

# The 2007 Financial Advisor Compliance and Legal Concerns Survey Report



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# From Vestment Advisors, Inc.

The **2007 Financial Advisor Compliance and Legal Concerns Survey Report** contains original data collected by Vestment Advisors, Inc. from 100 financial advisors within several broker/dealers during the first quarter of 2007. We hope you enjoy perusing the data collected from the survey and find the information useful.

In my work with thousands of financial advisors and hundreds of broker dealers over the last 20 years, I have found compliance issues are one of the top two concerns of financial advisors and broker/dealers alike. As a financial advisor, a Certified Financial Planner (CFP®) practitioner, and an attorney, I have authored two books on the legal, ethical and compliance issues facing financial advisors.

My personal mission is to raise the standards of the industry. My goal is for every financial advisor is to treat each client with the same amount of care they would treat their own mother. What happens when regulators create regulations beyond what is needed to keep the investor safe? Sometimes, it seems that the same rules that are intended to help investors actually can hurt them, financial advisors and the industry.

Personally, I think it is time to make compliance easier and more effective. I believe, after looking at the results from this survey, the industry agrees with me.

Enjoy the **2007 Financial Advisor Compliance and Legal Concerns Survey Report**, and feel free to send me your comments directly. I can be reached at: [Katherine@vestmentadvisors.com](mailto:Katherine@vestmentadvisors.com).

Sincerely,

Katherine Vessenes, JD, CFP®, RFC  
President  
Vestment Advisors, Inc.



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# About Vestment Advisors, Inc.

Vestment Advisors, Inc. - *Breaking Barriers, Building Business*

Vestment Advisors is unlike any other coaching or consulting firm because we understand every aspect of a financial advisor's business. We provide our business owner clients with a complete "bumper-to-bumper" system so they can drive their business safely and swiftly.

We are unique in that our capabilities are broader than the typical consultant or coach. Rather than focusing our attention on one area of business development, we offer clients an unrivaled menu of services that address all eight business disciplines, including sales and client experience strategies, fiscal management, strategic marketing, organizational development, human resources, technology, compliance, and strategic planning. While some consultants can only address one or two of these disciplines, Vestment Advisors can address all of your challenges, helping you turn your business into a well-oiled business machine.

Vestment Advisors brings a team of diverse, talented individuals who relentlessly pursue the common goal of making our relationships with clients an easy and rewarding experience. Collectively, we bring more than 70 years of business development experience to our clients and their businesses.

Our passion for what we do comes from the success of our clients, stakeholders, and employees. That passion infects every one of our clients with the understanding of their business challenges and the hope they can quickly get their business to top speed. The result: we become our clients' trusted pit crew and they win the race.



# Quick Facts About Vestment Advisors, Inc.

- Founded in 1991 by Katherine and Peter Vessenes
- Located in Minneapolis, Minnesota
- Vestment Advisors has provided consulting, training, and educational services to thousands of top financial institutions and advisors since 1991.
- Katherine Vessenes has written two books - *Protecting Your Practice* (Bloomberg Press) and *The Compliance & Liability Handbook*. (IAFP Press)
- Katherine and Peter Vessenes have co-authored a new book - *Building Your Multimillion Dollar Practice* (Dearborn Press)
- Vestment Advisors has become a leading consultant and coach to the financial industry because of their “bumper-to-bumper” approach to solving business problems and challenges.
- Vestment Advisors created *Bumper-To-Bumper: The Business Breakthrough* - a two-day workshop where attendees learn about the Eight Disciplines of Business.
- Katherine and Peter Vessenes are popular platform speakers on a wide variety of issues relevant to the practice management of financial professionals. A few of their seminars include:
  - The No-Sell Sale™
  - Superstar Marketing
  - Protecting Your Practice
  - Protecting Your Clients
  - Staffing to Accelerate Growth
  - Variable Annuities from an Attorney's perspective
  - Turning Average Advisors Into Superstars
  - Using Your Unique Abilities To Improve Performance
  - Incentive Plans The Work
  - 9 Ways To Make Your Clients Fall In Love With You And Never Sue For Divorce
  - A Marketing Approach To Avoiding Litigation
  - Your Free Stay Out Of Jail Pass
  - How To Bullet Proof Your Office From An SEC Audit
  - The Money Trail™
  - Tripling Your Profits™
  - The 12 Hidden Barriers™
  - The Three Philosophies of Management™
  - Leadership
  - Terrific Teamwork!
  - From Self Employment To Running A Business



