



# 2022 Annual Compliance Meeting



- INTERNAL USE ONLY -

***Transparency and Compliance with  
the Law are factors of further  
development***

***- Christian Wolff***



- ◆ Meet Karen Lessard
- ◆ SEC Marketing Rule
- ◆ Advisor Custody
- ◆ Firm Regulatory Activity
- ◆ Cybersecurity
- ◆ Regulation Best Interest
- ◆ Continuing Education Changes
- ◆ 2022 Branch Audit Update
- ◆ General Compliance Updates
- ◆ Product Compliance
- ◆ Notes from Supervision
- ◆ Monthly Billing
- ◆ Recent Regulatory Enforcement
- ◆ Reminders

# Presenters

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**Jill Zacha**

*Corporate Counsel*

*Level Four Advisory Services, LLC, Chief Compliance Officer*

*Level Four Capital Management, LLC, Chief Compliance Officer*

**Stacey Lavender**

*Level Four Financial, LLC Chief Compliance Officer*

*AML Compliance Officer*

**Kimberly Miller**

*Managing Director, Compliance*

*Chief Compliance Officer, Carr, Riggs and Ingram Capital Advisors, LLC.*

**Gregg Overstake**

*Branch Manager / Supervisory Principal*

**Ernest Tannis**

*Branch Manager / Supervisory Principal*

**Chrystal Badillo**

*Branch Manager / Supervisory Principal*

**Al Tadeo**

*Branch Manager / Supervisory Principal*

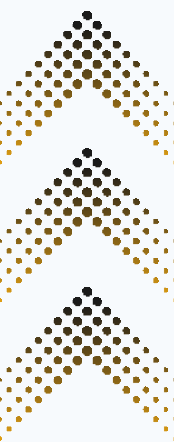
**Thadius Beavers**

*Branch Manager / Supervisory Principal*

**Molly Flynn**

*Compliance Associate*

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# **New Addition to the Level Four Compliance Team**

**Karen Lessard**  
**Branch Manager, Supervisory Principal**

Karen serves as a Supervisory Principal/Branch Manager for both Level Four Financial and Level Four Advisory Services. Karen comes to Level Four with 20 years of financial industry experience, starting her career on the sales side as a receptionist and then transitioning to compliance during 2014 as a Regional Support Specialist with Southwest Wealth Advisory Group. Just prior to joining Level Four Karen was a Branch Manager at Messick Peacock & Associates where she was responsible for supervisory oversight of the firm's representatives and advisors. In addition to her compliance background, Karen is also a US Army veteran. In the Army she was a Unit Supply Specialist and Property Book Manager. She holds the FINRA Series 7, 24, 63, 65 and 9/10 licenses.

**WELCOME Karen!!**

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# SEC Marketing Rule

Compliance Date: November 4, 2022



# SEC Marketing Rule

The new Rule 206(4)-1 amends and replaces BOTH

- ◆ 206(4)-1 (Advertising Rule- adopted 1961)
- ◆ 206(4)-3 (Solicitation Rule – adopted 1979)

The new Rule also seeks to provide general clarity, and replaces existing guidance

The Marketing Rule was previously covered in the [May](#) and [June](#) Level Four Newsletter and also in our Q2, 2022 Compliance [Webinar](#).

Additional information on the Marketing Rule may be found [here](#).

# Updated vs Existing Rules



## Testimonials and Endorsements

### ◆ Old

- Testimonials Prohibited
- Standalone Rule
- Triggered by cash compensation
- Written agreement required
- Form ADV 2A distribution required

### ◆ New

- Testimonials permitted subject to certain conditions
- Combined with Advertising Rule
- Triggered by cash and non-cash compensation
- Written agreement required
- NO Form ADV 2A distribution
- No signed disclosure acknowledgement from clients & prospects

# SEC Marketing Rule

## Testimonials and Endorsements

**Are Endorsements on LinkedIn considered testimonials or endorsements under the new Marketing Rule?**

Probably not anymore. Personal social media pages cannot market the firm's advisory services or it can be attributed to the firm and considered a testimonial. Use of "like", "share" or "endorse" features on a third party website or social media platform would not necessarily implicate the rule.

However, can't be a paid "endorsement."

**Are statements by a public relations firm on behalf of an RIA considered a "testimonial"?**

No.

# SEC Marketing Rule

## Testimonials and Endorsements

**Are lead generators or adviser referral networks considered “promoters” under the new Marketing Rule?**

If the lead generating firm contacts prospective clients to schedule appointments with the RIA or otherwise provides information regarding the services of the RIA, it would likely be considered a promoter even if done for a flat fee.

- ✓ Disclosures required to clients/prospects
- ✓ Written agreement between the lead generating firm and the RIA
- ✓ Lead generating firm could not be disqualified or otherwise ineligible

If the lead generating firm matches investors with one or more advisers compensating it to participate in the service, then it is also likely considered a promoter.

If the lead generating firm compiles a list of leads and sells them to the RIA, they are probably not considered a promoter and subject to the new Marketing Rule.

