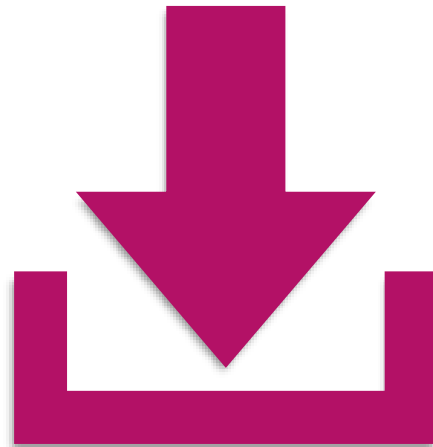


A dark, semi-transparent image of a business meeting. Several people in professional attire are gathered around a table, looking at documents and a laptop. The text 'Mastering SEC's Amendments to Regulation S-P' is overlaid in white. 

# Mastering SEC's Amendments to Regulation S-P

# Download Our Slides

<https://www.ria-compliance-consultants.com/reg-sp-amendments-2024>



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ND; OK; OR; SC; TN; VT; DC; & WI.



## **Effective On 1/1/25:**

U.S. Virgin Islands



# Investment Adviser Rep Continuing Education

This Course Has Been  
Approved by NASAA For 1  
Hour of IAR CE Under Ethics  
Category

# NASAA Disclosure

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# Course Requirements

- ▶ **Login** - You must be logged in during the presentation under your email address.
- ▶ **View Entire Presentation** – You are required to watch the entire live presentation the course.
- ▶ **Attendance Codes** - As you watch the presentation, you will receive two attendance codes, each containing three alphanumeric characters. Save these codes. You will need to enter the full six-character attendance code prior to accessing the final quiz.
- ▶ **Login** – You will need to login into <https://www.CE4Advisers.com> and select/purchase this course.
- ▶ **IAR Acknowledgement** – Sign the IAR CE Acknowledgement & Attestation.
- ▶ **Final Quiz** - You must complete each lesson and receive a score of **70%** on the final quiz to receive IAR CE credit (assuming the course has been approved by NASAA).

# Content Questions & Technical Help

If you have questions about the content of this course or need technical help, please contact us via the email address below:

[ContEd@ria-compliance-consultants.com](mailto:ContEd@ria-compliance-consultants.com)

# Your Instructor



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Compliance Analyst

- ▶ Retired Chief of Registration from the Office of the Kansas Securities Commissioner
- ▶ Former Special Agent for the Kansas Attorney General's Consumer Protection Division

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877-345-4034 x 105



# Course Overview

- ▶ Incident Response Program
- ▶ Client Notification
- ▶ Service Provider
- ▶ Annual Privacy Notice Delivery
- ▶ Disposal of Customer Information
- ▶ Compliance Date

# Limitations & Exclusions

Limited to Investment Adviser Firms Registered with SEC



Does Not Address Requirements of Broker-Dealers or Transfer Agents



RCC Is Not a Cybersecurity Consultant

Investment  
Advisers  
Only  
Registered  
with State  
Securities  
Regulators

Regulation S-P and These Amendments Do  
Not Apply to Firms Which Are Only  
Registered with State



States May Have Similar Requirements



These Requirements Will Likely Become  
Best Practices/Expectations Even If Not  
Explicitly Listed in State Rule

# Regulatory Resources

Federal Register: Regulation S-P: Privacy of Consumer Financial Information and Safeguarding Customer Info:

<https://www.federalregister.gov/documents/2024/06/03/2024-11116/regulation-s-p-privacy-of-consumer-financial-information-and-safeguarding-customer-information>

SEC Fact Sheet Final Rules: Enhancements to Regulation S-P:

<https://www.sec.gov/files/34-100155-fact-sheet.pdf>

SEC Final Rule Release (Regulation S-P: Privacy of Consumer Financial Information & Safeguarding Customer):

[https://www.law.cornell.edu/cfr/text/17/275.206\(4\)-7](https://www.law.cornell.edu/cfr/text/17/275.206(4)-7)



# Regulation S-P Background Adopted by SEC in 2000

- ▶ Requires Written Policies & Procedures to Safeguard Customer Records and Information
- ▶ Requires Proper Disposal of Customer Report Information in a Manner that Protects Against Unauthorized Access to or Use of Such Information
- ▶ Implements Privacy Notice and Opt-Out

# Incident Response Program

Reasonably Designed To Detect,  
Respond To, And Recover From  
Unauthorized Access To Or Use Of  
Customer Information

# Customer Information

Any record containing nonpublic personal information about a customer, whether in paper, electronic or other form, that is in the possession of or that is handled or maintained by the SEC registered investment adviser or on its behalf regardless of whether such information pertains to:

(A) Individuals with whom the SEC registered investment adviser has a customer relationship, or

(B) To the customers of other financial institutions where such information has been provided to the SEC registered investment adviser.

