

NASAA Investment Adviser Section 2023 Annual Report

Highlighting 2022–2023 Section Activities



Introduction

The North American Securities Administrators Association (NASAA) is the oldest international organization devoted to investor protection. NASAA members include 68 state, provincial, and territorial securities administrators in the 50 states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, Canada, and Mexico.

NASAA's 2023 Investment Adviser Section Annual Report provides an updated snapshot of the United States investment adviser population, an updated profile of the average state-registered investment adviser, as well as a recap of the work of NASAA's Investment Adviser Section over the past year.

Two highlights from the section include: (1) the issuance of guidance concerning emerging fee model reasonableness; and (2) the results of the 2023 examination sweeps which were conducted between January and June of 2023.

The section remained diligent throughout 2023: compiling presentations on encryption and cybersecurity best practices; finalizing examination questions concerning diminished capacity; producing compliance articles on recordkeeping and fees; training 150 in person attendees and 250 virtual attendees and holding 14 quarterly zone calls to connect, inform and update members.

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

Sincerely,



Lisa A. Hopkins

Chair of Investment Adviser Section

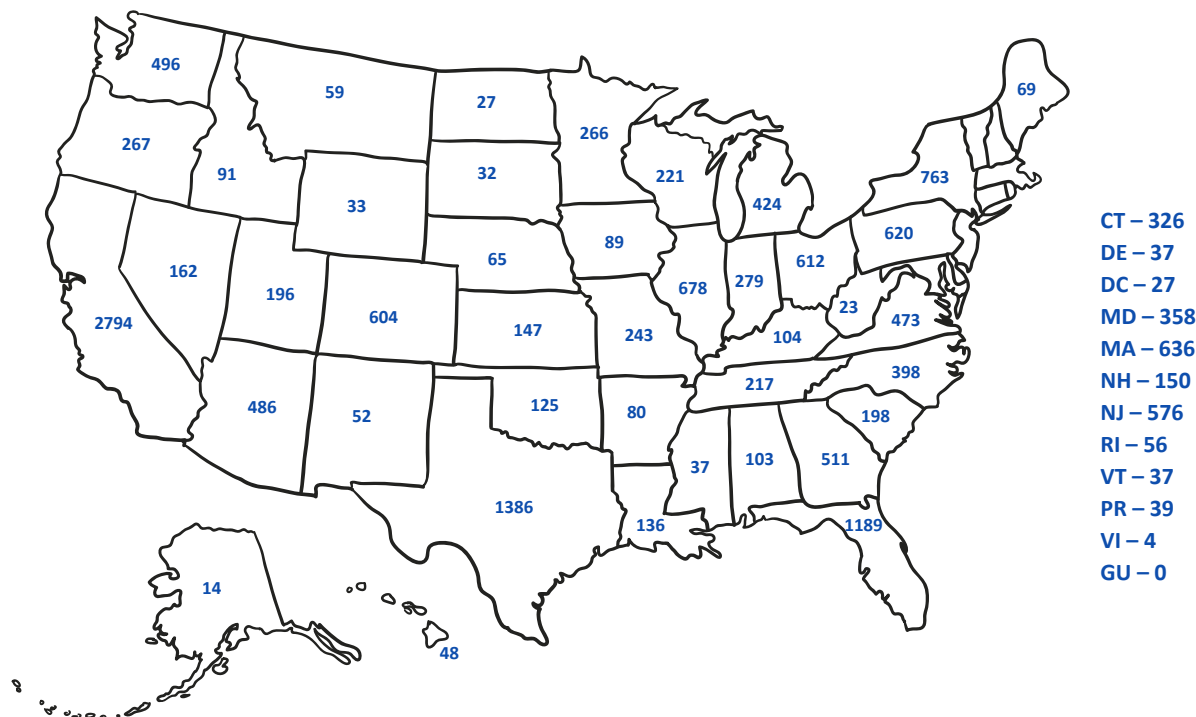
COMMITTEE MEMBERS:

Linda Cena (Vice Chair, MI), Noura Zaharis (GA), Tung Chan (CO), Nick Doyle (NB), Lauren Munschauer (MA), Dominique Kelly (Staff Liaison, NASAA), Jason Sterzer (UT), Zachary Knepper (Staff Liaison, NASAA)

Section 1: IA Statistics

While statistics and information regarding the broker-dealer population have always been fairly easy to obtain, information on state-registered investment advisers has been more elusive. The following facts and figures present a snapshot of the current status of state-registered investment advisers.