# Survey Overview

Vestment Advisors, Inc. conducted a random, web-based survey of 100 financial advisors from January 1 to February 28, 2007 to identify common concerns and issues revolving around internal and external compliance/legal departments.

The purpose of the survey is to answer four primary questions:

- Question #1 - Do financial advisors spend an inordinate amount of time addressing compliance issues within their offices?
- Question #2 - Are compliance departments preventing financial advisors from performing functions they know are legal and ethical?
- Question #3 - Are financial advisors fearful of potential lawsuits and sanctions?

# Methodology

100 random financial advisors across the United States participated in the 14 question survey by the February 28, 2007 cut-off date.

The survey was designed by Vestment Advisors, Inc. with Perception, Inc. and was made available online through SurveyMonkey.com.

Margin of error +/- 3% at 95% confidence.

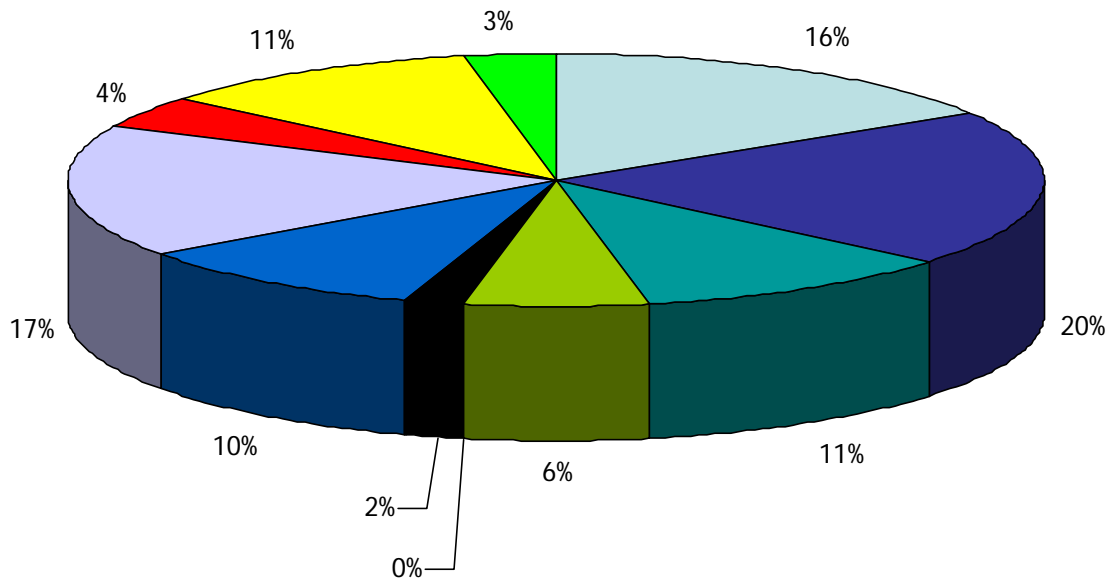
# What Broker/Dealers Are Represented?

