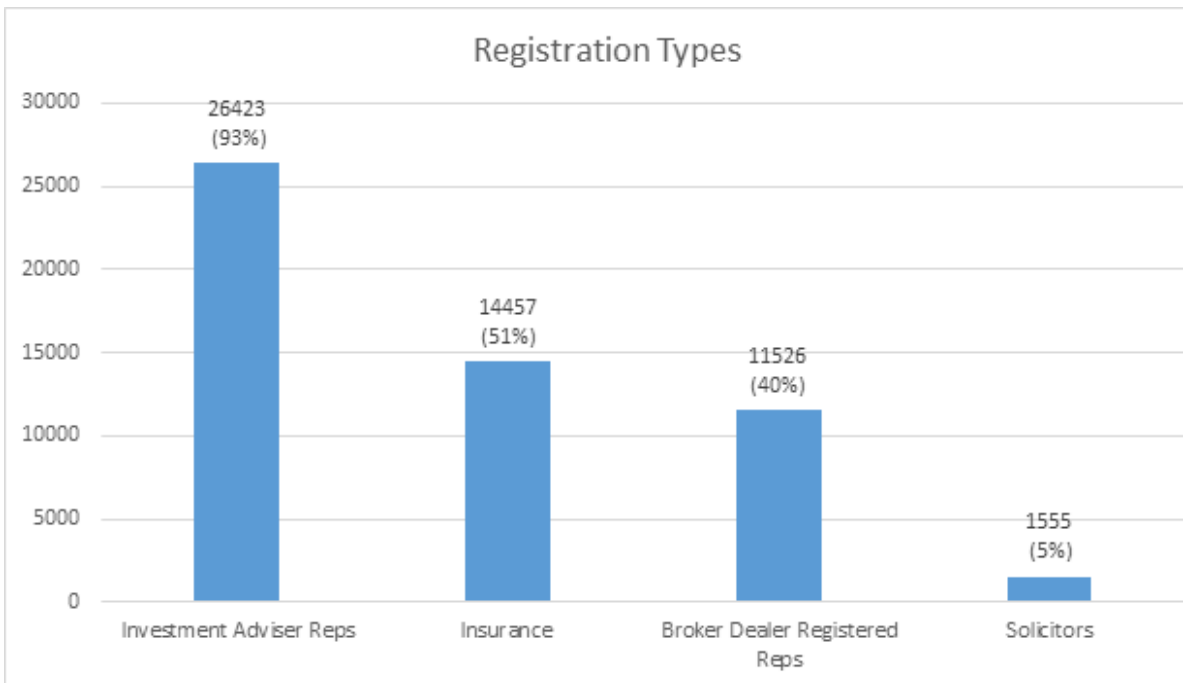
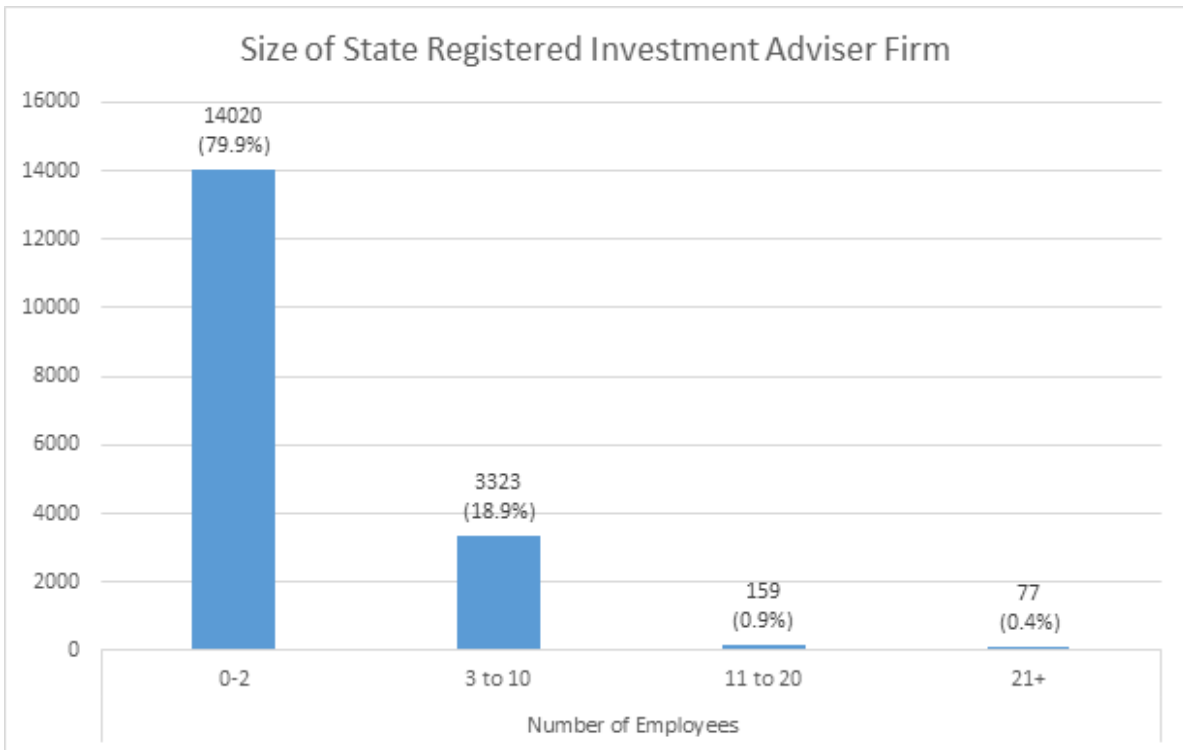
Participants left with valuable information and a telephone number to call if they suspected elder abuse in relation to their clients. Administrative Law Specialist Stephen Brey provided an update on Michigan's new rules and participants were provided a copy of those rules. Examiners also informed attendees about certain policies and procedures that the Department has in relation to exams.