State Registered IA Map



17,063

Total State-Registered IAs
[Net **Decrease** of 308
State-registered IAs from
2021-2022]

Top 5 Most State-Registered IAs (Home State) [As of 12/31/22]

1. California – 2,794
2. Texas – 1,386
3. Florida – 1,189
4. New York – 763
5. Illinois – 678

Top 5 Most State-Registered IAs (Total) [As of 12/31/22]

1. Texas – 4,424
2. California – 3,644
3. Florida – 1,919
4. New York – 1,321
5. Illinois – 974

Top 5 State-Registered IAs Increase from 2021 – 2022

1. Florida – 33
2. Hawaii – 10
3. South Carolina – 9
4. Oregon – 7
5. Puerto Rico – 6

27,796

Total State-Registered IA
Registrations
[Net **Decrease** of 6
Registrations from
2021-2022]

316

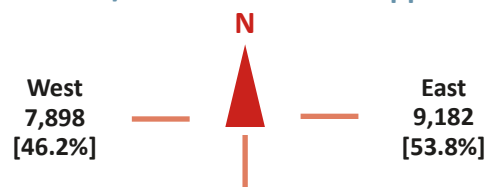
Average State-Registered
IA per Jurisdiction

Total State-Registered IAs AUM

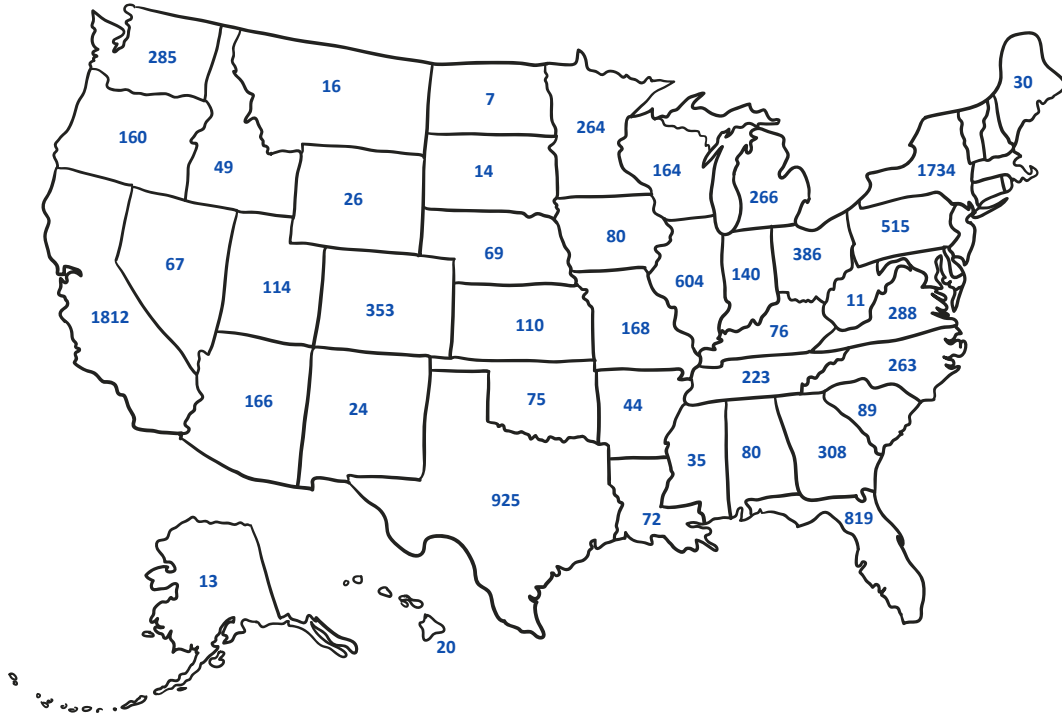
\$421,439,764,300

[Net **Increase** of \$8,631,084,523 from 2021-2022]

State-Registered Investment Advisers East/West of the Mississippi



SEC Registered IA Map



CT – 486
DE – 48
DC – 58
MD – 232
MA – 629
NH – 67
NJ – 315
RI – 50
VT – 31
PR – 34
VI – 0
GU – 0

12,896

Total SEC Notice Filed IAs
[Net **Increase** of 618
SEC Notice Filed IAs
2021-2022]

Top 5 Most SEC Notice Filed Investment Advisers (Home State) [As of 12/31/22]

1. California – 1,812
2. New York – 1,734
3. Texas – 925
4. Florida – 819
5. Massachusetts – 629

Top 5 Most SEC Notice Filed Investment Advisers (Total) [As of 12/31/22]

1. Texas – 7,403
2. California – 6,220
3. Florida – 6,022
4. New York – 5,040
5. Illinois – 3,077

Top 5 SEC Notice Filed Investment Advisers Increase from 2021 – 2022

1. Florida – 82
2. Texas – 52
3. New York – 47
4. Connecticut – 41
5. California – 40

110,822

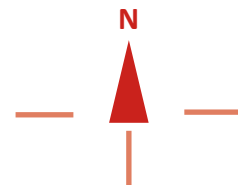
Total SEC Notice Filed IA
Registrations
[Net **Increase** of 7,154
Registrations
2021-2022]

