

# RIA Compliance Consultants



Compliance Programs – How to Ensure Yours is Strong

## Strategic Alliance Members



### **Bridge Financial Technology**

Automation-focused software designed to streamline back office functions.



### **Unitifi**

Modern solution for financial professionals to fulfill their fiduciary responsibility to know and understand their client.



### **Lockton Affinity, LLC**

Insurance Solutions for member based organizations.

The determination to use the services or products of a Strategic Alliance member is an important decision and should not be based solely upon a member's participation in our Strategic Alliance Program. RIA Compliance Consultants is not affiliated with these Strategic Alliance members, does not control or supervise the services or products of the Strategic Alliance member and reference to these Strategic Alliance members does not mean that RIA Compliance Consultants has performed any level of due diligence on the Strategic Alliance member's services or products. As with any service provider, clients are urged to perform their own due diligence on the Strategic Alliance members listed on this page. Each registered investment adviser should perform its own independent investigation and evaluation to make sure that the Strategic Alliance member is the best fit for its firm.

## Presentation Disclosures

- Although the sponsor of this presentation, RIA Compliance Consultants, Inc. (“Sponsor”), is an affiliate of a law firm and Sponsor may have an individual on its staff that is also licensed as an attorney providing legal services in a completely separate capacity, Sponsor is **not** a law firm and does **not** provide legal services or legal advice. A consulting relationship with Sponsor does not provide the same protections as an attorney-client relationship.
- This presentation is offered for educational purposes only and should not be considered an engagement with Presenter or Sponsor. This presentation should not be considered a comprehensive review or analysis of the topics discussed today. These materials are not a substitute for consulting with an attorney or compliance consultant in a one-on-one context whereby all the facts of your situation can be considered in their entirety.
- Despite efforts to be accurate and current, this presentation may contain out-of-date information. Additionally, Presenter and Sponsor will not be under an obligation to advise you of any subsequent changes.
- Information provided during this presentation is provided "as is" without warranty of any kind, either express or implied, including, without limitation, warranties and merchantability, fitness for a particular purpose, or non-infringement. Presenter and Sponsor assume no liability or responsibility for any errors or omissions in the content of the presentation.



# 2021 RIA Compliance Connection

## Presentation Disclosures

- Information provided during this presentation relates solely to the Investment Advisers Act of 1940 and the rules thereunder and, at times, we may reference similar state securities rules and regulations specific to registration as an investment adviser. Certain circumstances or arrangements you may have may warrant you to consider other regulations that may apply including, but not limited to: the Investment Company Act of 1940; the Securities Act of 1933; the Securities Exchange Act of 1934; ERISA and other Department of Labor regulations; federal or state laws and regulations and self-regulatory (e.g., FINRA) rules for broker-dealers and registered representatives/securities agents of broker-dealers; and state insurance rules and regulations. The Sponsor of this presentation does not provide any advice or consulting services outside the scope of the Investment Advisers Act of 1940 or similar investment adviser state securities rules and regulations. If you need advice regarding any other rules or regulations, the Sponsor recommends that you consult with an attorney or consultant that specializes in those specific rules or regulations.
- There is no guarantee or promise that concepts, opinions and/or recommendations discussed will be favorably received by any particular court, arbitration panel or securities regulator or result in a certain outcome.
- To the extent that you provide RCC with your email address, it will be added to RCC's electronic newsletter mailing list regarding compliance issues for investment advisers. You may opt out at any time by calling RCC at 877-345-4034 or clicking at any time the "unsubscribe" link on the electronic newsletter.
- Communication with today's webinar presenter is not protected by attorney-client privilege. Please keep questions during this seminar in a hypothetical form. This seminar session and/or the presentation materials may be recorded, copied and/or shared with third parties and/or posted to our public website.

# 2021 RIA Compliance Connection

## Why Do Investment Advisers Need Strong Compliance Programs?

- 2004 SEC adopted Rule 206(4)-7 that requires SEC registered investment advisers to:
  - adopt and implement written policies and procedures reasonably designed to prevent violation of the Advisers Act by the adviser or any of its supervised persons
  - Review, no less frequently than annually, the adequacy of the policies and procedures and the effectiveness of their implementation; and
  - Designate an individual (who is a supervised person) as the Chief Compliance Officer responsible for administering the adopted policies and procedures.

<https://www.sec.gov/rules/final/ia-2204.htm>

- State securities regulators – States also require firms to have written policies and procedures. NASAA Model Rule for Investment Adviser Written Policies and Procedures Under the Uniform Securities Acts of 1956 and 2002 was adopted November 2020. Combined various rules that required written procedures (i.e., Compliance Policies and Procedures, Supervisory Policies and Procedures, Proxy Voting Policies and Procedures, Code of Ethics, Material Non-Public Information Policy and Procedures, Business Continuity and Succession Plan). Investment advisers must:
  - Establish, maintain, and enforce written policies and procedures tailored to the investment adviser’s business model, taking into account the size of the firm, type(s) of services provided, and the number of locations of the investment adviser;
  - Review, no less frequently than annually, the adequacy of the policies and procedures established and the effectiveness of their implementation; and
  - Designate a supervised person as the chief compliance officer responsible for administering the investment adviser’s policies and procedures.