The following 48 broker/dealers are represented by the 100 survey respondents:

- Advantage Capital
- AIG
- Ameriprise
- Cambridge Investment Research
- Cantella & Co.
- Capital Analyst Inc.
- CFD
- CIBC Wood Gundy
- Commonwealth Financial Network
- CRI Securities, Inc
- Financial Network
- Financial Telesis
- First Affirmative Financial Network
- FSC Securities Corp.
- HD Vest
- Horwitz & Associates
- ING Financial Partners
- ISI
- Janney Montgomery Scott, LLC
- JW Cole
- LPL
- Merrill Lynch
- Morgan Stanley
- MTL Equity Products, Inc.
- National Planning Corp
- New England Securities
- NFP Securities
- Northwestern Mutual Investment Services
- QA3 Financial Corp.
- Questar Capital Corporation
- Raymond James
- RBC Dain Rauscher
- RJFS
- Royal Alliance Associates
- Sammons Securities
- Sanders Morris Harris Inc
- Securities of America
- Securities Service Network
- SFIMC
- Sigma Financial
- SII
- Smith Barney
- Summit Investment Services
- United Securities Alliance, Inc.
- Valmark Securities
- VSR Financial Services, Inc.
- Wells Fargo Investments
- Western International

# Who Are You?

Question #1: Check all of the following that apply to you:

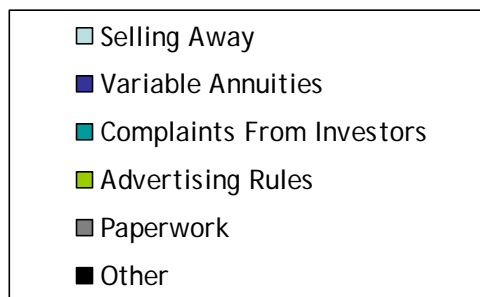
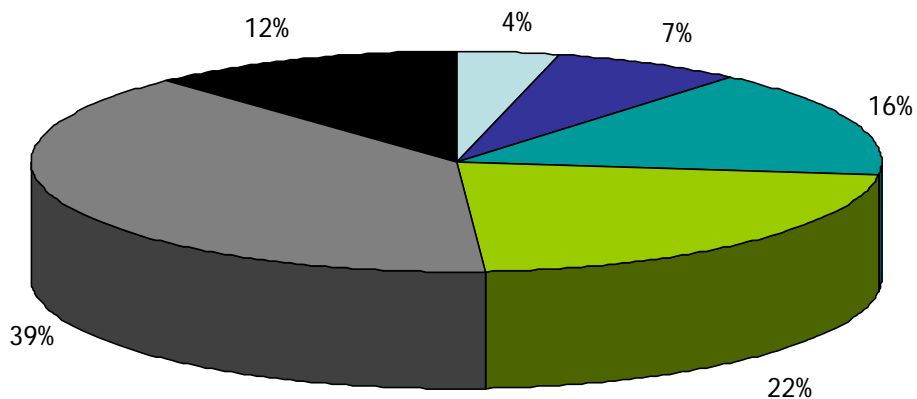


- |   |   |
|---|---|
| <input type="checkbox"/> Affiliated With An RIA         | <input type="checkbox"/> Registered Rep.                    |
| <input type="checkbox"/> Branch Office Manager          | <input type="checkbox"/> Compliance Supervisor              |
| <input type="checkbox"/> Compliance Department Employee | <input type="checkbox"/> Salesperson                        |
| <input type="checkbox"/> Wirehouse Employee             | <input type="checkbox"/> Affiliated With An Independent B/D |
| <input type="checkbox"/> Fee-Only Financial Advisor     | <input type="checkbox"/> Principal                          |
| <input type="checkbox"/> Other                          |   |

# Data

## Question #2: What is your #1 compliance concern?

With the ongoing bad publicity of the variable annuities, one would be surprised to see that very few financial advisors are concerned about them (7%). What may be surprising, but not to Vestment Advisors is that too many advisors are concerned about the overwhelming amount of work that goes into managing compliance activities and paperwork (39%).