# Updated vs Existing Rules

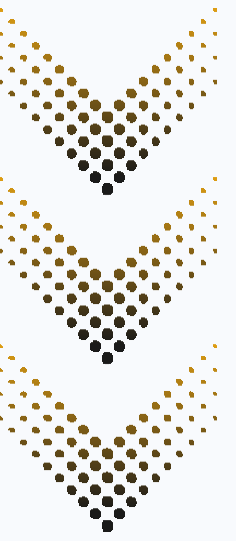
## Marketing & Advertising

### ◆ Old

- Performance displayed net/gross
- No prescribed time periods for performance
- Hypothetical performance generally permitted

### ◆ New

- Performance must be net of fees, certain exceptions
- Prescribed 1, 5, 10-year performance data points
- Hypothetical performance is generally prohibited





# Advisor Custody



# Advisor Custody



## Consequences of being subject to the Custody Rule

- ◆ Regulatory reporting requirement – ADV
- ◆ Subject to a surprise custody exam – cost is typically \$15,000
- ◆ Higher risk level for regulatory radar (SEC)

9/2022 - SEC Charges Two Advisory Firms for Custody Rule Violations, One for Form ADV Violations, and Six for Both. The press release from the SEC is available [here](#).

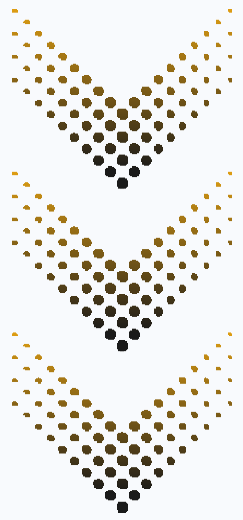
SEC Penalty included, Censure, Cease and Desist and civil penalties totaling more than \$1 mil.

# Advisor Custody (Cont.)



## Examples of Custody:

- ◆ Having standing letters of authorization to make payments to **third** parties (SEC 2017 No Action letter issued to the Investment Advisor Association) \*\*
- ◆ Having client login credentials or access to change client credentials
- ◆ Acting as general partner or managing member of a pooled investment vehicle (where RIA clients are invested)
- ◆ Having a client loan the Advisor money (assuming the client is not in the business of making loans like a bank or mortgage lender)
- ◆ Going into business with an RIA client (i.e., purchasing real estate together and managing the property)



# Advisor Custody (Cont.)

## **\*\*Custody Rule SEC 206(4)-2 – Standing third party letters of authorization**

According to an SEC no action letter issued in February 2017 ( Investment Adviser Association, February 21, 2017 (sec.gov), a standing 3rd party letter of authorization is deemed to be custody but will not require an annual surprise examination if (7) considerations are met: (most are satisfied by custodian)

1. The client provides an instruction to the qualified custodian, in writing, that includes the client's signature, the third party's name, and either the third party's address or the third party's account number at a custodian to which the transfer should be directed.
2. The client authorizes the investment adviser, in writing, either on the qualified custodian's form or separately, to direct transfers to the third party either on a specified schedule or from time to time.

# Advisor Custody (Cont.)

3. The client's qualified custodian performs appropriate verification of the instruction, such as a signature review or other method to verify the client's authorization, and provides a transfer of funds notice to the client promptly after each transfer.
4. The client has the ability to terminate or change the instruction to the client's qualified custodian.
5. The investment adviser has no authority of ability to designate or change the identity of the third party, the address or any other information about the third party contained in the client's instruction.
6. The investment adviser maintains records showing the third party is not a related party of the investment adviser or located at the same address as the investment adviser.

\*\*Must use LFAS [Custody Attestation Form](#) found on the Firm's Intranet

7. The client's qualified custodian sends the client, in writing, an initial notice confirming the instruction and an annual notice reconfirming the instruction.



# Firm Regulatory Activity



# FINRA Exam (On-going)

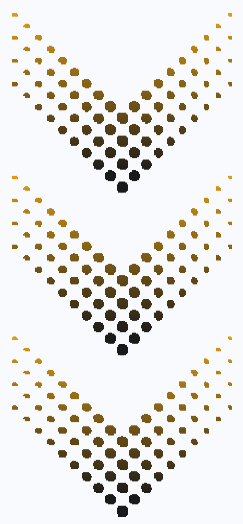


The Level Four Financial FINRA Exam is *finally* wrapping up. Their focus for 2022 was...

- ◆ Cybersecurity
- ◆ Regulation Best Interest (RegBI)
- ◆ Financial Operations & Net Capital
- ◆ Variable Annuities
- ◆ Mutual Fund Break Points & Switches
- ◆ General Sales Practice

**The firm responded to 79 individual Exam requests over a period of 7 months**

**Several were directed to our Advisors/Reps**



During the exam, FINRA requested information relating to specific transactions...



# FINRA Exam



## Transaction Explanation Request (Example 1) – RegBI Review

The attached example transaction includes the purchase of ProShares Short S&P 500, an inverse ETF. Per the fund’s website, the securities is not intended to be held longer than 24 hours, but at the time the firm blotter was provided to FINRA staff, it had been held for 120 days.