239

Average SEC Notice Filed
per Jurisdiction

SEC Notice Filed Investment Advisers

West
4,933
[38.4%]

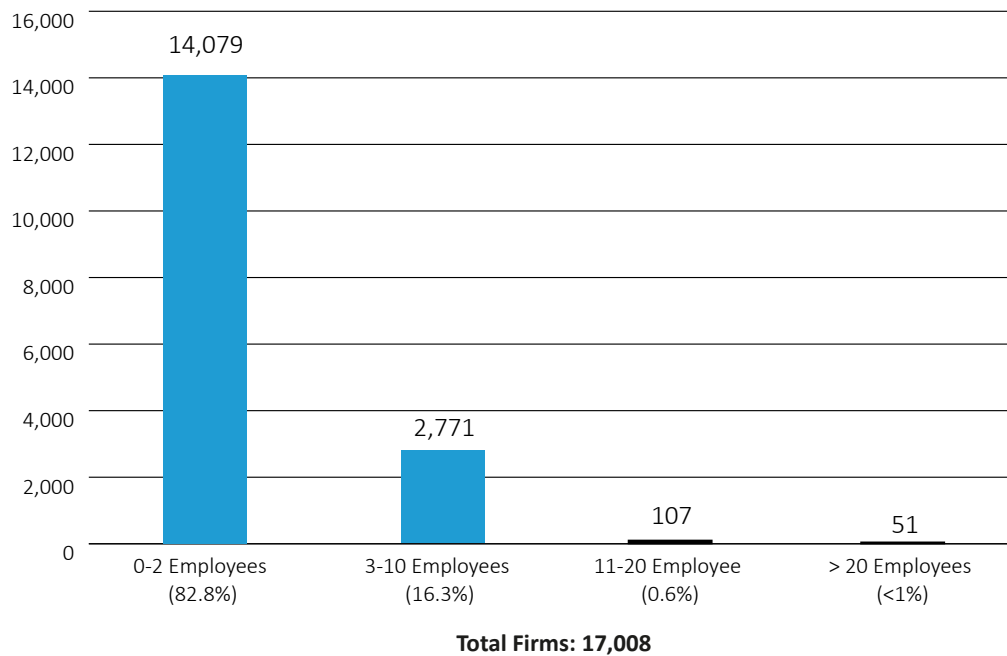


East
7,929
[61.6%]