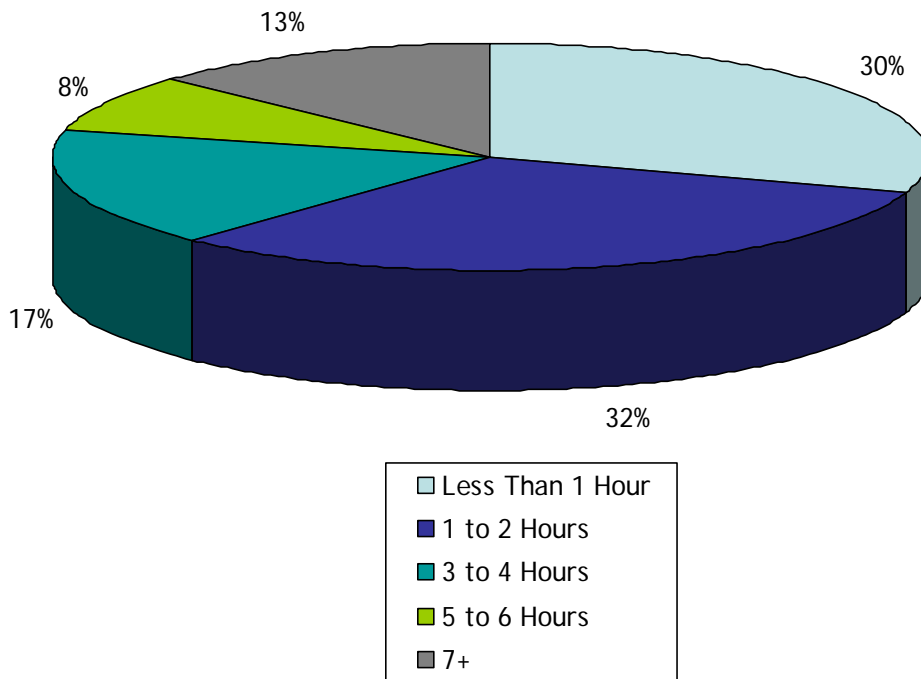
# Data

## Question #3: How much time per week do you spend on compliance issues?

A combined 38% of those surveyed are spending more than 3 hours per week addressing compliance issues. In fact, of those who indicated they are registered reps (71), nine (9) of them indicated they spend 7 or more hours per week addressing compliance issues. That represents almost one full day of production lost.

The breakdown of registered reps and time spent on compliance:

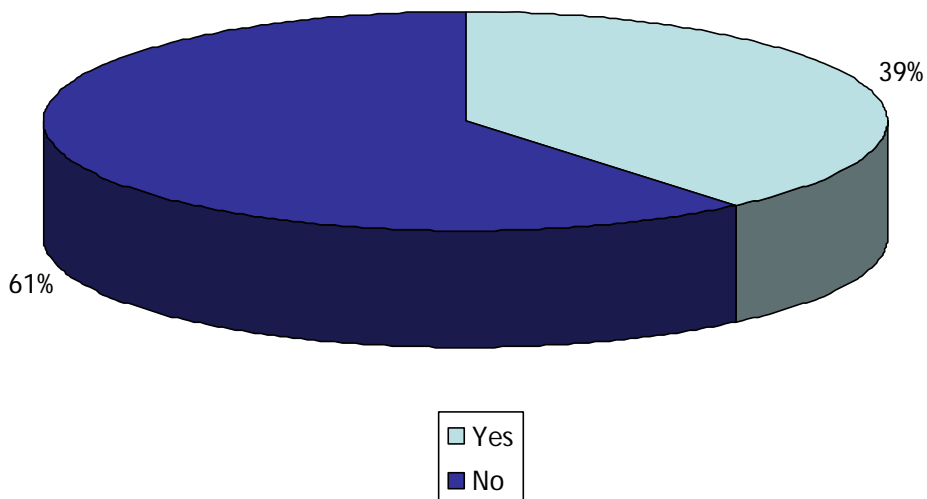
- 21 reps indicated they spend less than 1 hour per week on compliance
- 20 reps indicated they spend between 1 to 2 hours per week on compliance
- 14 reps indicated they spend between 3 to 4 hours per week on compliance
- 6 reps indicated they spend between 5 to 6 hours per week on compliance



