

Investment Adviser Compliance Alert – Cybersecurity

State-registered investment advisers (“Advisers”) are subject to cybersecurity risk because they rely on the interconnected technological systems and/or networks of service providers such as custodians, broker-dealers, pricing services and other technology vendors. Cybersecurity incidents can result in loss to Advisers, misuse of client information, or client financial harm. Cybersecurity breaches can also be costly to Advisers due to potentially significant business disruptions and/or remediation costs. Although Florida does not have a specific statute or rule expressly addressing cybersecurity requirements, Advisers are fiduciaries who owe their clients a duty of care and a duty of loyalty and are required to minimize risks to clients’ assets under their supervision and care.

Under *Florida Administrative Code (F.A.C.) 69W-600.0131*, Advisers are required to establish, maintain and enforce written policies and procedures reasonably designed to achieve compliance, by the Adviser and its associated persons, with *Chapter 517, Florida Statutes*, and *Division 69W, F.A.C.*¹ Similarly under *F.A.C. 69W-600.014*, Advisers are required to have written procedures to supervise the activities of employees and associated persons of the Adviser that are reasonably designed to achieve compliance with applicable securities laws and regulations.² As a result, cybersecurity risk management measures should be set forth in Advisers’ written compliance manuals and available for inspection by the Office of Financial Regulation during an examination.

The North American Securities Administrators Association (“NASAA”) released a cybersecurity checklist, guide and data inventory which provide Advisers with best practices for addressing cybersecurity risks. These resources can be found at <https://www.nasaa.org/industry-resources/investment-advisers/resources/>. Additional cybersecurity resources are available from the U.S. Cybersecurity & Infrastructure Security Agency at <https://www.cisa.gov/>.

¹ **69W-600.0131 Prohibited Business Practices for Investment Advisers and Their Associated Persons.**(1) The following are prohibited business practices for investment advisers and associated persons pursuant to *Section 517.1215(2), F.S.*, and are deemed demonstrations of unworthiness by an investment adviser or an associated person of an investment adviser under *Section 517.161(1)(h), F.S.*, without limiting that term to the practices specified herein:

...(w) Failing to establish, maintain, and enforce written policies and procedures reasonably designed to achieve compliance, by the investment adviser or its associated persons, with *Chapter 517, F.S.*, and *Division 69W, F.A.C.*

² **69W-600.014 (3)** . . . Investment advisers shall have available for the Office of Financial Regulation at least the following records:

...(j) Written procedures to supervise the activities of employees and associated persons of the investment adviser that are reasonably designed to achieve compliance with applicable securities laws and regulations.