Please provide the following:

1. A written rationale from the RR for the security being held for longer than one day.
2. A written explanation from the RR how this activity is in the best interest of the client.
3. A description for how the client’s account has been affected by this transaction (positively/negatively).
4. A written explanation from the firm for how this type of activity (securities with short/long holding periods) are monitored.



# FINRA Exam (Cont.)



## Transaction Explanation Request (Example 1 – Follow-up 1) – RegBI Review

### Request is a follow-up to request item #4123102.

1. The response provided from the RR acknowledges that the product rebalances daily. For leveraged inverse ETFs, extended holds of the product can negatively affect the client's account due to this daily rebalance. For example, a comparison of the product on its purchase date (11/30) to present day (8/18) against the benchmark shows the benchmark is down approximately 6%, but the product is up only approximately 3%. As the fund seeks a -1x of the index, it is underperforming its stated objective. Did the RR consider alternative products that rebalances less often? If so, why did the RR determine the daily rebalancing product was a better choice for the client?
2. Does the client currently maintain this investment (as of 8/18)? If not, on what date and for what price was it sold?
3. The firm stated it uses exception reports from the clearing firm to monitor this activity. Please provide the name of the report that is utilized for this review.
4. Provide a description of the report parameters set to identify this activity?
5. Provide a copy of the report that identified this transaction, as well as evidence of the firm's review.



# FINRA Exam (Cont.)



## Transaction Explanation Request (Example 1 – Follow-up 2) – RegBI Review

Please provide the LF172 Inverse ETF Affidavit completed by the customer.



# Cybersecurity



# Cybersecurity

2022 Cybersecurity Statistics are **FRIGHTENING!!**



- ✓ Due to the pandemic, nearly 60 percent of internet users have reported an elevated risk of a data breach.
- ✓ Cybersecurity statistics show that the total damage caused by cybercriminals is expected to reach \$6 trillion in 2022.
- ✓ Every 39 seconds one cyber attack takes place worldwide.
- ✓ Globally one ransomware attack occurs every 14 seconds.
- ✓ More than 75 percent of targeted cybercrimes begin with a malicious email.



# Cybersecurity (Cont.)



## FINRA's Focused on our Reps as part of their Cybersecurity Exam...

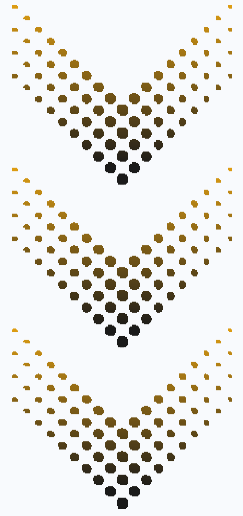
- Are RRs allowed to use their own network servers, email applications, personal phones, and removable devices (USB drive, external DVD drive, etc.)?
  - If yes, is there a request/approval process that the RRs must adhere to prior to using removable devices and downloading with customer confidential data? If so, please describe the process and specify the portable devices the RRS are permitted to use, whether they are encrypted and the device disposal process after use.
- How does the firm prevent malicious executables from being downloaded onto the personal computer, releasing ransomware, viruses, etc.?
- Are there EDR agents installed on the pcs? If so, please describe the solution and enabled features and the team that performs the ongoing monitoring.



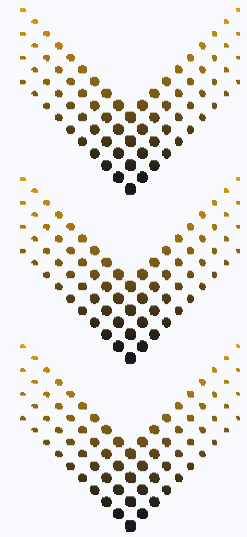
# Cybersecurity (Cont.)



- Please describe how the firm monitors the RRs personal computers for malicious/illegal activity?
- Please describe what security controls must be applied to the RR's isolated networks/servers?
- Are RRs permitted to have their email solutions separate from the home office?
  - If yes, please describe the email security controls the home office mandates that should be in place? (e.g.: MFA, DLP ( scanning inbound/outbound emails, isolating inbound malicious emails, auto encryption on emails and attachments, disabling instant messaging to non-employees, etc..) email gateway, enabled DMARC and SPF settings, alert settings, etc.)
- Does the firm track all personal computers that access, process, archive customer confidential data?




# (SECURE) Email




When sending email outside of the firm that contains Personal Identifiable Information (PII) (example: SSN#, Account Number and DL#). Send it (SECURE)

To encrypt an email message type (SECURE) or [SECURE] in the subject line.

 <b>Send</b>	<b>From</b> ▼	kmiller@levelfourfinancial.com
	<b>To...</b>	
	<b>Cc...</b>	
	<b>Subject</b>	(SECURE) How to Encrypt an Email

The receiving party will receive an encrypted email that looks like this:

Subject: You have a new encrypted message from "Kimberly Miller" <[kmiller@levelfourfinancial.com](mailto:kmiller@levelfourfinancial.com)>



"Kimberly Miller" <[kmiller@levelfourfinancial.com](mailto:kmiller@levelfourfinancial.com)> has sent you an encrypted message via Message Pickup Center.