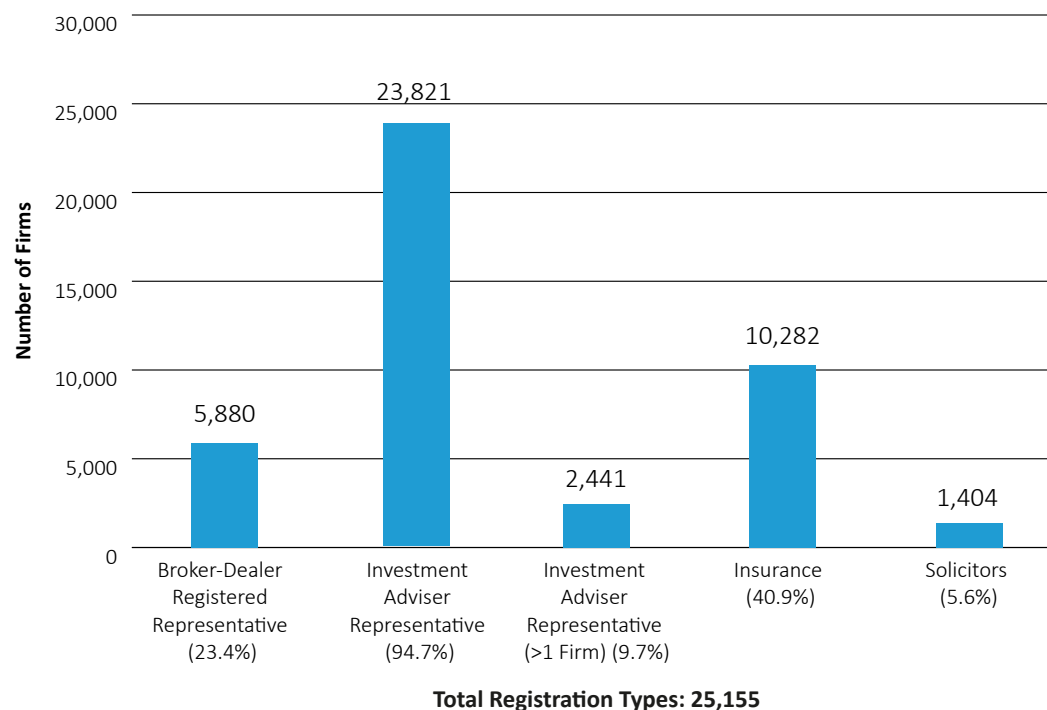
Section 2: State-Registered IA Profile

Profile of State-Registered Investment Advisers for 2022

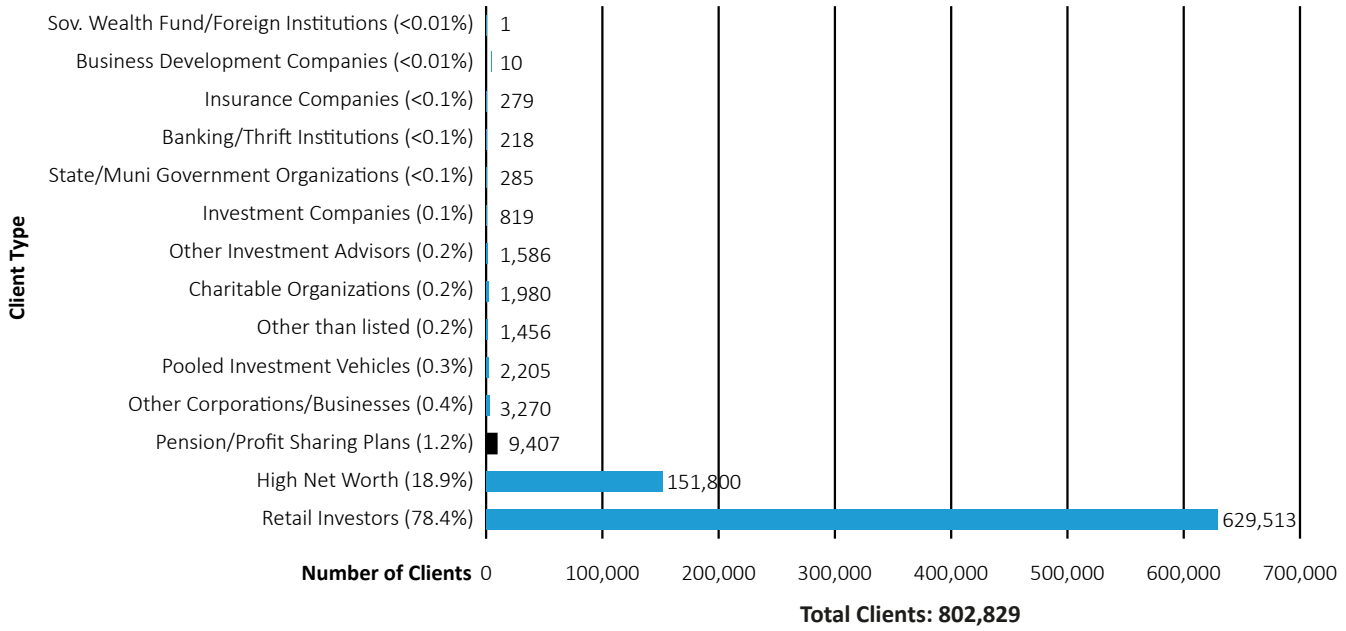
Size of State Registered Investment Adviser Firms



