

Compliance Corner: Follow-up on SEC and State Regulations (August 2005)

By Linda Shirkey

On purchasing manuals: Both the SEC and the State of Texas look for a policies and procedures manual during an examination of a Registered Investment Advisor entity with more than one person operating the firm. One of the speakers at the Spring Symposium dismissed the credibility of “those manuals and manual templates for sale.” We respectfully disagree. The FPA Compliance Policies and Procedures Manual Template CAN be very good ONLY IF a firm takes the time (and thought) to truly customize the contents so they only apply to one firm. It is well organized, educational, and appropriate for small SEC and (with a little work) and State registered firms—and it is a bargain. Look for it on www.fpanet.org, under the Online Store, Practice Resources.

On requiring an Anti-Money Laundering Policy: FPA National wrote to the Texas Securities Commissioner several months ago questioning examiners’ requiring Anti-Money Laundering Policies of Texas registered Investment Advisors, when the Texas regulations do not require this policy. The Securities Commissioner has since responded, and has supported the State Securities Board staff. So, even though all custodians have direct anti-money laundering responsibility, be prepared that the Texas staff also expect such policies from Investment Advisors as well.

On new Texas rules: New Texas rules to the Texas Securities Act have been adopted as of July 14, 2005. It appears that comments DO make a difference—the Commission adopted only rules which had few, if any comments. These new rules can be found at <http://www.ssb.state.tx.us/regualtions/adopted07-14-05.htm>. New rules include additional examination waivers, registration waivers, and requirement of written supervisory procedures. NONE of the items we wrote about in the last issue which were of concern to us were adopted.

Linda Shirkey is president of Shirkey Consulting, a Houston-based firm that designs effective, customized compliance programs for financial planners, investment managers and hedge funds.