A large group of skydivers in various colorful suits (red, blue, green, yellow, black) are falling against a clear blue sky. They are scattered across the frame, with some in the foreground and others further away, creating a sense of depth and movement. The skydivers are in various poses, some with arms outstretched, others with legs tucked, and some appearing to be in the process of opening their parachutes.

# Rule Provides Flexibility in Designing IRP

Rule Amendments Require Incident Response Program To Contain Certain General Elements But Will Not Prescribe Specific Steps That Must Be Undertaken When Carrying Out Response Activities

# IRP Assessment

- ▶ Procedures for Assessing Nature and Scope of Any Incident Involving Unauthorized Access or Use of **Customer Information**
- ▶ Identify Customer Information Systems & Types of Customer Information Accessed
  - Will Help Develop A Contextual Understanding of Circumstances Surrounding Incident
  - Assessment Should Guide Incident Response Activities
  - Further Identify & Evaluate Existing Vulnerabilities for Elimination

# Incident Response Program Contain & Control



Take Appropriate Steps To Contain And Control The Incident To Prevent Further Unauthorized Access To Or Use Of Customer Information



Objective Is To Prevent Additional Damage From Unauthorized Activity And To Reduce The Immediate Impact Of An Incident By Removing The Source Of The Unauthorized Activity



Strategies For Containing And Controlling An Incident Vary Depending Upon The Type Of Incident

# Contain & Control Examples

- ▶ Isolating Compromised Systems
- ▶ Enhancing The Monitoring Of Intruder Activities
- ▶ Searching For Additional Compromised Systems
- ▶ Changing System Administrator Passwords
- ▶ Rotating Private Keys
- ▶ Changing Or Disabling Default User Accounts & Passwords

# Contain & Control Procedures



Should Provide Framework To Facilitate Improved Decision Making During High-Pressure Incident Response Situations



Should Be Periodically Reviewed To Ensure Reasonably Designed



# Customer Notification

Must Notify Each Affected Individual Whose Sensitive Customer Information Was, Or Was Reasonably Likely To Have Been, Accessed Or Used Without Authorization

# Customer Notification Exception

- After Reasonable Investigation
- Determination by Investment Adviser That **Sensitive** Customer Information Has Not Been, And Is Not Reasonably Likely To Be, Used
- In A Manner That Would Result In Substantial Harm Or Inconvenience

# Sensitive Customer Information

*Any component of customer information alone or in conjunction with any other information, the compromise of which could create a reasonably likely risk of substantial harm or inconvenience to an individual identified with the information.*

# Examples of Sensitive Customer Information

Social Security Number

Driver's License Number

Alien Registration Number

Employer or Taxpayer Identification Number

Biometric Record

Unique Electronic Id Number, Address or Routing Code

Account Number

User Id

Authenticating Information (E.G., Access Code, Credit Card Expiration Date, Partial SSN, Security Code, Security Q&A, DoB, Mother's Maiden Name)

# Reasonable Investigation

- ▶ Depends Upon Circumstances
  - ✓ Internal Access versus External Intrusion
  - ✓ Duration of Incident
  - ✓ Accounts Accessed & At What Privilege Level
  - ✓ Whether & What Type of Customer Information Was Copied, Transferred or Retrieved
- ▶ Intentional Intrusion By Threat Actor May Require More Extensive Investigation Than Inadvertent Access By Employee
- ▶ Cannot Avoid Notification Due To Inconclusive Investigation Results