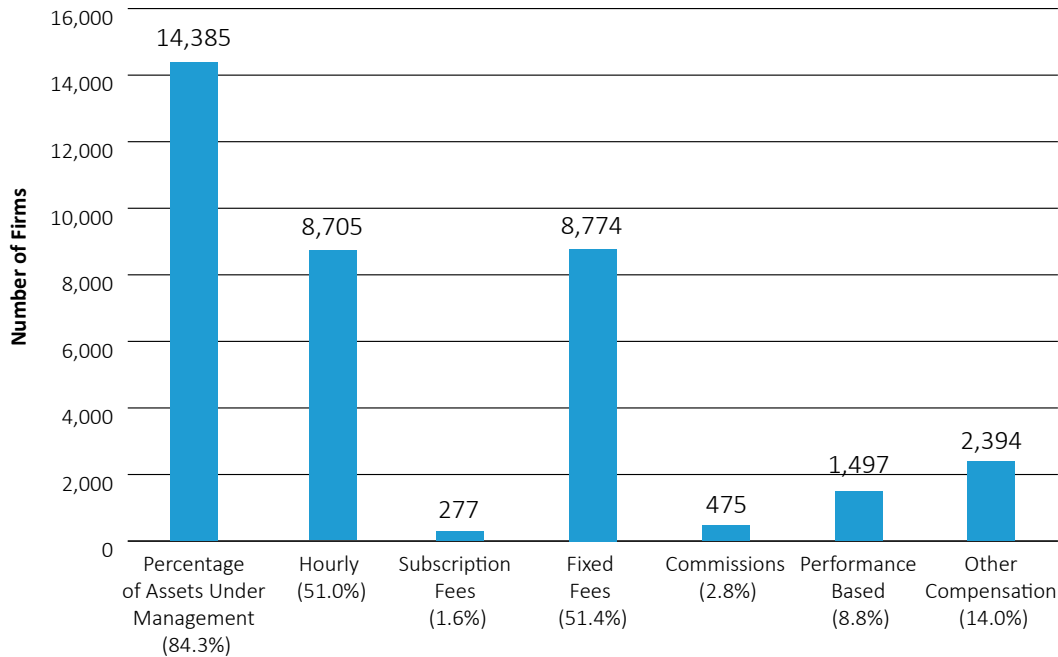
Registration Types



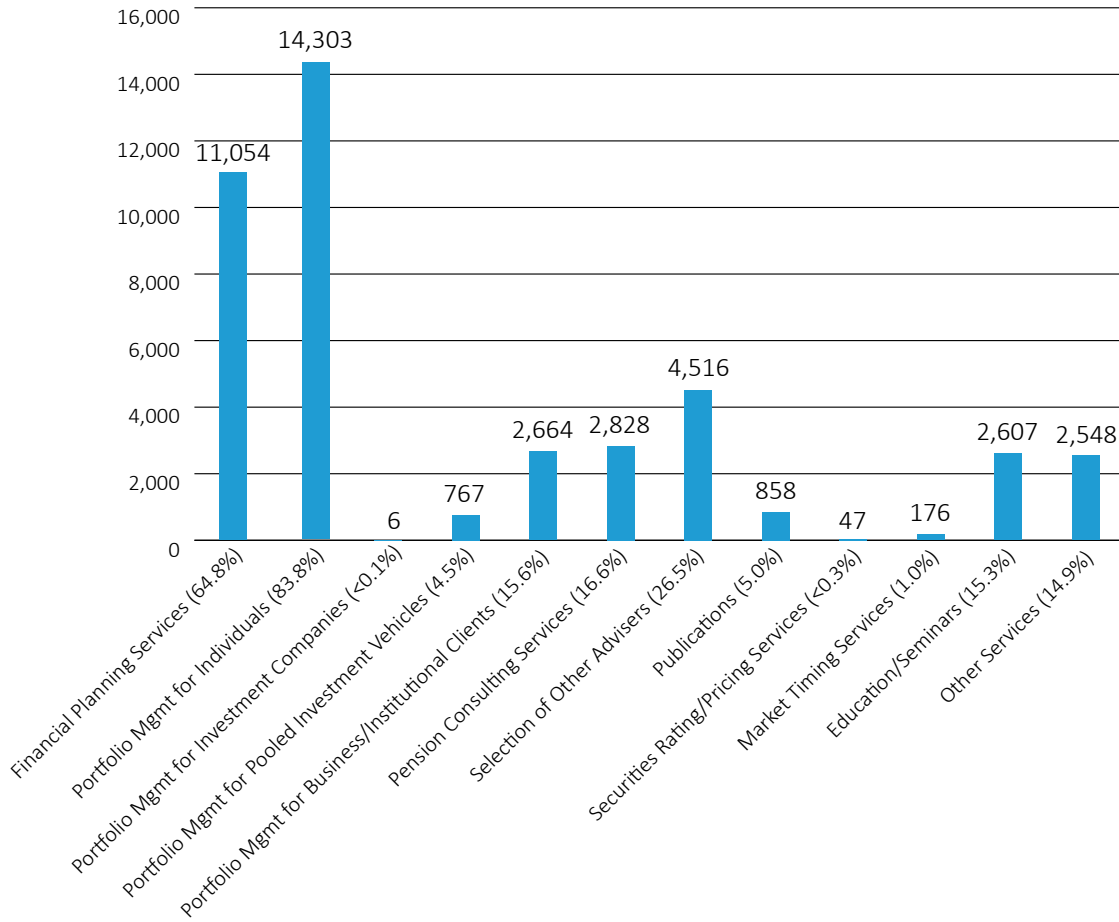
Client Types



Types of Fees Charged



Services Provided



Section 3: Project Group Reports

CYBERSECURITY AND TECHNOLOGY PROJECT GROUP

Teresa Williams (CT), Co-Chair; Clay Johnson (KS); Ryan Murphy (KS); Aaron Rodebeck (IN); Benjamin Schrope (NM); Ryan Sullivan (MT); Aaron Yuan (GA)

The Cybersecurity and Technology Project Group completed the second edition of Cybersecurity & State-Registered Investment Advisers Resource Document for State Securities Regulators. It was originally drafted in July 2017 by the NASAA Investment Adviser section. This resource document was designed to assist state-registered investment advisers with the evolving cybersecurity challenges that threaten its clients and business.

