

# Investment Adviser Important Dates and Reminders

February 3, 2010

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THE FOLEY ADVISER - FEBRUARY 3, 2010

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## Annual Compliance Reviews

All investment advisers registered with the Securities and Exchange Commission ("SEC") are required to review their compliance policies and procedures at least annually. Many advisers traditionally conduct this review in March of each year. Registered advisers should commence their annual reviews promptly and document the review process.

## Form ADV – Annual Amendment Due by March 31<sup>st</sup>

Form ADV must be updated by March 31, 2010 through the Investment Adviser Registration Depository [website](#). In order to get credit for the filing, please select "*annual amendment*" when updating the form. Failure to update Form ADV could lead to registration being revoked.

In addition, either an updated Part II of the Form ADV, or a written offer to provide the updated Part II, must be circulated to advisory clients at some point during the year.

## Privacy Policy

All investment advisers must circulate a summary of their privacy policy to advisory clients who are natural persons each year.

## Section 13(f) Filings

Investment advisers who are required to make quarterly Form 13F filings with the SEC must make such filings within 45 days after the end of each calendar quarter. The first of such filings for this year must be made by February 16, 2010 using EDGAR (while 45 days would be February 14, as February 14, 2010 is a Sunday and February 15, 2010 is a national holiday, the deadline for this filing in 2010 is February 16, 2010). These filings are necessary if in the previous calendar year the adviser had under management at least \$100 million in securities traded on U.S. securities exchanges. Failure to file Form 13F in a timely manner could lead to an enforcement proceeding by the SEC.

## **Section 13(g) Filings**

The SEC permits “qualified institutional investors” (such as registered advisers) and “passive investors” (which may include non-registered advisers) who have five percent or greater beneficial ownership of a class of registered equity securities to report this ownership on Schedule 13G, instead of the more demanding Schedule 13D. For “qualified institutional investors,” an initial Schedule 13G must be filed using EDGAR within 45 days after the end of the calendar year if as of the end of the calendar year its beneficial ownership exceeds 5%, or by February 16, 2010 with respect to positions from calendar year 2009 (while 45 days would be February 14, as February 14, 2010 is a Sunday and February 15, 2010 is a national holiday, the deadline for this filing in 2010 is February 16, 2010). In addition, a registered adviser who files Schedule 13G as a qualified institutional investor must notify any person (such as a client) on whose behalf it holds five percent beneficial ownership of any transaction that person may be required to report (for example, the acquisition of that five percent). For “passive investors,” the initial Form 13G filing must be submitted within 10 days of the event which triggers the filing requirement.

With respect to both “qualified institutional investors” and “passive investors” an annual amendment is required to be filed within forty-five days after the end of each calendar year to report any change in holdings for that year, or by February 16, 2010. The annual amendment should report holdings as of December 31.

Please note that both qualified institutional investors and passive investors must make additional filings upon certain changes in ownership or changes in investment purpose.

### **“New Issues Rule” – Annual Eligibility Verification**

The New Issues Rule requires FINRA members or their associated persons (“Members”) to obtain within the twelve months prior to a sale of a new issue to an account holder, either from the account holder or its authorized representative, an affirmative written statement that the account is eligible to purchase new issues in compliance with the New Issues Rule. Members are required to verify this status on an annual basis. The initial verification of an account holder’s status under the New Issues Rule must be a positive affirmation of the account holder’s non-restricted status. However, the New Issues Rule allows Members to follow a “negative consent” process for annual verification of an account holder’s status by sending a notice asking the account holder if there has been any change in its status. Unless an account holder affirmatively reports a change in status, the Member is permitted to rely on its existing information regarding a particular account holder. In many cases, Members rely on representations from investment managers who must, in turn, determine the eligibility status of separate account clients and investors in hedge funds. Investment managers investing in new issues should remember to undertake the annual verification as to new issues eligibility with their clients and investors.

## **Annual Massachusetts Corporate Filings**

Limited partnerships and limited liability companies formed in Massachusetts and non-Massachusetts limited partnerships and limited liability companies which are qualified to do business in Massachusetts must file an annual report on or about the anniversary date of such entity's formation or qualification, as applicable. There is a \$500 fee associated with such annual filing.

Investment advisers or Managers with questions about either of these proposals should contact [Peter Rosenblum](#) or [Jeffrey Collins](#) or [Meredith Haviland](#) in Foley Hoag's [Investment Management Group](#) at 617 832 1000.