<https://www.nasaa.org/wp-content/uploads/2020/07/NASAA-IA-PandP-Model-Rule-and-Sample-Compliance-Grid.pdf>

# 2021 RIA Compliance Connection

## Why Do Investment Advisers Need Strong Compliance Programs?

- As stated in the SEC Office Of Compliance Inspections and Examinations (OCIE) Risk Alert, “OCIE Observations: Investment Adviser Compliance Programs,” from November 19, 2020, “Deficiencies related to the Compliance Rule have been among the most common cited by OCIE.” Some of common deficiencies found include:
  - Inadequate Compliance Resources (i.e., CCOs who had numerous other professional responsibilities and did not devote sufficient time to fulfilling responsibilities as CCO, compliance staff did not have sufficient resources to implement effective compliance programs, compliance staff and resources not consistent with growth size and complexity growth of the investment adviser)
  - Insufficient Authority of CCO (i.e., CCO restricted from access to critical compliance information, CCOs had limited interactions with senior leadership, CCOs not consulted regarding matters that had potential compliance implications)
  - Annual Review Deficiencies (i.e., lack of evidence of review, failure to identify or review key risk areas, failure to review significant aspects of the adviser’s business)
  - Implementing Actions Required by Written Policies and Procedures (i.e., employee training; compliance procedures regarding trade errors, advertising, best execution, conflicts, disclosure; advertising material reviews; following compliance checklists and other processes; client account reviews)
  - Maintaining Accurate and Complete Information in Policies and Procedures (i.e., outdated or inaccurate information, unrelated or incomplete information)
  - Maintaining or Establishing Reasonably Designed Written Policies and Procedures (i.e., either didn’t have any or didn’t properly tailor and address all firm related risks)

[https://www.sec.gov/files/Risk%20Alert%20IA%20Compliance%20Programs\\_0.pdf](https://www.sec.gov/files/Risk%20Alert%20IA%20Compliance%20Programs_0.pdf)

## Why Do Investment Advisers Need Strong Compliance Programs?

- NASAA – “Supervision” in top 10 deficiencies in 2011, 2013, 2015, 2017, and 2019. If you look at breakdown of what types of supervision deficiencies, most involve the firms’ compliance/supervisory programs (e.g., failure to periodically assess and update, failure to follow, inadequate procedures in various areas).

<https://www.nasaa.org/industry-resources/investment-advisers/compliance-findings/>

## Key Elements that Must Exist to Ensure a Strong Compliance Program

- Strong Culture of Compliance – Buy-in from Top Down
- Knowledgeable CCO with adequate authority and resources
- Strong tailored/customized **WRITTEN** policies and procedures
- Policies and procedures are assessed and updated on a regular basis – at least annually



## Potential Discussion Questions

- Have you assessed your firm's culture of compliance?
- Are challenges faced regarding having adequate resources?
- Does everyone in the firm know how to access the firm's policies and procedures?
- How often are your firm's policies and procedures actually referenced?
- Does your firm have all supervised persons acknowledge receipt, understanding, and agreement to comply with your firm's policies and procedures? How frequently is this updated?
- Do you do compliance training? Who? How? When? What is typically covered?
- Who all is involved in developing the firm's policies and procedures?

## Potential Discussion Questions

- Who conducts the annual assessment?
- How is the annual assessment conducted?
- How is the annual assessment documented?
- Has your firm done a risk assessment and is it documented?
- How frequently is the risk assessment reviewed and updated?
- Have you customized/tailored your compliance program to your firm?
- Do you know what is in your manual and are you sure it is being implemented as written?
- Has each compliance task in your manual been assigned to someone?
- Do you have a compliance calendar to track and assign deadlines to different tasks?
- How do you track the different compliance tasks, the responsible party, and due date?
- Is your firm's compliance approach proactive or reactive?