The scope of cybersecurity topics is wide, even when applied to the narrow universe of state-registered investment advisers within the broader financial services industry. However, the topics covered are widely applicable to the majority of state-registered investment advisers: compliance risk assessments and management, e-mail communications, cloud services, websites, anti-virus protection, encryption, cybersecurity insurance, custodians and third-party vendors, and robo-advisers. Each topic includes a brief description and checklist of questions state-registered investment advisers should consider. State

securities regulators can also use these checklists to aid registrants with inquiries, or as part of an examination. To complement the second edition resource document, the project group also completed a PowerPoint presentation which summarizes the resource document and can be used to educate and inform state-registered investment advisers.

In 2023, the project group continued to work on creating, updating, and providing resource documents and presentations for state regulators and state-registered investment advisers so that it can provide the most current law, news, and articles relevant to cybersecurity and technology. For example, the project group finalized a presentation focused on encryption and its importance for investment advisers. This presentation is designed to be used as a resource to assist in understanding the value of encryption as it relates to information security. It is essential that the resources the project group provides reflect the evolving and aggressive nature of cybersecurity threats.

OPERATIONS PROJECT GROUP

Alisa Goldberg (FL), Chair; Joanne Jones (WA), Vice-Chair; Kathleen Browne (OK); Elizabeth Guido (NC); Ji Kim (GA); Mark Kissler (WA); Katherine Perkins (MS); Glen Sgobbo (OH)

The Operations Project Group completed its review of questions to be added to the NEMO Investment Adviser exam modules to assist examiners in identifying whether the investment adviser representative may be showing signs of diminished capacity. This is becoming a growing concern as the investment adviser representative population ages. The questions will be forwarded to the NEMO Training and Support Committee for inclusion in the NEMO modules. Members of the project group were assigned to draft NEMO exam questions with respect to IAR Continuing Education requirements for use in states that have adopted the IAR CE model rule. The questions will follow the model rule

requirements and assist examiners in ensuring an investment adviser representative is complying with the CE requirements.

Other project group members worked on updating the Investment Adviser licensing module which will also include IAR CE model rule requirements.

The project group also prepared and distributed the biennial Investment Adviser Coordinated Examinations project, also known as the IA Examination Sweep. The findings will be presented at the 2023 NASAA Fall Annual Meeting.

REGULATORY POLICY & REVIEW PROJECT GROUP

Stephen Brey (MI), Co-Chair; Jonathan Bashi (NY), Co-Chair; Carlo Canty (MT); Christina Herd (GA); Judith Keilp (NJ); Brook Kellerman (WA); Emily Kisicki (VT); Amanda Robinson (IA)

The Investment Adviser Regulatory Policy and Review Project Group bid farewell and “Happy Retirement” to one long-tenured member and added two new colleagues. Kevin Moquin retired from his position with the New Hampshire Securities Division last year. Kevin served on the project group for many years and provided a tremendous amount of experience, insight, and work to the project group’s efforts. While he was a tremendous resource as a securities attorney, he was a better friend and will be missed by the membership who wishes him well in retirement. With Kevin’s departure, the project group was thrilled to welcome Carlo Canty and Christina Herd and has appreciated their efforts as they hit the ground running. Jonathan Bashi agreed to become co-chair of the Project Group for the year.

The project group worked cooperatively on various important initiatives both internally and with other NASAA committees and project groups in the last year. A project group representative also had the opportunity to testify to the SEC Investor Advocacy Committee about the important work done by NASAA members in the investment adviser regulatory space.

The project group met virtually each month to discuss topics spanning the entire landscape of the regulation of investment advisers. Emerging fee models, advertising and marketing, mandatory arbitration clauses, expungements, cybersecurity, custody, CRD/IARD functionality, IAR CE, examination validity extension programs, investment adviser solicitors, trusted contacts and many other topics affecting investment advisers and regulators were discussed on the calls.

The project group was fortunate to work with members of the Investment Adviser Representative Continuing Education Committee and NASAA

Corporate Office staff to develop and propose a new model rule to create an exam validity extension program for investment adviser representatives that pairs with the IAR CE program. The project group was pleased to see the rule make its way through the internal and public comment processes, and ultimately for it to be adopted by Membership at the Spring Meeting in Washington, DC in April 2023.

The Project Group has continued its dialogue with members of industry regarding investment adviser fee reasonableness, a topic for which guidance has been published and made available on the NASAA website. Project Group members spoke to regulatory groups and to the Securities and Exchange Commission’s Investor Advisory Committee during the year as well. Mandatory arbitration clauses are a focus, and the Project Group is reviewing the positions taken by different states in this regard.