**Subject** : (SECURE) How to Encrypt an Email  
**Sent** : July 2, 2021 10:49:10 AM, EDT  
**Expires** : August 1, 2021 10:49:14 AM, EDT

You have **30 day(s) left** to collect this message before it expires.

[Click here to open](#)

# Cybersecurity (Cont.)

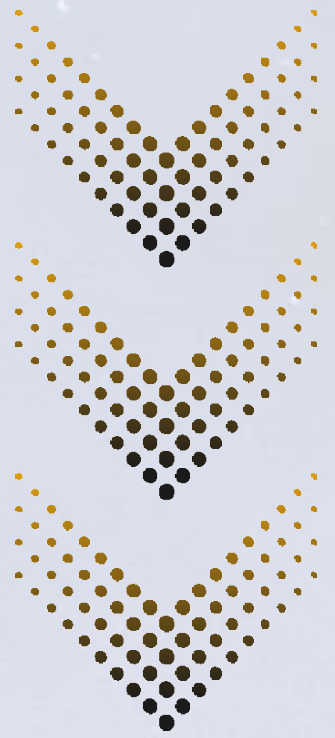
## Phishing

- **70% of all Spear Phishing emails are opened by the recipient!!**
- **One of the most common Cybersecurity threats affecting firms.**
- **May take a variety of forms, but all attempts try to convince the recipient to provide information or take action.**
- **Fraudsters try to disguise themselves as a trustworthy entity or individual via email, IM, phone call, etc. where they request PII**
- **Advisors should contact Level Four immediately if they detect malicious activity on their system.**





# Cybersecurity (Cont.)



## Malware/Ransomware

- Malware includes (viruses, spyware, worms) designed to cause damage to a computer.
- Originates from Phishing emails.
- Ransomware is a highly sophisticated malware that encrypts a Firm's files, databases, and applications to prevent access until Firm's pay a "ransom" to the fraudster.

## Imposter Websites

- Fraudsters use registered representative's names, firm information or both to establish websites to market services and products.
- These sites attempt to steal both personal information and investor funds by leading site visitors to believe they are investing in a legitimate business or product



# Continuing Education Changes



# Continuing Education - Brokerage

## Regulatory Element CE Required Annually Starting in 2023.

- If you currently have a CE window open with FINRA that has a window end date in 2023, then you don't have to take the CE in 2022. Every registered person's CE window will reset on January 1, 2023 with a window end date of December 31, 2023.
- Everyone has the same due date each year to complete CE, December 31st.
- Everyone will do their CE via their FinPro account.
- Assigned Courses will be based on registration categories and your role within the firm.

# Continuing Education - Advisory

## IAR CE Requirement

**2020 NASAA** (*North American Securities Administrators Association*) created a model rule to set parameters that states **COULD** implement CE programs for Investment Advisor Representatives (IARs).

If adopted, IARS will be required complete, annually, the following:

6 Credits of IAR Regulatory and Ethics content +

\*6 Credits of IAR Products & Practice content

\*Annual FINRA CE covers the Products and Practice content

# Continuing Education - Advisory

States that have adopted the rule (as of 10/2022)

Arkansas

Kentucky

Maryland

Michigan

Mississippi

Nevada

Oklahoma

Rhode Island

South Carolina

Vermont

Washington DC

Wisconsin

- ✓ Level Four Advisory Services is an SEC registered investment Advisor
- ✓ IARs are required to be registered in their home state only (*Exceptions are Texas & Louisiana*)
- ✓ If you have customers in the listed states, but are not REGISTERED in those states, you are not currently subject to the IAR CE Rule



# 2022 Branch Audits



# 2022 Branch Audits



**Its been a busy year for Branch Audits!**

**Branch Managers audited 36 branches, which included 64 of our registered producers, during 2022. This represented 56% of our producers across both LFF and LFAS.**



<b>Top 5 Exceptions Noted</b>	<b># Of Reps</b>	<b>% Of Reps</b>
<b>Failed to update Signage/Business Cards/Websites/Email/social media with proper disclosures</b>	30	47%
<b>Computer Standards/Cyber Security Related Finding</b>	21	33%
<b>OBA's Disclosure Issues</b>	19	30%
<b>Not registered in required States</b>	12	19%
<b>Voicemail Message required update</b>	9	14%

# 2022 Branch Audits



**Not in Top 5 but notable exceptions!**



<b>Top 5 Exceptions Noted</b>	<b># Of Reps</b>	<b>% Of Reps</b>
<b>Risk Tolerance Concerns for elderly clients</b>	9	14%
<b>Failure to Disclose Website or Social Media Site</b>	6	9%
<b>Failed to Notify Firm of Required U4 Updates</b>	6	9%
<b>Failure to Perform all Annual Reviews</b>	5	8%

**2023 Branch Audits will start in February, Please be responsive when contacted!**



# General Compliance



# Compliance Alerts

**Sending Compliance Alerts is one of the ways that Compliance communicates with our Advisors and field staff.**

Our records show that only 40% of Compliance Alerts are opened

All Compliance Alerts come from: [info@levelfourfinancial.com](mailto:info@levelfourfinancial.com)

✓ **(Please whitelist this address!!)**

Recent Alerts include:

- ✓ Trade Errors
- ✓ 529 Due Diligence Procedures
- ✓ Exchange Traded Products

All Compliance Alerts are published on the Firm's Intranet.