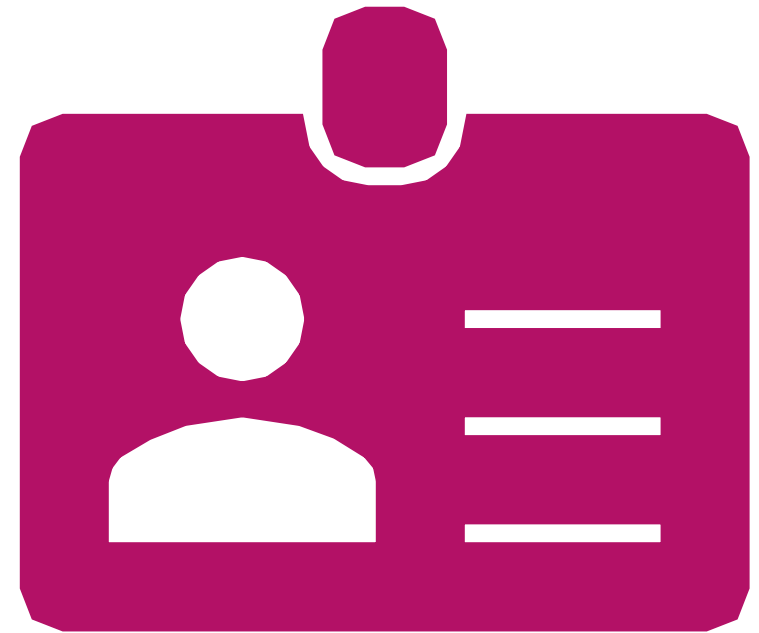
# Clear & Conspicuous Notice



Must Provide **Clear & Conspicuous Notice**, Or Ensure **That Such Notice Is Provided**, To Each Affected Individual Whose **Sensitive Customer Information** Was, Or Is Reasonably Likely To Have Been, Accessed Or Used Without Authorization

# Unable to Identify Specific Individuals

If Unable To Identify Which Specific Individuals' Sensitive Customer Information Has Been Accessed Or Used Without Authorization, Then Investment Adviser **Must Provide Notice To All Individuals Whose Sensitive Customer Information Resides** In The Customer Information System That Was, Or Was Reasonably Likely To Have Been, Accessed Or Used Without Authorization



# Timing of Notification: No Later Than 30 Days

*Notice Must Be Provided To Affected Individuals As Soon As Practicable, But Not Later Than 30 Days, After Becoming Aware That Unauthorized Access To Or Use Of Sensitive Customer Information Has Occurred Or Is Reasonably Likely To Have Occurred*



# National Security & Public Safety Exception to Customer Notification

- ▶ **Initial Notice Delay:** If the U.S. Attorney General determines that the required notice poses a substantial risk to national security or public safety, the notice may be delayed for a period specified by USAG, up to 30 days.
- ▶ **Written Notification:** The determination of risk and the decision to delay the notice must be communicated to the SEC in writing by USAG.
- ▶ **Additional Delay:** The notice may be delayed for an additional period of up to 30 days if USAG again determines that the notice continues to pose a substantial risk and provides written notification to SEC.
- ▶ **Final Delay in Extraordinary Circumstances:** In extraordinary circumstances, the required notice may be delayed beyond the initial and additional periods, as determined necessary by USAG.

# Customer Notification Content

Date & Description of Incident Including Type of Sensitive Information Accessed or Used

Contact Information (Toll-Free Number, Email Address, Postal Address & Contact Person)

Recommendation To Review Account Statements & Report Any Suspicious Activity

Explanation How To Place A Fraud Alert in Credit Report

Recommendation To Periodically Obtain Credit Report

Information regarding FTC & Encouragement to Report Incidents to FTC

Steps An Affected Individual Can Take To Protect Against Identity Theft

## P&P for Due Diligence of Service Providers

Investment Adviser Should Establish, Maintain And Enforce Written Policies And Procedures Reasonably Designed To Require Oversight, Including Through Due Diligence On And Monitoring, Of Service Providers, Including To Ensure That The Investment Adviser Satisfies The Customer Notification Requirements

# Service Provider Definition

*Any Person Or Entity (**Including An Affiliate**) That Receives, Maintains, Processes, Or Otherwise Is Permitted Access To Customer Information Through Its Provision Of Services Directly To An Investment Adviser*



