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I. INTRODUCTION^{1/}

This outline covers three topics: (i) investment adviser and broker-dealer's codes of ethics; (ii) the recently issued NSCP Code of Ethics – Standards of Professional Conduct and Guidance for Compliance Professionals; and (iii) certain issues regarding SEC Regulation S-P.

II. CODES OF ETHICS

A. Investment Advisers

Since January 2005, investment advisers have been required to adopt codes of ethics pursuant to Rule 204A-1 under the Investment Advisers Act of 1940. The rule requires investment adviser codes of ethics to contain certain minimum provisions, including a section regarding standards of business conduct, compliance with applicable federal securities laws, recording and reviewing certain personal securities transactions and holdings, reporting of violations, and obtaining written acknowledgement of receipt of the code and any amendments.

Investment adviser codes of ethics typically include the following kinds of provisions:

1. An executive summary or similar statement describing the firm's ethical precepts;
2. A section defining those persons at the adviser covered by the codes;
3. A description of the firm's standard of business conduct, including, among other things:
 - a. compliance with the federal securities laws;
 - b. conflicts of interest;
 - c. prohibition against insider trading;
 - d. policies regarding gifts and entertainment;
 - e. protection of confidential information; and
 - f. policies and procedures regarding personal securities trading.
4. Provisions regarding reporting of violations of the code and sanctions for such violations;
5. Provisions regarding the firm's recordkeeping obligations; and
6. An acknowledgement of receipt of the code and an annual certification of the same.

^{1/} This outline was prepared by Ben A. Indek, a partner of Morgan, Lewis & Bockius LLP and does not necessarily reflect the views of the other panelists or their companies. This outline was prepared in August 2007.

B. Broker-Dealers

While broker-dealers are not obligated by either SEC or SRO rules to develop and adopt codes of ethics, many firms do have such materials. The topics generally covered in such codes are similar to those outlined above.

C. Source Material

The provisions of Rule 204A-1 are fully described in SEC Release No. IA-2256 (July 2, 2004). A copy of this Release is attached to this outline.

Clear and concise guidance concerning the development and adoption of investment adviser codes of ethics can be found in the July 20, 2004 “Best Practices for Investment Adviser Code of Ethics” published by the Investment Advisor Association. A copy of that document is attached to this outline.

III. THE NSCP CODE OF ETHICS – STANDARDS OF PROFESSIONAL CONDUCT AND GUIDANCE FOR COMPLIANCE PROFESSIONALS

A. Background

On May 17, 2007 the NSCP Board of Directors approved for publication a final draft Code of Ethics. NSCP members were invited to comment on the document; the comment period ended on June 29, 2007.

B. Code of Ethics Provisions

The Code of Ethics contains 10 sections that describe the ethical issues faced by compliance professionals. Each of these sections is briefly described below.

1. Preamble

This section explains the coverage of the Code and its application. Of note, the Preamble states that the Code has been prepared for all compliance professionals without regard to the size of their firm’s Compliance Department or their roles.

2. Professional Qualifications

Here, the Code states that compliance professionals should have the knowledge, skills and abilities to competently perform their responsibilities. Compliance professionals should also be provided with adequate authority and resources to carry out their roles.

3. Professional Responsibility

As an over overall theme, the Code states that compliance professionals should act responsibly and ethically in monitoring, testing and reporting on their firms’ compliance systems. In discharging these responsibilities, the Code suggests that compliance professionals avoid conflicts of interest, preserve confidences, perform their duties with care and loyalty, and encourage a culture of compliance.

This section of the Code also provides guidance on the responsibilities of compliance professionals, including encouraging their firms to develop and implement reasonable systems of supervision, assisting their organizations in creating appropriate policies and procedures, participating in the testing and monitoring of compliance systems, helping firms identify and develop mechanisms for highlighting, reporting and responding to compliance issues, and striving to enhance a culture of compliance.

4. Conflicts of Interest

This section of the Code includes provisions regarding personal trading, gifts, compensation, allegations against compliance professionals and monitoring compliance professionals' own conduct. The guiding themes to these sections are that compliance professionals should avoid any actual conflict of interest or the appearance of such conflicts.

5. Independence

Here the Code suggests that compliance professionals should perform their duties in an independent manner.

6. Confidentiality

The Code cautions that compliance professionals should only disclose information conveyed to them in confidence to outsiders when permitted by management or when compelled by law.