Consequences of not reading alerts can result in negative financial implications (losses, fines)!



Home

Meet Us

Meet Us

Brokerage Forms

Advisory Forms

RJ Forms Library

Compliance

**Compliance Alerts**

Reg BI

Marketing



# Third-Party Money Movements



- ◆ Raymond James recently updated its money movement procedures to further protect clients, branches, and the firm from more sophisticated types of wire fraud.
- ✓ Raymond James no longer accepts Standing Letters of Authorization (SLOAs) for wires.
- ✓ SLOAs will only be accepted for Journals and Checks.
- ✓ Not following the firm's policies and procedures for money movements may result in potential custody violations.





# Wiring Funds



- ◆ Before requesting any wire transfer, the Account Information and Client Agreement MUST be on file.
- ◆ Wiring funds from client accounts is done through the **RJ Money Movement System**.
- ◆ The first time a wire is sent from an RJ account to a unique ABA and bank account number combination, an LOA and attestation to receiving verbal verification from the client will be required.
- ◆ **Form 1495 (Wire Transfer Authorization for Money Movement)** can be used as the LOA for wire transfers.
- ◆ **Form 1514 (Money Movement Wire Letter of Authorization)**, which can be generated after entering a wire request in Money Movement, can also be used.
- ◆ After the client signs the initial LOA, he or she will not have to fill out an LOA for any of the succeeding wires made to the same recipient (same bank ABA and account number) as long as succeeding wires are sent within a rolling 13 months.



# Wiring Funds (Cont.)



- ◆ Upon entry into the RJ Money Movement system, all wires require attestation of receiving verbal client instructions.
- ◆ Some wires will also require attestation of receiving verbal client instructions upon Branch Principal review.

**NOTE: Raymond James' requirements are separate from Level Four Financial requirements. Please remember, BOTH Raymond James and Level Four Financial require paperwork for money movements.**

- ◆ Level Four Financial requires a signed Letter of Authorization for our internal records and should be directed to [admin@levelfourfinancial.com](mailto:admin@levelfourfinancial.com).

# Check Deposit Policy

All acceptable checks **MUST be deposited the same day they are received in the branch.**

**Acceptable checks:** Issued From an **Individual, Business, or Entity Account**

**Payable to acceptable options:** Checks **MUST** be made payable to one of the following payees:

- **Raymond James & Associates or RJ&A**
- **Raymond James or RJ**
- **Raymond James & Co.**
- **Raymond James Trust Co. or Raymond James Trust Co of New Hampshire ( RJTCNH)**

**Note:** Including “Inc.” at the end of any of the above is acceptable



# Unacceptable Checks



**The firm is not able to accept checks with the following issues:**

- ◆ An altered check
- ◆ A temporary or starter check
- ◆ A check payable to Cash
- ◆ A check that is not signed by the issuer on the signature line
- ◆ A check which is stale dated (no more than 6 months unless otherwise specified on the check)
- ◆ Checks made payable to the Financial Advisor or the branch support company
- ◆ Foreign currency traveler's checks
- ◆ US Traveler's checks

# Unacceptable Checks (Cont.)



The firm is not able accept checks with the following issues:

**A check made payable to a 529 plan name**

**Example** - Check made payable as “American Funds FBO John Doe CSDN” or “Danny Doe” and the Raymond James registration is “John Doe CSDN, FBO Danny Doe”.

**Note:** Checks written to fund companies are sent directly to the fund company and not to Level Four.

**Foreign checks - these must be overnighted to Home Office**

**Fourth-party checks**

**Example** - Check, that is made payable to a party, who then endorses the check over to your client, who then endorses the check to Raymond James & Associates)

# Unacceptable Checks (Cont.)

Checks may **NOT** be made payable to any of following entities.

- **\*Raymond James Financial Services or \*RJFS**
- Raymond James Bank or RJB
- Raymond James Brokerage
- Raymond James Limited or RJL (RJ's Canadian subsidiary)
- Raymond James Investments or RJI
- Raymond James Securities or RJS
- Level Four Financial, LLC
- Level Four Advisory Services, LLC *(Unless for Financial Planning Agreement)*

**The Advisor will be required to return these checks to the client immediately.**

# Digital Signatures

With the increased usage of DocuSign, the issue of digital signatures has come to the regulatory forefront.

- ◆ When sending a document to be signed via DocuSign, you must send the documents to the client's email address and they sign on their computer and a different IP Address.
- ◆ We verify this via the documentation that is included with the DocuSign form.
- ◆ If found that it was signed by someone other than the client, it could be considered forgery or falsification. This can result in termination of your registration with Level Four and/or regulatory fines, suspensions and possible expulsion from the industry.





# Product Compliance



# Exchange Traded Products (ETP)



Per the Firm's Written Supervisory Procedures (WSP), LFF and LFAS **DOES NOT ALLOW** the purchase, **either solicited or unsolicited**, of Exchange Traded Products (ETP) deemed to be **Category 3** by Raymond James.

