

Rule Summary and Fiscal Analysis (Part A)**Department of Commerce**

Agency Name

Division of Securities

Division

Terri Beardsley

Contact

**77 South High St. 22rd Floor Columbus OH
43215-0000**

Agency Mailing Address (Plus Zip)

614-644-7461

Phone

Fax

tbeardsley@com.state.oh.us

Email

1301:6-3-15.1

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

**Application for investment adviser's license; responsibilities of
licensed investment adviser.****RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **Yes**2. Are you proposing this rule as a result of recent legislation? **No**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **1707.20**5. Statute(s) the rule, as filed, amplifies or implements: **1707.15.1**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

Correct typographical errors, align language with federal law; and limit the length of time a deficient application can remain pending without action.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

All investment advisers with assets under 100 million must be regulated by the states. This rule sets forth the license application procedures and responsibilities for state registered IAs. References to the Form ADV are changed from I and II to 1 and 2; make updates and clarifications to the books and records language, i.e. expanding it to include electronic and internet communications, and expand description of financial statements; align "Qualified client" language with federal law; and, shortening the amount of time an applicant can have a deficient, uncorrected application, to one hundred eighty days. After one hundred eighty days, the division may terminate the application through the IARD.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date: **6/8/2015**

(If the rule is not exempt and you answered NO to question No. 1, provide the

scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

-0-

n/a

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

n/a

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

This rule requires much the same that federally registered investment advisers are required to do. The forms required are done electronically and are the same for every state in which the IA will operate. The ADV form will take about 3-4 hours to complete for the first time. If a fingerprint card is required, it will necessitate traveling to an approved location and mailing the card. The Attorney General's Office website indicates the fee for fingerprinting will be \$25-\$36. Updates to Form ADV are only required as information previously submitted changes, and again, done electronically. The books and records requirements are modeled on the federal books and records requirements. We have been told by an outside vendor that, for a new IA, they would charge \$3000 - \$5000 to complete the application, file Form ADV and set up the new IA with all the required books and records and a compliance manual. Once established, it is estimated to take about two hours per week for a small IA firm to keep the books current and perhaps an hour per day for the largest IAs. Certain client disclosure and contracts are required, which will cause the IA to print off and distribute the information, adding the time and cost of

printing. This can be done electronically (eliminating printing and mailing costs) if the client consents. The rule allows for electronic filing.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **No**

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

As required by R.C. 1707.15.1.