The Project Group’s 2024 priorities will include continuing to engage investor advocacy and industry groups to discuss the evolving nature of investment adviser fee models; considering the impact of mandatory arbitration clauses in investment adviser contracts; monitoring SEC rule proposals to amend or add to investment adviser rules and forms; proposing a model rule related to investment adviser marketing; collaborating with the broker-dealer section to assess model rules of joint concern; proposing a model rule related to client trusted contacts for investment advisers; reviewing recordkeeping rules related to custody of client funds or securities; and discussing and pushing forward on other topics of interest to the investment adviser and regulatory communities.

RESOURCES & PUBLICATIONS PROJECT GROUP

Lindsay M. Fedler (WI), Co-Chair; April Odom (TN), Co-Chair; Greg Carlson (MN); Jeff Eaby (CO);
 Alfreda Evans (NV); Joseph Joslin (AR); Judith Keilp (NJ); Holly Mack-Kretzler (WA);
 Elizabeth Mullin (CT); Kenny Nelson (MA)

The Resources and Publications Project Group spent early 2023 working on the IA Section's Annual Report covering 2022 and some 2023 activities and the 2023 Investment Adviser Survey. The Annual Report highlights the state-registered investment adviser industry, trends in registration, regulator outreach events for investment advisers and other financial professionals, and all the work performed by the Section and its project groups. It also incorporates some of the data from the Investment Adviser Survey conducted each year.

Following a productive virtual project group meeting in 2022, the project group met in-person in Denver, Colorado in April 2023 to work on reviewing data collected in the 2023 IA Survey, drafting and revising compliance articles for state registered investment advisers on record keeping

requirements, fees, and other topics, and the training presentation for IA Training.

At the end of June 2023 Co-chairs April Odom and Lindsay M. Fedler presented on writing effective deficiency letters and referrals to enforcement at the Investment Adviser training in St. Louis, Missouri, and conducted a writing workshop together on the same topic. April also presented on exit examinations for withdrawing firms. Both presentations and the workshop were well-received by attendees.

For 2024, the Resources and Publications Project Group looks forward to the publication of its compliance articles and working with the IA Section on additional compliance topics and education for financial professionals, as well as updating the IA Survey and future reports.

TRAINING PROJECT GROUP

William Baldwin (WA), Co-Chair; Aaron Cooper (MS), Co-Chair; Dave Barker (WY); Trisha Bernier (RI); Adam Hillier (AB); Lauren Hitt (AL); Dylan Landes (VA); Kelly Lent (CT); Jennifer Miller (AR); Veronica Rodriguez (CO); Kirsten Soltner (PA); Lindsey Stout (KY); Judy Watkins (NJ); James Apistolas (NASAA), Lead Staff Liaison; Lonnie Martin (NASAA), Staff Liaison

The Training Project Group plans an annual interactive program which focuses on investment adviser regulation for regulators across jurisdictions. Additionally, the project group produces webinars along with other training materials throughout the year.

The 2023 NASAA Investment Adviser Training was a three-day event held June 27 to 29, 2023, in St. Louis, Missouri. The hybrid training engaged 153 in-person and 250 virtual attendees, boasting increased overall participation compared to the 2022 hybrid training event.

The virtual training included sessions that focused on the role of third-party service providers, DEI, new investment adviser fee structures, and the

SEC marketing rule. For in-person participants, training also included a critical thinking and writing workshop.

Lastly, the Project Group presented one webinar with two more scheduled later in the year. The first webinar, 'Examination Request & Core Documents', was designed to assist new examiners prepare for an examination and understand some of the concepts, especially related to document requests and supplemental information. The Project Group has scheduled dates and times for the other two webinars for September 20 and November 8.

ZONES PROJECT GROUP

Zone 1 (Northeast) Chris Dagley (MA); Zone 2 (Southeast) Aaron Cooper (MS);
 Zone 3 (Mid-Atlantic) Nathan Houtz (PA); Zone 4 (Central) Will Pultinas (OH);
 Zone 5 (South Central) Tommy Green (TX); Zone 6 (Mountain) Javier Gonzales (NM);
 Zone 7 (Western) Colleen Heaney (CA); Zone 8 (Canadian) Doug Harris (NS)

Member jurisdictions within NASAA have been separated into eight zones, and the Zones project group is comprised of eight project group members, each assigned to one zone. IA Zones maintains a zone communication system, including electronic communication and quarterly calls for each zone region. In addition, IA Zones coordinates information sharing among the jurisdictions and between the NASAA corporate office and the NASAA members on issues of importance regarding investment advisers, as well as identifies issues of importance in the investment adviser area, such as patterns, trends, issues, and best practices.