**Category 3 ETP are typically (but not limited to)**

- 1. All VIX related Product**
- 2. 2X or higher, positive or negative ETF's**
- 3. Commodity Futures based products**
- 4. Overly complex and deemed generally not suitable to retail investors**
- 5. Single stock ETF's**

Purchase of these products in a client account will be cancelled and trade error loss will be charged to the Advisor.

# Exchange Traded Products (ETP)

System limitations prevent Raymond James from being able to restrict trading in these products for specific firms. **It is the Advisors responsibility to check the system prior to entering an order to confirm it is not a Category 3 Product.**

The screenshot displays the following information:

- Symbol: SQQQ
- Product Name: ULTRAPRO SHORT QQQ NEW
- Status: RESTRICTED (indicated by a red label and a yellow arrow)
- Price: \$58.83
- Change: ↓ (-\$5.55) -8.62%
- Timestamp: as of 10/17/2022 10:04:57 AM
- Category: Compliance Category: 3 (circled in yellow)
- Navigation tabs: OVERVIEW, PROFILE, HOLDINGS, MANAGEMENT, ANALYTICS, RESEARCH, FEES, OPTIONS, RESTR
- Fact Sheet: Morningstar Fact Sheet – Important Client Distribution Information (with an information icon)
- Open Price: \$59.79
- Inception Date: (partially visible)

# Exchange Trade Products (ETP)



## Category 2 ETPs

The firm may approve certain ETP's deemed to be Category 2 ETPs by Raymond James

**Client must receive the "LFF172- "Exchange Traded Product Disclosure" (solicited or unsolicited). Electronic disclosure is on the Disclosure JotForm (aka CRS JotForm)**



Is the client purchasing a Category 2 (as classified by Raymond James) Exchange Traded Product ("ETP") ? \*

Yes

No

**\*\*Disclosure must be sent to client prior to, or at the time of product purchase & Annually if product continues to be held.\*\***

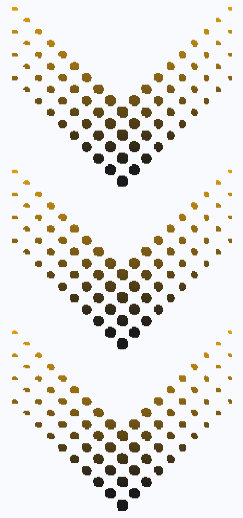
# Exchange Trade Products (ETP)



## Category 2 ETPs

Prior to soliciting this product Financial Advisors must understand the terms and features of the funds, including...

- ✓ how they are designed to perform
- ✓ how they achieve that objective and the impact on their performance or market volatility and the customer's intended holding period.
- ✓ how they are in the best interest of the client



# UIT/Mutual Fund Trading



## Breakpoints

Financial Advisors need to be aware of break points and trade accordingly.

- ✓ If near a breakpoint, send form **LF166**
- ✓ If near a breakpoint, consider an LOI
- ✓ Periodically check accounts to see if ROA are credited on additional purchases and PIPs

# UIT / Mutual Fund Trading

## Switch Letters

### Switch Letters are required if...

- ✓ Switch where CDSC is going to be charged
- ✓ Switch where fund has been held less than 3 years
- ✓ Switch involving a change in risk (Income to Growth)

The Mutual Fund Switch Form ([LFF105](#)) is available on the Intranet.



# 529 Plan Due Diligence



**When recommending any 529 plans, Advisors must comply with suitability and best interest determination procedures. This includes:**

- ✓ State vs. Out of State benefits
- ✓ Expenses
- ✓ State Tax benefits (tax deductions, gift tax advantages, taxes on withdrawals etc.)
- ✓ Investor Needs (K-12 funding needs, etc.)



**With respect to any recommendations regarding plan selection and share class, you must consider:**

- ✓ State of residence.
- ✓ Investment time horizon (including beneficiary's age and anticipated use of funds).
- ✓ Applicable sales charges, expenses, management fees, and breakpoint discounts, including rights of accumulation and letters of intent.

**All new 529 Plan recommendations MUST include the [LF126](#) Form, which you can find on the firm's intranet under "Brokerage Forms".**

- ✓ Account approval may be delayed until form is completed in its entirety.



# Notes from Supervision



# Annual Review (JotForm)



IAR's are required to perform a substantial review of each advisory client at least annually (once every 12 months)

The "Advisory Annual Review" JotForm (Formerly called the LF169) is on the Intranet under **Advisory Forms>LFAS Advisory Account Review Form**.

The JotForm is used evidence that your client has received ongoing investment advice throughout the year.

- ✓ You are able to list multiple accounts or a household of accounts in one submission
- ✓ It's a good place to document if a fee is changing and the reasons for that change
- ✓ IARs can list the reasons that a client is in a specific risk tolerance
- ✓ IARs are able to make notes of your own thoughts as well as those of your client
- ✓ IARs are able to upload your meeting notes, performance reports or any other documents utilized during your meeting.
- ✓ Sales Assistants are able to complete the form using the IAR notes.