# Data

**Question #4: Have you ever had your compliance department prevent you from doing something that you knew was legal/ethical?**

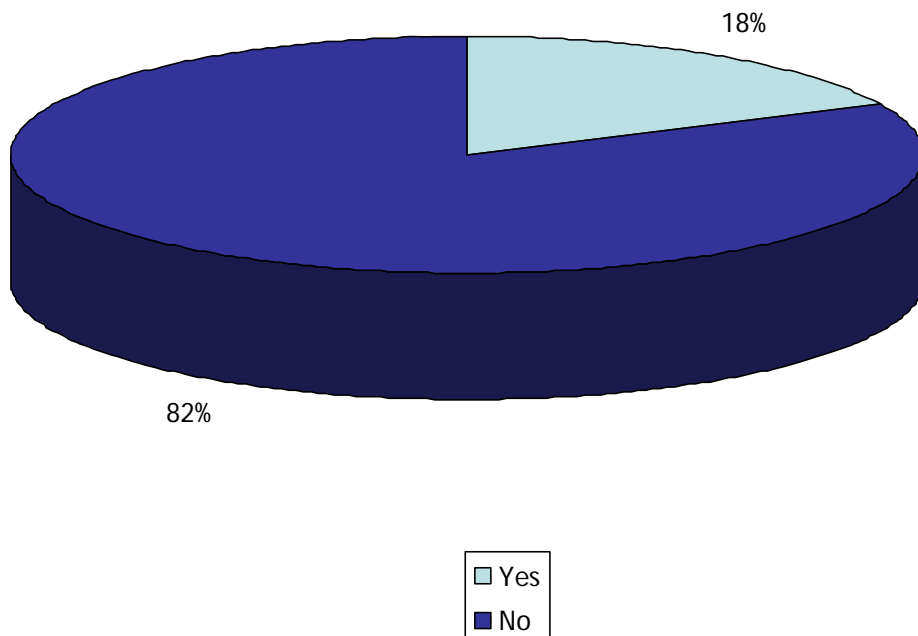
Almost 40% of those surveyed feel they have been told they cannot do something they knew was legal and not in violation of rules and regulations. This is troubling considering so many professionals spend hours addressing compliance only to have activities and communications shot down unnecessarily.



# Data

Question #5: Has anyone in your office ever knowingly violated a compliance rule or regulation?

Almost 1/5<sup>th</sup> of our survey participants know of someone who has knowingly violated a compliance rule or regulation. This does not come as a shock. With the growth in number of rules that govern the industry, more and more advisors will knowingly violate the rules in order to conduct business.



# Data

**Question #6: If you answered YES to the previous question, please tell us how someone in your office has knowingly violated compliance rules and regulations**

- Selling 'B' shares that had become 'free' shares, buying an equity unity trust and then buying 'B' shares once the unit trust matured.
- Some reps at my firm don't want to spend the time taking our firm element training tests online. They ask their assistants, managers or other reps to take the exams.
- Providing copies of paperwork to clients.
- Selling away
- Client loans
- No specifics. There are hundred of rules out there to follow. If you hold a check or stock certificate overnight you have violated a compliance rule. I would not believe anyone that says they have never violated a compliance rule.
- Unauthorized trading
- Sent out letters on a singular basis to clients without passing them through compliance.
- I've known of agents who receive checks and do not process them on the same day received.
- I know of people at an old firm that have not sent emails to the compliance officer for review.
- Of course everyone violates it every day you can't work in the securities industry and not violate a NASD or SEC rule every single day. Can't be done.
- Advisor signed account form for client.
- Forging clients' signatures on transfer paperwork.