# Service Provider Must Protect & Notify



Service Provider Must Protect Against Unauthorized Access To Or Use Of Customer Information **And Provide Notification To The Investment Adviser As Soon As Possible, But No Later Than 72 Hours After Becoming Aware Of A Breach In Security** Has Occurred Resulting In Unauthorized Access To A Customer Information System Maintained By The Service Provider

Investment  
Adviser  
Must Ensure  
Appropriate  
Measures  
Taken by  
Service  
Provider

Rule Doesn't Specifically Require Contractual Agreement Between Service Provider and Investment Adviser



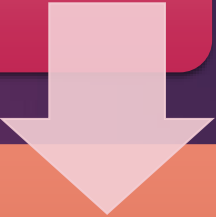
Rule Requires Investment Adviser's Incident Response Program's Policies and Procedures To Be **Reasonably Designed to Ensure**

Protect Against Unauthorized Access Of Customer Information

Provide Notification Within 72 Hours Of Becoming Aware Of Breach of Customer Information System

## SP's Notice Triggers IA's Incident Response Program

Upon Receipt Of Service Provider's Notification Of Unauthorized Access, Investment Adviser Firm Must Initiate Its Incident Response Program



Investment Adviser Firm Needs To Ensure Affected Individuals (Subject to Unauthorized Access or Use of Sensitive Customer Information) Are Timely Notified Of Incident

## IA May Enter Into Written Agreement With SP To Notify Affected Individuals

- IA Must Ensure That Affected Individuals (Subject to Unauthorized Access or Use of Sensitive Customer Information) Are Notified Of Incident (Even When Using SP to Notify)
- IA's Policies And Procedures Should Include Steps For Conducting Reasonable Due Diligence To Confirm SP Has Notified Affected Individuals
  - *Copy Of Notification & List Of Affected Clients Receiving Notification*
  - *Attestation By SP That Notification Was Sent To Affected Clients*
  - *Confirmation With A Sample of Affected Individuals That Notification Was Received*



# Exception for Delivery of Annual Privacy Notice

- ▶ Only Provides Nonpublic Personal Information to Nonaffiliated Third Parties in Accordance with § 248.13 (Service Providers & Joint Marketing), § 248.14 (Processing & Servicing Transactions), or § 248.15 (Other Exceptions) **and**
- ▶ Have Not Changed Policies And Practices With Regard To Disclosing Nonpublic Personal Information From The Policies And Practices That Were Disclosed To The Customer
- ▶ To Extent Investment Adviser Changes Its P&P With Respect to Disclosing Nonpublic Personal Information, Investment Adviser With Need to Provide Customers with Privacy Notice – See Rule For Specific Details

# Definition of Disposal

- ▶ Discarding Or Abandonment Of Consumer Information Or Customer Information; Or
- ▶ Sale, Donation, Or Transfer Of Any Medium, Including Computer Equipment, On Which Consumer Information Or Customer Information Is Stored

# Disposal of Customer Information

Must Properly Dispose Of Customer Information By Taking Reasonable Measures To Protect Against Unauthorized Access To Or Use Of Information In Connection With Disposal

Must Adopt And Implement Written Policies And Procedures Addressing Proper Disposal Of Customer Information

# Final Rule

Publication Date: 06/03/2024

Effective Date: 08/03/2024

# Compliance Dates

## **Small Firm**

Investment Adviser  
Registered with SEC and  
Less Than \$1.5 Billion of  
Assets Under Management:

***June 3, 2026***

## **Large Firm**

Investment Adviser  
Registered with SEC and 1.5  
Billion of Assets Under  
Management or Greater:

***December 3, 2025***

# Action Steps

**Update Compliance Manual** To Include An Incident Response Program And New Due Diligence Requirements For Service Providers With Access To Customer Information, Privacy Notice Delivery & Disposal of Customer Information

**Update Agreements With Service Providers** To Protect Sensitive Customer Information, Notify (Within 72 Hours) Investment Adviser Of Any Incidents And Whether And How Service Provider Will Notify (Within 30 Days) The Client Of Any Breaches

**Update Initial And Ongoing Due Diligence Questionnaires** Of Service Providers With Access To Sensitive Customer Information As Related To Cybersecurity And Breaches

**Train** Applicable Staff Members Of New Requirements

# Questions

Please submit any question online or email with any questions about the content of this course.

[ContEd@ria-compliance-consultants.com](mailto:ContEd@ria-compliance-consultants.com)



Thank You