7. Reporting Up of Compliance Concerns

Where a compliance professional properly reports violations to management, but senior executives fail to take appropriate steps, the officer should consider additional appropriate steps, including disclosure of the matter to the Board of Directors, resignation or disclosure to regulatory authorities. Compliance professionals who are also attorneys must take into account applicable attorney codes of professional responsibility.

8. Playing Multiple Roles Within a Firm and Working for Multiple Entities

The Code provides guidance to those compliance professionals who play multiple roles within a firm or work for multiple entities.

9. Special Considerations for Small Firms

This section of the Code provides guidance for small firms in the areas of self-testing, self-monitoring, self-supervision, compensation and conflicts of interest.

10. Other Considerations

The Code concludes with a recitation of various other considerations, including reliance upon experts and the standard of care expected of compliance professionals. It is important to point out that the Code explicitly states that it "is not intended to create a standard of care or liability and should not be so applied."

C. Source Material

A copy of the NSCP Code – Standards of Professional Conduct and Guidance for Compliance Professionals is attached to this outline.

An excellent description of the role and responsibilities of compliance professionals can be found in the October 2005 SIFMA publication entitled "White Paper on the Role of Compliance." A copy of this document is attached to this outline.

IV. REGULATION S-P

A. Background

SEC Regulation S-P concerns the sharing, protection and disposal of client data and information. This section highlights certain recent issues regarding Regulation S-P.

B. SEC and SRO Exam Priority

Over the last several years, the SEC and NASD and NYSE Regulation have included reviews of firms' compliance with Regulation S-P in routine examinations. As an example, in its May 2006 "Improving Examination Results" publication, the NASD stated that Regulation S-P "continues to be a focus of review by examiners" and that recent incidents of computer security breaches highlight the need for adequate on-line safeguards. For its part, the SEC has been conducting a sweep at both broker-dealers and investment advisers concerning policies and procedures for preventing identity theft.

C. Industry Reminders

In NASD Notice to Members 05-49 (July 2005) the NASD reminded member firms of their obligations concerning the protection of client information in light of changes in technology and alternative work arrangements. In particular, the NASD provided guidance concerning firms' obligations in connection with the use of Wi-Fi and remote access of computer systems by firm employees.

D. Enforcement Actions

While there have not yet been any significant Regulation S-P enforcement actions, two issues are notable in this area.

First, both the NASD and NYSE Regulation have included alleged Regulation S-P violations in settled enforcement actions. In August 2005, the NASD announced a settlement with Nalico Equity Corporation, in which the firm was alleged to have violated several capital and books and records requirements. In addition, the NASD alleged that the firm's supervisory systems and procedures were inadequate with respect to, among other things, compliance with Regulation S-P. Nalico was censured and fined \$30,000. In September 2006, NYSE Regulation sanctioned Stifel, Nicolaus, for, among other things, alleged non-compliance with certain sections of Regulation S-P. Specifically, for several months in 2003, the firm provided confidential client information, including social security numbers, to a vendor as part of its anti-money laundering policies and procedures. However, Stifel was alleged to have failed to enter into a confidentiality contract with that vendor. In addition to the Regulation S-P issue, the firm's settlement involved several other matters, including research report disclosures and review of e-mail communications. The firm was censured and fined \$100,000.

Second, in March 2006 media reports surfaced disclosing that the SEC was contemplating enforcement action against NEXT Financial Group Inc. for alleged Regulation S-P consumer privacy violations and aiding and abetting violations by the brokers it had recruited. Specifically, the SEC had apparently expressed concerns regarding the firm's practice of directing brokers it recruits to provide client information to the firm in anticipation of those registered representatives moving to the firm. As of the development of this outline, the SEC appears not to have taken any action against NEXT. This issue is further complicated by recent NASD Notice to Members 07-06, which sets forth certain protocols that firms should consider in recruiting new brokers, including obtaining information regarding such individuals' "scope of business." According to some experts in the area, gathering such information may lead to a firm unwittingly aiding and abetting violations of Regulation S-P. See "NASD Account Transfer Guidance Points Up a Catch-22" published in the March 26, 2007 Investment News.

E. Source Material

A copy of Notice to Members 05-49 is attached to this outline.

The NYSE Regulation case against Stifel, Nicolaus (06-178) is attached to this outline.

A copy of the March 22 Investment News article entitled “NASD Account Transfer Guidance Points Up a Catch-22” is attached to this outline.