

PUBLICATION

Maryland and Mississippi Among First Three States to Adopt New Requirements for Investment Adviser Representatives

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February 28, 2022

On February 8, 2022, the North American Securities Administrators Association (NASAA) announced that Maryland, Mississippi, and Vermont were among the first three states to adopt and implement continuing education requirements for investment adviser representatives (IARs). Thus, both "state-registered" and "federal covered" IARs in those jurisdictions are required to complete a certain number of educational hours beginning this year.

The "NASAA Model Rule on Investment Adviser Representative Continuing Education" (the Model Rule), which NASAA adopted on November 24, 2020, requires, *inter alia*, that every IAR registered under section 404 of the Uniform Securities Act (2002) complete annual continuing education requirements. According to NASAA, the Model Rule was enacted to help ensure that IARs stay informed and knowledgeable about current best practices and regulatory compliance requirements in their area of expertise, which will lead to increased trust and better service for their clients. Under the Model Rule, IARs must complete the following requirements on an annual basis:

- **IAR Ethics and Professional Responsibility Requirement.** This requirement provides that the IAR must complete six hours of content relating to IAR regulatory and ethics, with at least three of those hours covering ethics, offered by an authorized provider.
- **IAR Products and Practice Requirement.** This requirement provides that the IAR must complete six hours of content relating to IAR products and practice offered by an authorized provider. A waiver of this requirement may be granted if the IAR is also registered as a broker-dealer agent and has complied with the Financial Institution Regulatory Authority's continuing education requirements.

Thus, IARs are required to complete 12 hours of continuing education every calendar year; any hour(s) in excess of such requirement may not be carried forward. An IAR's failure to comply with these requirements could result in "inactive" or "ineligible" status, depending on the situation; the IAR may, however, apply for "renewal" of their prior status after certain conditions are met. If an IAR is registered in more states than one, the successful completion of the minimum continuing education requirements in one state will apply to all others. Yet, if the IAR's home state has not yet adopted the Model Rule, and its continuing education requirements do not meet the minimum required by the Model Rule, then the IAR will need to complete any additional continuing education needed to remain in compliance with the requirements of the state in which the IAR is seeking registration.

Given the recent adoptions of the Model Rule and the ever-increasing push from NASAA for uniformity amongst all 50 states, we expect that more states will adopt some form of continuing education requirement for IARs in their jurisdictions. Accordingly, it is no longer a question of *if* continuing education will be required for IARs, but a question of *when*. As such, we recommend that our registered investment adviser clients review in detail and familiarize themselves with the Model Rule to prepare for the inevitable implementation of such new continuing education requirements in the foreseeable future. And, of course, those in Maryland and Mississippi will need to comply in 2022. For specific requirements in Mississippi, refer to the Mississippi Securities Act

Rules available [here](#) and for specific requirements in Maryland, refer to the Maryland Investment Adviser Regulations available [here](#).

If you have questions about this or any other securities-related issues, please contact one of the authors or your Baker Donelson attorney.

To view NASAA guidance on the Model Rule, click [here](#). For Maryland's Compliance Guide and frequently asked questions regarding the Model Rule as adopted in Maryland, click [here](#).