**Good News: We can run a report to show you who and when you have conducted a review.**

**Not so Good News: We cannot show the reviews you have not done.**

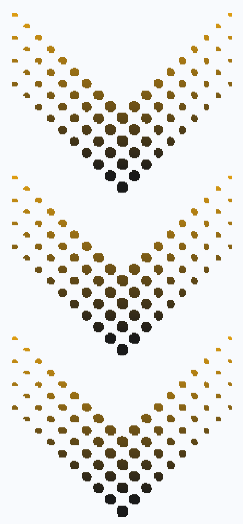


# Advisory – High Cash Balances



**Supervision is monitoring for high cash balances in Advisory accounts. We are looking for the following potential issues:**

- ◆ Accounts charging advisory fees on long standing cash balances.
- ◆ Cash balances that exceed 20% of the account value for more than of 90 days.



**Should cash exceed 20% of the account value and cash balance is not invested (CD's, Treasuries, Laddering, DCA, etc.) then we may need to reimburse advisory fees for the time period the money was not invested.**

# Restrictions on Accounts



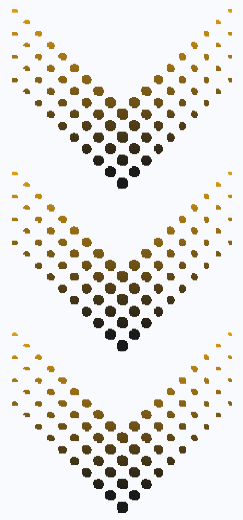
**Recent increase in errors where trades are being executed in restricted accounts.**

**IMPACT** – Level Four Capital Management (LFCM) Accounts

- ◆ LFCM will not aware of trading restrictions placed on an account unless told so by BM or other party.
- ◆ This impacts program trades and oftentimes, multiple trades in an account.

**ACTION** - Rep must notify Operations to report a restricted account.

- ◆ Rep must conduct research to learn specific cause of the restriction and work to remediate.
- ◆ Operations will communicate restrictions to LFCM





# Trade Errors



## Corrections to Equity and Options Trades (Non-Market Sensitive) Rep Managed

The **Raymond James smart form #1721** is required when requesting the following types of corrections to equity and option orders:

- Incorrect Account Number
- Incorrect Account Type
- Incorrect FA Number
- Incorrect Solicited / Discretion Indicator
- Incorrect Commission
- Resolve an Employee Better Price Alert
- Incorrect Fees

**The Raymond James smart form #1848** is required when requesting corrections for **Fixed Income, UIT's, Structured and Convertible Investments.**



# Trade Errors (Cont.)



## Corrections to Equity and Options Trades (Market Action Required) Rep Managed

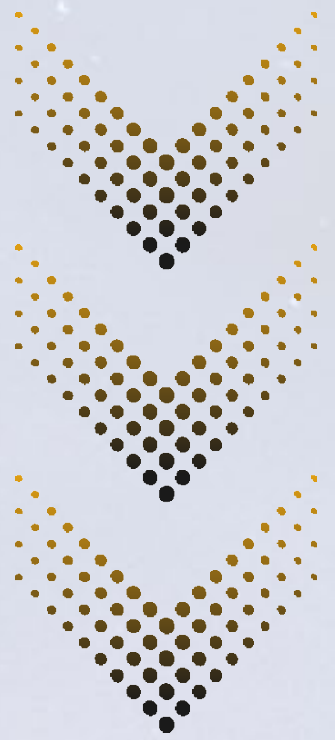
The **Level Four form #LF003**, available on the firm's intranet, is required on the same date that an advisor requests the following types of corrections:

- Price Adjustments
- Trade Date Changes
- Symbol / Cusip Change
- Share Quantity Adjustments
- Straight Cancels

Advisors must contact the Raymond James Equity/Options Trade desk (Ext. 72000 / 72069) in order to correct (or cancel) the trade.



# Trade Errors (Cont.)



## Representative Responsibilities relating to trade errors

Representatives are responsible for trade errors relating to their client accounts and will be allocated any losses that may be incurred as a result of such trade error(s). This includes any errors made by sales assistants under the direction and/or supervision of representatives.

Trades entered by representatives that are in contravention to the firm's policies and procedures will be cancelled and any losses associated with those trades will be the responsibility of and allocated to the associated representative.



# Monthly Billing



# Monthly Billing



## Firm will be moving to monthly billing by end of 2023

- Streamline firm processes and procedures
- Increase transparency to firm advisory clients

## New Advisory Clients

- Beginning January 2023, new advisory clients will be required to sign a strictly monthly billing LFAS Investment Advisory Agreement

## Existing Advisory Clients

- Transition throughout 2023 – quarterly blocks
- 1 page Addendum to the Agreement that client will have to sign
- can be sent through DocuSign
- Any accounts that have not signed Addendum to transition by 12/31/2023 will be converted to brokerage accounts
  - New paperwork will be needed to convert back to RIA





# Recent Regulatory Enforcement



# Regulatory Enforcement



**December 2021** SEC fined JP Morgan **\$125 million** (largest record keeping fine to date) and CFTC fined them \$25 mil for allowing employees to use personal devices to text, use WhatsApp messages and emails about company business



**June 2022 – First Reg BI Enforcement charged Western International Securities, Inc. and (5) of its brokers with violations of Reg BI**

[SEC.gov | SEC Charges Firm and Five Brokers with Violations of Reg BI](#)

Recommended and sold unrated high risk debt (L bonds) to clients who had moderate risk tolerance and limited income – sold \$13.3 mil worth of L bonds even though issuer had indicated bonds were highly illiquid and only suitable for customers with significant income.

