

# Regulation Overview

## SEC Rule 206(4)-7



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Under Rule 206(4)-7, it is unlawful for an investment adviser registered with the SEC to provide investment advice unless the adviser has adopted and implemented written policies and procedures reasonably designed to prevent violation of the Advisers Act by the adviser or any of its supervised persons. The rule requires advisers to consider their fiduciary and regulatory obligations under the Advisers Act and to formalize policies and procedures to address them.

### WHO IS AFFECTED BY SEC Rule 206(4)-7?

Investment advisers registered or required to be registered under section 203 of the Investment Advisers Act of 1940.

### WHAT ARE THE REQUIREMENTS OF SEC Rule 206(4)-7?

The rule requires that policies and procedures be reasonably designed to prevent violation of the Advisers Act, and need only encompass compliance considerations relevant to the operations of the adviser. Rule 206(4)-7 requires each registered adviser to review his or her policies and procedures annually to determine their adequacy and the effectiveness of their implementation. The review should consider any compliance matters that arose during the previous year, any changes in the business activities of the adviser or its affiliates, and any changes in the Advisers Act or applicable regulations that might suggest a need to revise the policies or procedures. Although the rule requires only annual reviews, advisers should consider the need for interim reviews in response to significant compliance events, changes in business arrangements, and regulatory developments.

Rule 206(4)-7 requires each adviser registered with the Commission to designate a Chief Compliance Officer (CCO) to administer its compliance policies and procedures. An adviser's Chief Compliance Officer should be competent and knowledgeable regarding the Advisers Act and should be empowered with full responsibility and authority to develop and enforce appropriate policies and procedures for the firm.

### WHEN IS SEC Rule 206(4)-7 LAW?

The law went into effect February 5 2004.

### WHAT ARE THE PENALTIES FOR SEC Rule 206(4)-7 NON-COMPLIANCE?

The SEC may invoke penalties ranging from censure to a one year suspension to the revocation of registration should an investment advisor be found to have violated any section of the Act, omitted any material information, or to have violated any provision of the Securities Exchange Act of 1934 - which includes SEC 17a-4. Civil penalties can be invoked for both the advisor and his supervisory organization. CEO's and CCO's are now also considered liable for not minding the store. Monetary fines for civil penalties use a three tiered system based on the gravity of the offense. Fines for advisors range from \$5,000-\$100,000 per offense, and for the supervisory organization from \$50,000-\$500,000 per offense.

An investment adviser shall not be deemed to have violated the provisions of this subparagraph (13) because of his failure to record securities transactions of any advisory representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

### HOW DO FIRMS COMPLY WITH SEC Rule 206(4)-7?

Each adviser, in designing its policies and procedures, should first identify conflicts and other compliance factors creating risk exposure for the firm and its clients in light of the firm's particular operations. Then the adviser should design policies and procedures that address those risks. At a minimum, an adviser's policies and procedures should address the following issues to the extent that they are relevant to that adviser:

- Portfolio management processes, including allocation of investment opportunities among clients and consistency of portfolios with clients' investment objectives, disclosures by the adviser, and applicable regulatory restrictions;
- Trading practices, including procedures by which the adviser satisfies its best execution obligation, uses client brokerage to obtain research and other services ("soft dollar arrangements"), and allocates aggregated trades among clients;
- Proprietary trading of the adviser and personal trading activities of supervised persons
- The accuracy of disclosures made to investors, clients, and regulators, including account statements and advertisements;
- Safeguarding of client assets from conversion or inappropriate use by advisory personnel;
- The accurate creation of required records and their maintenance in a manner that secures them from unauthorized alteration or use and protects them from untimely destruction;
- Marketing advisory services, including the use of solicitors;
- Processes to value client holdings and assess fees based on those valuations;
- Safeguards for the privacy protection of client records and information;
- Business continuity plans.

Rule 206(4)-7 does not require advisers to consolidate all compliance policies and procedures into a single document. Nor does it require advisers to memorialize every action that is taken in order to remain in compliance with the Advisers Act. In some cases, it may be enough for the compliance policies and procedures to allocate responsibility within the organization for the timely performance of many obligations, such as the filing or updating of required forms.

### WHAT DOES ZL TECHNOLOGIES PROVIDE?

ZL's compliance platform provides a comprehensive set of tools to comply with Rule 206(4)-7 of the Investment Advisers Act, including:

- Email archiving and WORM storage
- Email retention policy management
- Email search and discovery
- Email storage management
- Email attachment management
- Permissions-based access to email

ZL Technologies provides an all-in-one solution which stores data on virtually any non-rewriteable device (CD-R, DVD-R, and magneto optical disc, et al). A comprehensive and hierarchically searchable index is automatically generated for headers, message body, size, and attachments. By providing a full auditor application, ZL Technologies enables internal or external auditors to capture specific mails and generate an annotated thread for tracking the entire review lifecycle. ZL Technologies can capture all email records, store them in a tamper-proof way, maintain privilege-based access control to data, and allow quick, compound searches, discovery, and retrieval for administrators and auditors.

While ensuring the highest levels of security is a primary consideration, the day-to-day practicality and usability of our solution is also at the forefront of our design considerations.

To address this requirement, ZL's solution is completely gateway and server based making it transparent to senders. Since there is no change in user experience, no training is necessary. In addition, ZL does not require recipients to download or install any software, applets, or ActiveX components onto their system. While many other solutions might claim they do not require any downloads, they might require applets or other installed components to run properly, potentially interfering with network firewalls and certain operating systems. ZL truly requires no such downloads, transparent or otherwise.

Administrators benefit from a fully automated system, which can be set to manage the entire life cycle of registering, maintaining, and renewing users. ZL Technologies' full suite of automated end-user registration and authentication technologies provide maximum flexibility by tying to existing standards such as SSO, SAML, LDAP, Active Directory, and other centralized authentication schemes. These can be stored on directory servers, databases, PIN servers, or other structures. ZL Technologies also enables self-administration by users of their passwords or keys depending upon which security module is deployed. The burden for administrators operating the system is dramatically reduced.

With compliance capabilities tightly matched to the requirements of Rule 206(4)-7, as well as other SEC regulations, ZL Technologies helps meet the regulatory compliance needs of investment advisors and their firms.

### ABOUT ZL TECHNOLOGIES

Established in 1999, ZL Technologies, Inc. (ZL) provides cutting-edge enterprise software solutions for email archiving, regulatory compliance, litigation support, corporate governance, content management, file archiving, and secure email. ZL's flagship product, the Unified Archive, offers comprehensive email and file archiving and management for companies using Lotus Notes/Domino, Microsoft Exchange, Bloomberg, and others. The suite provides a highly flexible framework that is fully scalable, enabling organizations of all sizes to meet legal discovery, compliance, and storage management requirements. With a proven track record and an impressive list of clients, including Walgreens, Bank of New York Mellon, Pacific Life, and Morgan Keegan, among other top global institutions, ZL has emerged as the premier provider of email archiving and compliance solutions. For more information, please visit [www.ZLTI.com](http://www.ZLTI.com)

**To learn more about how ZL Technologies can help you take control of your data, call us at 408.240.8989 or visit us online at [www.ZLTI.com](http://www.ZLTI.com)**