

[Securities Regulation Daily Wrap Up, BROKER-DEALERS— NASAA adopts model business continuity rule for advisers, \(Apr. 23, 2015\)](#)

Securities Regulation Daily Wrap Up

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NASAA has adopted a state model rule and related guidance concerning business continuity and succession planning for investment advisers. The model rule and guidance are intended to ensure that smaller advisers fulfill their responsibilities under state securities laws to protect their clients and mitigate any client harm in the event of a significant interruption to the adviser's business, such as from utility outages, natural disasters, terrorist acts, or other types of disturbances. The NASAA membership adopted the model rule at NASAA's Public Policy Conference on April 13.

The [model rule and guidance](#) are written pursuant to Section 203 of the Uniform Securities Act of 1956 and Section 411 of the Uniform Securities Act of 2002. As discussed in NASAA's original [proposing release](#), NASAA takes the view that a very specific, prescriptive rules-based approach does not apply equally to each state-registered investment adviser. NASAA also believes, however, that a broad rule was necessary to require some sort of business continuity and succession plan, and that every plan should include certain general elements.

Model rule. The model rule requires each adviser to establish, implement, and maintain written procedures relating to a business continuity and succession plan. The plan must be based upon the facts and circumstances of the investment adviser's business model, including the size of the firm, the types of services provided, and the number of locations of the investment adviser. The plan must provide for at least the following:

- the protection, backup, and recovery of books and records;
- alternate means of communication with customers, employees, and regulators;
- office relocation, if necessary;
- assignment of duties to responsible persons in the event of the death or unavailability of key personnel; and
- methods to minimize service disruptions and client harm.

Model guidance. The model guidance is intended to assist advisers in creating a specific business continuity plan that complies with the general and broad model rule but is tailored in a manner that is appropriate and cost-effective to their business models. Critical elements that advisers should consider adding to business continuity plans are highlighted in the guidance. The guidance also includes a series of case studies that are designed to provide another way for advisers to consider how unexpected events will affect their business.

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