

FREQUENTLY ASKED QUESTIONS: MARKETING AND ADVERTISING REVIEW

MARKETING
RESOURCES



“The art and science of asking questions is the source of all knowledge.”

— THOMAS BERGER, AUTHOR

Whether it's fund distribution or compliance, you need an expert to guide you through the maze and look out for your fund, your employees, and even your shareholders. As a company born and managed from investment advisor roots, we understand the challenges you face. What affects you affects us. We believe your quest to distribute your fund could not have a better advocate than Northern Lights Distributors, LLC (NLD).



MARKETING MATERIALS

HOW OFTEN DO WE NEED TO UPDATE OUR MARKETING MATERIALS? IF WE HAVE A PUBLIC USE FACT SHEET THAT HAS BEEN REVIEWED BY FINRA, DOES THAT NEED TO BE UPDATED ANNUALLY?

As long as there is no material change to the marketing piece, then there is no need to have the piece re-submitted to FINRA. However, any changes to the piece would require submission to NLD for review. If the changes are deemed to be material then the marketing piece would be submitted to FINRA for review. If your piece quotes performance or rankings it must include performance data that is current to the most recent calendar quarter end prior to use. While there is no written rule, FINRA recommends that any marketing materials where the FINRA review is more than two to three years old be resubmitted.

WE WOULD LIKE TO HAVE T-SHIRTS MADE UP WITH OUR LOGO. DO WE NEED TO INCLUDE DISCLOSURES ON MARKETING MATERIALS LIKE T-SHIRTS AND GOLF BALLS?

No, these items are considered promotional pieces and do not require additional disclosures as long as they are limited to the fund name and logo. However, promotional items – like all materials referencing the fund – do need to be submitted to NLD for review.

WHAT IS THE EXPECTED TURNAROUND TIME ON MARKETING MATERIALS?

Allow as much time as possible to get your materials reviewed before planning to use them. NLD requires three business days to perform an initial review. We will get back to you as soon as we are able but always plan to allow for at least three business days. If your material warrants significant comments/changes, the three business day review cycle will start over once NLD has given its initial comments.

FINRA's turnaround time for comment letters varies depending on the volume of materials FINRA is reviewing at any given time. FINRA's general timeline for issuing a comment letter is anywhere from 4-12 weeks.

WHAT SIZE FONT DO WE NEED TO USE FOR DISCLOSURE TEXT ON OUR MARKETING MATERIALS?

Disclosure font size needs to be the same size and prominence as the majority of text on the advertising piece.

IF WE DEVELOP BUSINESS CARDS WILL THEY NEED TO INCLUDE A PROSPECTUS DISCLOSURE?

If your business cards will reference the name of the fund and/or its ticker then it will be subject to Rule 482 and require a prospectus offering statement. The prospectus offering statement can be placed on the back of the card.

NLD HAS REQUIRED A LOT OF DISCLOSURE LANGUAGE ON OUR MARKETING MATERIALS WHICH SEEMS EXCESSIVE. WE SEE A LOT OF OTHER FUND MATERIALS IN THE MARKETPLACE THAT DO NOT HAVE THE DISCLOSURES YOU ARE REQUIRING US TO INCLUDE. IS THIS A CASE WHERE NLD IS ACTING OVERLY CONSERVATIVE?

All investment company marketing materials must adhere to FINRA guidelines, most notably FINRA rule 2210, Communications with the Public. We realize there are a lot of materials in the marketplace that do not adhere to these rules. One thing to keep in mind is some of these marketing pieces may not have been reviewed by FINRA, or they may have received a “Do Not Use” letter from FINRA and have

not yet been destroyed by the advisor. We have been told many times by FINRA that the primary way they discover non-compliant marketing material is not from audits, but rather from other funds discovering non-compliant materials and bringing them to the attention of FINRA.

At NLD we strive to be consistent in our application of FINRA rules and regulations. We utilize the feedback we receive from FINRA on all marketing materials as well as attending FINRA conferences to make sure we are up to date on the current issues that FINRA may be focused on. We believe we are able to apply our knowledge and experience in helping ensure that your marketing materials will be compliant with applicable standards so you can feel confident that you are presenting compliant marketing pieces to your clients.

MULTIMEDIA TOOLS



WE WOULD LIKE TO START TAKING ADVANTAGE OF SOCIAL MEDIA. CAN WE SET UP A FACEBOOK PAGE OR UTILIZE TWITTER?

Unfortunately, due to regulatory concerns with social media you cannot set up pages on social media sites. Social media is a new and evolving medium and we have not yet found a good way to comply with current regulatory requirements that require supervision and record retention of content posted online through social media sites. We will continue to look for possible solutions that would help us monitor and retain social media content.