# Data

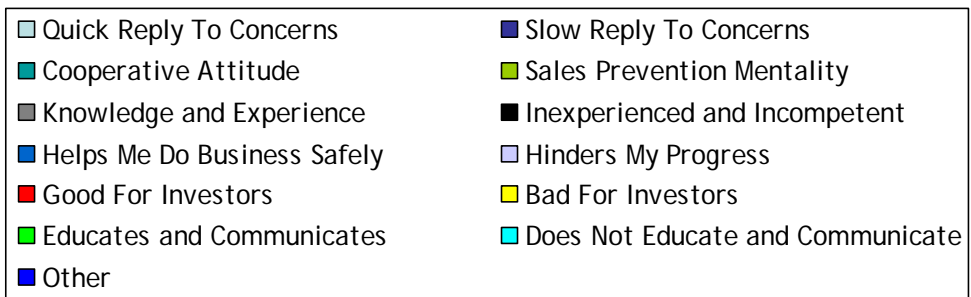
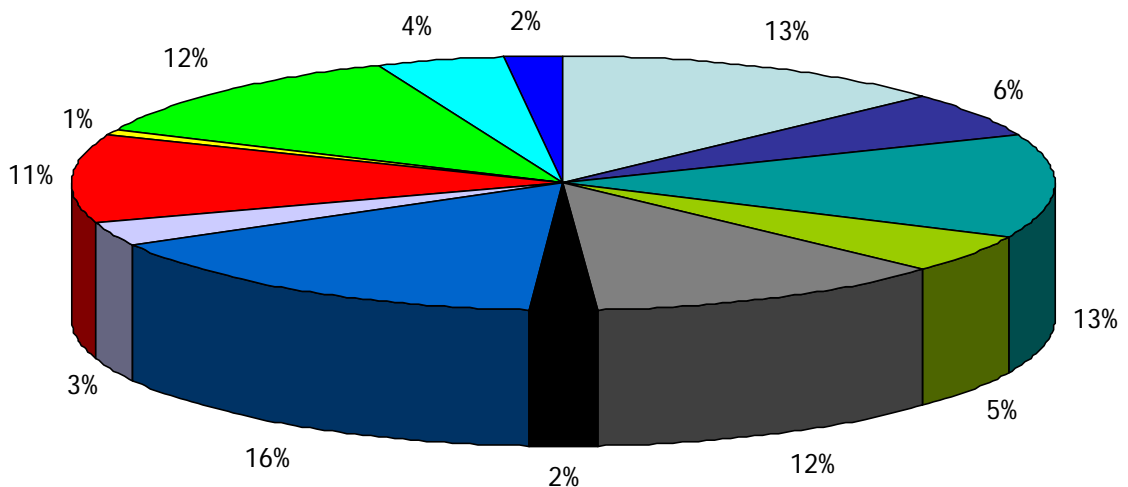
Question #7: On a scale of 1 to 10 (1=Poor 10=Excellent) how would you rate your:

	1	2	3	4	5	6	7	8	9	10	Response Average
Internal Compliance Department	0	2	4	2	14	7	10	21	19	17	7.45
External Compliance Department	1	2	1	5	12	10	13	18	21	11	7.26

Obviously financial advisors are not completely thrilled by the performance of their internal or external compliance departments, but they are also not completely dissatisfied with them either. Overall, both departments are grading out at slightly above average.