During the reporting year, the project group sent out several surveys and compiled the results for the following NASAA groups: IA Training Project Group, IA Resources & Publications Project Group, NASAA IA Annual Survey, and IA Section.

The project group played an important role in communication and connection among the eight zones. The group held 14 quarterly zone calls throughout the

jurisdictions, an increase from the previous year. These recurring quarterly meetings have continued to be successful as jurisdictions continue to work remotely and allow them to stay connected to examination trends and best practices.

As part of the Investment Adviser Training, IA Zones facilitated the discussions for the eight zones breakout sessions for the in-person attendees in St. Louis, Missouri. This conference showcased the invaluable contribution of IA Zones in fostering collaboration, identifying important issues, and promoting excellence within the investment adviser regulatory community.

In recognition of the importance of inclusivity and accessibility for all member jurisdictions and to ensure that members who were unable to attend the physical event could still benefit from the valuable discussions, the project group organized three virtual calls in August 2023. These virtual calls covered similar topics to those discussed during the in-person sessions, providing an alternative platform for remote participation.

Section 4: Investment Adviser Outreach

Investment Adviser Outreach

NEBRASKA

Nebraska held its annual compliance webinar for its investment advisers, compliance officers, compliance consultants, and legal counsel on August 16, 2022. Mike Cameron, Department Counsel, presented on Nebraska's new advertising rules to adopt the SEC's marketing rule. Mike provided helpful information about the new definition of advertisement, testimonials and endorsements, social media, and performance advertising. The Department has found these compliance webinars to be a useful tool to directly reach its state-registered advisers, and to provide a forum for them to engage with the Department on important compliance issues.

VERMONT

Vermont held its first Investment Adviser Symposium on October 27, 2022. The symposium covered trends in cybersecurity, changes to Vermont's securities regulations, continuing education requirements, and common deficiencies revealed during examinations.

Additionally, as part of our process for registering new IA firms, our examiners meet with each new firm's principal and/or CCO to discuss Vermont's regulations and to review some best practices. We find these meetings give us a good opportunity to discuss common compliance issues that we've noticed in our exams. Jonathan Rajewski, the North American Head of Digital Forensics and Incident Response at Stroz Friedberg (a specialized risk management firm that focuses on cybersecurity issues and more) covered the cybersecurity portion of the symposium while Vermont Securities Division staff covered securities law updates, continuing education, and common deficiencies. The symposium was held virtually over Zoom and was well attended by investment advisers across the state.

TENNESSEE

The Tennessee Securities Division hosted a Regulator Meet and Greet with the SEC, FINRA and a local law firm in December of 2022. State registered investment advisers and broker-dealers were invited to participate in the event, which included panel-style discussions on compliance requirements, education, resources, emerging trends, and cryptocurrencies and commodities. Specific investment adviser topics included the most common exam deficiencies, suggestions on how a firm might prevent deficiencies, and building a culture of compliance. The event also offered opportunities to gain insight into regulators' perspectives and priorities and network. Smaller investment advisers (one to two members) made up the majority of the participants and provided positive feedback after the event.

CONNECTICUT

The Connecticut Department of Banking, Securities and Business Investments Division held a webinar on November 15, 2022, focused on teaching attendees about cryptocurrencies. The presentation started with an overview of the cryptocurrency industry, then covered the SEC's current guidance on cryptocurrency offerings and pending enforcement actions, the Connecticut's perspective, and the efforts of Congress and various other states to regulate cryptocurrency and, in some instances, encourage its continuing adoption. The webinar was one hour and garnered 182 attendees, including 42 DOB employees and 140 industry attendees including representatives from investment advisers, broker-dealer, and law firms.

NORTH CAROLINA

North Carolina conducted two sets of two virtual webinars during 2022. Each webinar covered the same topics so invitees only needed to register for one session for each set. The first set, “Compliance in the Time of COVID, 2nd Edition,” was conducted on January 11 and January 14, with 88 and 77 attendees, respectively. Similarly, the second set, “Compliance in the Time of COVID, 3rd Edition,” was conducted on December 7 and December 9, with 102 and 70 attendees, respectively. Invitations were sent to all state-registered IAs/IARs.

Although the information presented was updated as necessary between the January and December sessions, the agenda for all sessions included opening

remarks by the North Carolina Secretary of State Elaine F. Marshall, an overview of resources for registered investment advisers, recent regulatory developments (including the DOL Fiduciary Rule, SEC Marketing Rule and possible Continuing Education Requirements), fiduciary duty, practice management and the impact of COVID regarding contracts, fees, advertising, disclosures and professional conduct as informed by the Division Examination Program and the continuing pandemic, investing trends, and policies and procedures including supervision, renewals and required reporting.

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 68 state, provincial, and territorial securities administrators in the 50 states, the District of Columbia, Guam, 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: www.nasaa.org