WE ARE PUTTING A VIDEO TOGETHER THAT MENTIONS THE FUND. DO WE NEED TO INCLUDE DISCLOSURE ON THE VIDEO?

Yes, as with any mutual fund marketing material, the disclosure requirements are driven by the content. Any disclosures on the video would need to be in the same format as the majority of content. When creating and recording a video where the majority of the content is spoken, the disclosure language needs to be displayed and spoken as well.

NLD employs a staff of compliance specialists, who are available during business hours to discuss questions you may have.



OUR INDUSTRY AND REGULATORY KNOWLEDGE ALLOWS US TO:

- Assist you in understanding applicable regulatory requirements
- Review and file all fund-related sales and advertising materials with FINRA
- Maintain records of all filed marketing and advertising materials



MUTUAL FUNDS VS. SEPERATELY MANAGED ACCOUNTS

WE ARE IN THE PROCESS OF STARTING A MUTUAL FUND THAT IS BASED ON OUR SEPARATELY MANAGED ACCOUNTS WITH A SIGNIFICANT TRACK RECORD. CAN WE USE THE PERFORMANCE OF OUR SEPARATELY MANAGED ACCOUNTS IN OUR MARKETING MATERIALS?

Even though your separate account strategy may be substantially similar to the strategy that will be employed by the fund, sales material for mutual funds cannot refer readers to the performance of the fund's investment advisor. The differences in investment objectives, strategies followed to pursue these objectives, costs and commission structures, risk tolerance, account size, liquidity parameters, etc., between the funds render the use of such performance information potentially misleading. It may lead an investor to conclude that the fund being offered will perform as well as the strategy of the separately managed account. Therefore, pursuant to Rule 2210 (d)(1)(B), references to the advisor's performance cannot be used.

While you cannot directly quote advisor-related performance in mutual fund materials, you can reference in fund materials that the fund was born out of a strategy that has been used

by the advisor. Then you can direct the reader to the fund's prospectus if he or she would like more information on the advisor's strategy, including performance of the strategy.

For example, in a section discussing the objective of the fund you could say, "Although there can be no assurance the fund will achieve its objective, the portfolio managers have a history of applying the same strategy to separate accounts. For additional information on the performance of our separate accounts please see the fund's prospectus."

CAN WE INCLUDE INFORMATION ON OUR MANAGED ACCOUNTS AND MUTUAL FUND IN THE SAME MARKETING PIECE?

You should always plan to keep marketing materials for the mutual fund and separate managed accounts (SMA) independent of each other. If the materials are combined, then SMA information would be subject to FINRA rules and review. Keep in mind that under no circumstances can you directly quote performance figures for SMAs in mutual fund materials, but you may direct a reader to the mutual fund's prospectus for performance information about the SMA.



PORTAL RESOURCES

WE JUST RECEIVED A LETTER FROM THE SEC STATING THEY WILL BE CONDUCTING AN AUDIT OF OUR RIA. THE SEC HAS REQUESTED ALL "ADVERTISING, MARKETING MATERIALS AND WEBSITES, INCLUDING FUND ADVERTISEMENTS SUBMITTED TO FINRA, WRITTEN COMMENTS FROM ITS REVIEW OF THE ADVERTISEMENTS, AND THE FUND'S WRITTEN RESPONSES TO FINRA." WE HAVE SUBMITTED A LARGE VOLUME OF MARKETING MATERIALS, HOW CAN WE OBTAIN ALL THAT FINRA IS REQUESTING?

As a client of NLD, you have access to the Northern Lights Advertising Review Portal. All of your marketing materials are conveniently stored online. The system gives you the capability to print all of your marketing materials, backup documentation and view FINRA comments and notes anytime, eliminating the burden of having to create your own storage and tracking system.

WHAT SHOULD I DISCUSS IN MY SEMIANNUAL AND ANNUAL LETTER TO SHAREHOLDERS?

NLD has a document that helps outline the SEC content requirements for the letters to shareholders that are included

with the semiannual and annual reports. The letter should be a discussion focusing on factors that materially affected the fund's performance during the period, including the relevant market conditions and the investment strategies and techniques used by the fund's investment advisor. Please refer to the "Shareholder Letter Requirements" document located on the NLD website under the Resources section.

HOW DO WE KNOW WHEN SELLING AGREEMENTS HAVE BEEN COMPLETED?

The NLD website is not only for managing the advertising review process, but it helps you manage your selling agreements. When you sign up for the advertising portal, you may also sign up for the agreement portal which allows you to view the selling agreements that are in place for your fund. In your user profile you can indicate what kind of notifications you would like to receive and, if selected, when new agreements are added you will receive an automated email alert notifying you when they have been processed. Not only are you able to see a listing of active agreements, but you are also provided available contact details for each firm and the ability to view and print the actual signed agreement.