## Resources

- SEC Final Rule: Compliance Programs of Investment Companies and Investment Advisers  
<https://www.sec.gov/rules/final/ia-2204.htm>
- NASAA Model Rule for Investment Adviser Written Policies and Procedures Under the Uniform Securities Acts of 1956 and 2002 <https://www.nasaa.org/wp-content/uploads/2020/07/NASAA-IA-PandP-Model-Rule-and-Sample-Compliance-Grid.pdf>
- OCIE National Exam Program Risk Alert – The Five Most Frequent Compliance Topics Identified in OCIE Examinations of Investment Advisers, February 7, 2017 <https://www.sec.gov/ocie/Article/risk-alert-5-most-frequent-ia-compliance-topics.pdf>
- SEC OCIE Risk Alert, “OCIE Observations: Investment Adviser Compliance Programs,” from November 19, 2020 [https://www.sec.gov/files/Risk%20Alert%20IA%20Compliance%20Programs\\_0.pdf](https://www.sec.gov/files/Risk%20Alert%20IA%20Compliance%20Programs_0.pdf)
- NASAA Coordinated Examinations: Investment Advisers <https://www.nasaa.org/industry-resources/investment-advisers/compliance-findings/>
- November 19, 2020 Speech, “The Role of the CCO – Empowered, Senior and With Authority” by Peter Driscoll, former Director of the Office of Compliance Inspections and Examinations  
<https://www.sec.gov/news/speech/driscoll-role-cco-2020-11-19>
- October 2007 speech by Lori Richards, former Director of the Office of Compliance Inspections and Examinations for the U.S. Securities and Exchange Commission (“SEC”) <http://www.sec.gov/news/speech/2007/spch101807lar.htm>
- April 18, 2013 speech by former SEC Commissioner, Luis A. Aguilar  
<http://www.sec.gov/News/Speech/Detail/Speech/1365171515784#.Ufggn1Yo4dU>

## Resources

- RCC Written Supervisory Policies and Procedures and Code of Ethics Drafting Support Services (Full or Updates) [https://www.ria-compliance-consultants.com/investment\\_advisor\\_compliance\\_registration\\_services/investment\\_advisor\\_advisor\\_sec\\_rule\\_204a-1\\_code\\_of\\_ethics\\_compliance\\_policies\\_manual\\_written\\_supervisory\\_procedures/](https://www.ria-compliance-consultants.com/investment_advisor_compliance_registration_services/investment_advisor_advisor_sec_rule_204a-1_code_of_ethics_compliance_policies_manual_written_supervisory_procedures/)
- RCC's Annual Review or Mock Regulatory Review Service <https://www.ria-compliance-consultants.com/annual-review-mock-regulatory-review/>
- RCC's RIA Express Compliance Review tool (included in certain annual compliance program packages) [https://www.ria-compliance-consultants.com/investment\\_advisor\\_compliance\\_registration\\_services/annual\\_compliance\\_program\\_investment\\_advisor/](https://www.ria-compliance-consultants.com/investment_advisor_compliance_registration_services/annual_compliance_program_investment_advisor/) and [https://www.ria-compliance-consultants.com/ria\\_express\\_investment\\_advisor\\_compliance\\_tools/ria\\_express\\_investment\\_advisor\\_or\\_compliance\\_technology\\_manual\\_adv\\_drafter\\_annual\\_review/ria-express-compliance-review/](https://www.ria-compliance-consultants.com/ria_express_investment_advisor_compliance_tools/ria_express_investment_advisor_or_compliance_technology_manual_adv_drafter_annual_review/ria-express-compliance-review/)
- RCC's Written Supervisory & Compliance Policies & Procedures FAQs [https://www.ria-compliance-consultants.com/frequently\\_asked\\_questions/faq\\_investment\\_advisor\\_advisor\\_wsp\\_written\\_supervisory\\_compliance\\_policies\\_procedures/](https://www.ria-compliance-consultants.com/frequently_asked_questions/faq_investment_advisor_advisor_wsp_written_supervisory_compliance_policies_procedures/)
- RCC's Recorded Webinars <https://www.ria-compliance-consultants.com/product-category/recorded-webinars/>
- RCC Newsletter/Blog Articles [https://www.ria-compliance-consultants.com/the\\_regulatory\\_maze/](https://www.ria-compliance-consultants.com/the_regulatory_maze/)

## Strategic Alliance Members



### **Bridge Financial Technology**

Automation-focused software designed to streamline back office functions.



### **Unitifi**

Modern solution for financial professionals to fulfill their fiduciary responsibility to know and understand their client.



### **Lockton Affinity, LLC**

Insurance Solutions for member based organizations.

The determination to use the services or products of a Strategic Alliance member is an important decision and should not be based solely upon a member's participation in our Strategic Alliance Program. RIA Compliance Consultants is not affiliated with these Strategic Alliance members, does not control or supervise the services or products of the Strategic Alliance member and reference to these Strategic Alliance members does not mean that RIA Compliance Consultants has performed any level of due diligence on the Strategic Alliance member's services or products. As with any service provider, clients are urged to perform their own due diligence on the Strategic Alliance members listed on this page. Each registered investment adviser should perform its own independent investigation and evaluation to make sure that the Strategic Alliance member is the best fit for its firm.

## Connect With Us

[www.ria-compliance-consultants.com](http://www.ria-compliance-consultants.com)

[www.Facebook.com/riacompliance](http://www.Facebook.com/riacompliance)

[www.YouTube.com/riacompliance](http://www.YouTube.com/riacompliance)

[www.linkedin.com/company/ria-compliance-consultants-inc](http://www.linkedin.com/company/ria-compliance-consultants-inc)