# Regulatory Enforcement



## [SEC.gov | Schwab Subsidiaries Mised Robo-Adviser Clients About Absence of Hidden Fees](#)

**June 2022** SEC brought a settled administrative proceeding against (3) Charles Schwab affiliates for **\$187 mil** in penalties for hidden robo advisor fees. Schwab claimed that they utilized a disciplined portfolio construction methodology that would seek “optimal returns” for customers, when in reality, Schwab’s own data showed that under most market conditions, the cash in the portfolios would cause investors to make less money even while taking the same risk.



## [SEC.gov | SEC Charges JPMorgan, UBS, and TradeStation for Deficiencies Relating to the Prevention of Customer Identity Theft](#)

**July 2022** SEC charged JP Morgan, UBS and Trade Station for violations of the SEC’s Identity Red Flags Rule (Regulation S-ID) for the first time since 2018. Firms were charged with not developing robust policies and procedures to identify and prevent identity theft.

**August 2022** SEC Administrative Proceeding against Kovack Advisors, Inc. and a **\$700,000 fine** for allowing wrap accounts to run on “auto pilot.” For over three years, the firm failed to review wrap accounts to determine whether they continued to be in the client’s best interest. Some wrap fee clients with little or no trading activity continued to pay a higher fee than they would have in a non-wrap account.

# Regulatory Enforcement



**August 2022** SEC fined IFP Advisors, LLC **\$400,000** for failing to supervise an investment adviser representative who allocated profitable trades to his personal and family accounts for over seven years. The IAR was barred from the industry, fined **\$300,000** individually and had to disgorge an additional **\$600,000**. [IFP Advisors, LLC \(sec.gov\)](#)



[SEC Charges Kim Kardashian for Unlawfully Touting Crypto Security](#)

# Regulatory Enforcement

## [SEC Charges 16 Wall Street Firms with Widespread Recordkeeping Failures](#)

**September 2022** SEC announced charges and fines totaling **\$1.1 billion** affecting 15 firms /CFTC imposed **\$170 mil** in penalties to 11 firms for the same off channel communications as JP Morgan charges from December 2021

**September 2022** settled charges and imposed a **\$35 mil fine** against a dual registered broker dealer/investment adviser for violations of Reg S-P (federal privacy regulation) relating to inadequate disposal of customer PII in connection with the decommissioning of firm data centers, servers and other projects. [34-95832.pdf \(sec.gov\)](#)

## [Cetera Advisors, LLC \(sec.gov\)](#)

**October 2022** Cetera has been ordered to pay close to **\$9 mil** to settle allegations brought by the SEC against the firm over share class selection and revenue sharing infractions. According to the SEC's complaint, from at least September 2012 through December 2016, Cetera invested and held clients in mutual fund shares classed that charged recurring 12b-1 fees, even when the RIA knew these clients were eligible to invest in lower-cost shares of the same funds without 12b-1 fees.



# Regulatory Enforcement



## September 2022

[SEC Charges nine advisory firms for custody rule violations](#)

SEC Penalty included, Censure, Cease and Desist and civil penalties totaling more than \$1 mil.

**“Non-compliance with the Custody Rule creates significant risks for the safety and security of client assets. These actions show that the Commission expects advisers to meet their obligations to secure client assets and will pursue those who fail to do so.”** *Gurbir S. Grewal, Director of SEC Enforcement Division*

## October 2022

First FINRA disciplinary action under Reg BI. FINRA assessed a \$5000 fine and six month suspension for representative involved. Rep made recommendations to his 63 year old client who had an annual income of \$100,000 and liquid net worth of \$50,000. Recommended 350 trades in the account with a cost to equity ratio of 158%. FINRA determined excessive trading was not in the best interest of the client.





# Compliance Reminders



# NO TEXTING!!!

## Report Customer Complaints

## Ask for a Trusted Contact

## Notify Compliance if you...

- Change your Mailing Address or Name
- Are contacted by a Regulator
- Are involved in a legal matter (Personal or Work Related)
- Send an email to [Registrations@levelfourfinancial.com](mailto:Registrations@levelfourfinancial.com)

# Reminders

- INTERNAL USE ONLY -



# Reminders

## Submit all Advertising through Quest

- Communications to 25 or more brokerage or more than 1 advisory client

## Work your Raymond James Alerts!

## Be Available

- Clients must be able to reach their Advisor during normal business hours. If you away, make sure to have your Sales Assistant or another FA check your emails and/or answering office phones

***“Integrity is the seed for achievement. It is the principle that never fails.”***

***- Earl Nightingale***



# *Questions?*

*Call your Branch Manager or  
Email [Compliance@levelfourfinancial.com](mailto:Compliance@levelfourfinancial.com)*