1 REVIEW **2** PROCESS **3**

HOW DO I SUBMIT MATERIALS TO NLD FOR REVIEW?

As a client of NLD you will be set up with a login to our website that will allow you to file your materials with NLD for review. It will also provide you with access to check the status of your submissions and view all completed submissions. NLD's website is set up so that all communication for each advertising piece can be run from start to finish through the website. This provides a record of each submission that is viewable by both you and NLD at any time. NLD has developed a Website User Guide that can be provided to you upon request which will walk you through the online tools available and how to use them.

DO WE NEED TO WAIT FOR FINRA'S COMMENTS BEFORE WE USE A MARKETING PIECE IF NLD HAS ALREADY REVIEWED AND ASSIGNED A REVIEW CODE?

One of the benefits of using NLD for the distribution of your fund is that you do not need to wait for FINRA review of your materials prior to use. You may begin using the material as soon as NLD has reviewed and approved it but be aware that if FINRA requests any changes, the material will need to be revised to incorporate FINRA's comments and only the revised version will be able to be used going forward. Because of the possibility of revisions from FINRA, we advise you to print limited quantities until a FINRA letter is received.

WE JUST SUBMITTED OUR PROSPECTUS TO THE SEC FOR REVIEW. WE WOULD LIKE TO PREPARE MATERIALS THAT WE CAN USE TO START MARKETING THE FUND NOW. WHEN CAN WE SUBMIT OUR MATERIALS FOR REVIEW?

Until the prospectus is effective with the SEC, you are only allowed to use the red herring version of the prospectus to gather indications of interest in the fund. Once you have an effective prospectus and a signed agreement on file with NLD, then we will be able to begin reviewing marketing materials for the fund. Keep in mind that even though the review process can begin, you may not use marketing materials prior to the actual launch date of the fund.

WE HAVE PREPARED A PRESENTATION ABOUT OUR INVESTMENT ADVISOR STRATEGIES. THE PRESENTATION DOES NOT MENTION OUR MUTUAL FUND. IS THIS SOMETHING THAT NEEDS TO BE SUBMITTED TO NLD FOR REVIEW?

As long as the material does not mention anything about the fund, the fund name or ticker, then the material does not fall under FINRA's content standards and would not need to be submitted to NLD for review. However, the material would still need to adhere to SEC guidelines and you would need to maintain copies of those marketing pieces as part of the books and records of your RIA.

PERFORMANCE DATA

WHAT IS CONSIDERED APPROPRIATE BACKUP TO SUPPORT PERFORMANCE AND RANKING?

Generally, we are looking for reports or spreadsheets that were used in generating the performance or rankings. However, simply re-entering the data from the marketing piece into a spreadsheet does not constitute valid supporting documentation. We would want to see all figures and calculations used in creating the performance or rankings. For performance data, the fund's administrator can generate performance reports based on the date range needed. For rankings, PDF reports directly from the ranking entities (e.g. Morningstar) should be sufficient as long as they cover all required disclosures that are contemplated in FINRA Rule IM-2210-3.

OUR FUND ONLY HAS A FEW MONTHS OF HISTORY. CAN WE APPLY HISTORICAL MARKET DATA TO AN INDEX OR STRATEGY PRIOR TO THE DATE THE INDEX OR STRATEGY WAS CREATED?

No, this is considered back-tested data and FINRA strictly prohibits the use of this type of performance data. FINRA believes the use of back-tested data is misleading because it is selected with the benefit of hindsight and the outcomes can invariably support the marketing message.



OTHER

HOW IS NLD COMPENSATED FOR ITS SERVICES?

The fees for NLD's services are outlined in your Underwriting Agreement. Unless NLD retains sufficient 12b-1 fees from the fund to cover NLD's service fees and out of pocket expenses, the investment advisor must pay for all NLD's fees out of its own resources, and not from fund assets. NLD will send you an invoice each month for any amounts due for its services.



COMPLIANCE REVIEW

NLD's Compliance department reviews and approves all client advertising and marketing materials prior to their printing or use. Each piece is carefully reviewed in accordance with state and federal advertising regulations to ensure compliance and to avoid violations resulting from the improper use of the material.

- As an NLD client, you will also have access to our comprehensive Advertising and Marketing Manual, which will help you understand important compliance considerations when preparing your materials.

NEXT STEPS



DISCOVER – Pinpoint your Competitive Edge and evaluate your marketing goals



PLAN – Create your marketing framework



PREPARE – Determine your scope of projects, marketing budget and needed resources



ACT – Collaborate with your NLD Compliance Specialist to execute your marketing objectives



NORTHERN LIGHTS
DISTRIBUTORS