Michigan has a strong history of performing outreach programs for its registrants. Attendees appreciate that the Department can travel to different areas of the state in order to put on these seminars; the expertise of the speakers; and the ability to network with Department staff and other industry professionals.

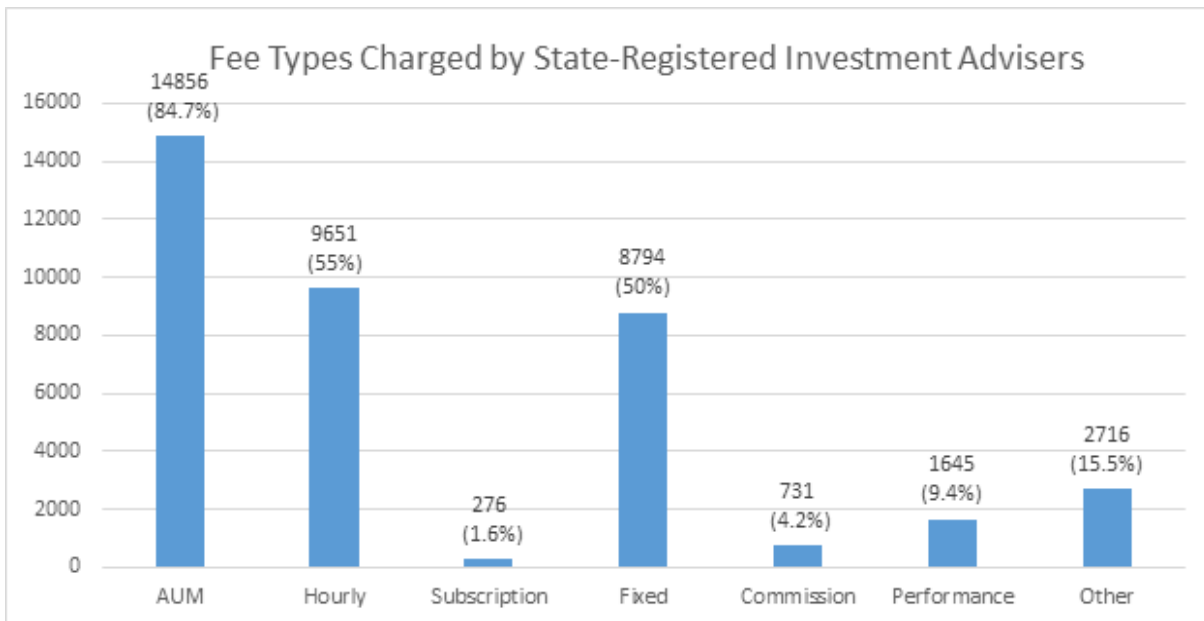
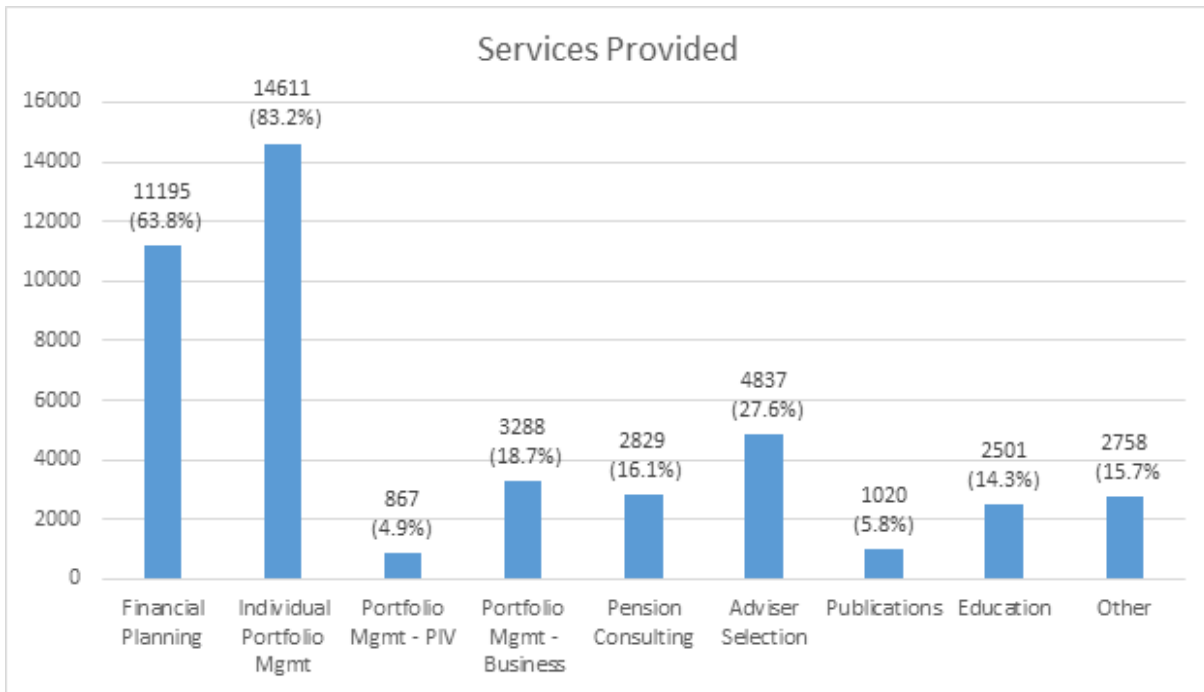
APPENDIX

CHARTS

The following charts provide the underlying data used to compile the infographics on pages 1-3.



APPENDIX



ABOUT NASAA

Organized in 1919, the North American Securities Administrators Association (NASAA) is the oldest international organization devoted to investor protection. NASAA is a voluntary association whose membership consists of 67 state, provincial, and territorial securities administrators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Canada, and Mexico.

In the United States, NASAA is the voice of state securities agencies responsible for efficient capital formation and grass-roots investor protection. Their fundamental mission is protecting investors who purchase securities or investment advice, and their jurisdiction extends to a wide variety of issuers and intermediaries who offer and sell securities to the public.

NASAA members license firms and their agents, investigate violations of state and provincial law, file enforcement actions when appropriate, and educate the public about investment fraud. Through the association, NASAA members also participate in multi-state enforcement actions and information sharing.

For more information, visit NASAA's website at www.nasaa.org.



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