# Data

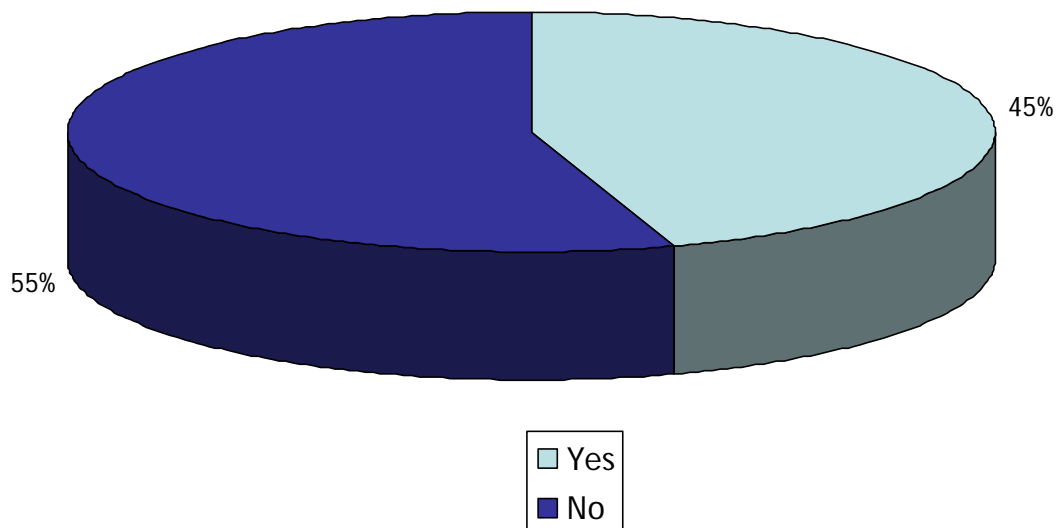
Question #8: What are the top characteristics of your internal and external compliance departments (please check all that apply)?



# Data

Question #9: Have you ever been concerned an investor would file a complaint or sue you?

It's not a good sign when 45% of financial advisors operate with fear of retribution from clients. By conducting business in this manner financial advisors may not think of every opportunity or angle for their clients. Playing it safe is fine for some clients, but more aggressive strategies may not be considered for other investors.



# Data

**Question #10: If there was one thing you can do to improve your compliance department what would it be?**

## Cost of Compliance

- The cost for compliance is over 7% of our gross revenue. This is more than we pay for rent.

## Operations and Responsiveness

- Focus on being responsive, and understanding that I am looking for guidance, not that any inquiry would be because I am 'guilty' before being proven innocent.
- Reduce turn over.
- Broker friendly, work with us, more efficient paperwork.
- Faster turn around time to requests.
- Add to the staff of our local office's compliance department to handle more of the details.
- Have a marketing ombudsman to work with compliance to find a way to say 'yes' to proposed advertising instead of 'no.' As a minimum, how about saying 'no, but if you say or do this, then the answer is yes.
- HAVE MORE EXPERANCED STAFF AND 100% OF THE PAPERWORK THAT HAS ISSUES, MUST BE REVIEWED BY A SUPPERVISOR BEFORE IT IS REJECTED AND RETURNED.
- Have them respond faster to concerns.
- Beef up supervision and enhance staffing.
- Hire more staff.
- Faster answers and approvals. Very slow turn around time.

## Education/Training

- Have them put better controls on the our firm element training.
- Educate us more as to where the true lines/limits are.
- More timely education material.
- More education and a best practice.
- More educational, quicker response times, more of a partnership attitude.



# Data

**Question #10 (cont.): If there was one thing you can do to improve your compliance department what would it be?**

## Communication

- Communicate the stance CIR has on a procedure, regulation etc and put it in writing. There is too much 'under the table' discussion about things that every Rep struggles with that can be dealt with on a more upfront basis. I never feel that the department really knows the correct answer.
- Aside from the online and email bulletins, an interactive session on a quarterly schedule would be helpful to keep top of mind awareness.
- I am the compliance department but if I had to improve something it would be to get summaries of changes to our requirements that are specific to our Firm and do it in a timely Basis
- Better communication, putting more things in writing, conducting more effective audits and hiring more experienced people.
- Have clear articulated rationale of the problems they are trying to keep us from experiencing- and the steps we can take to be compliant.
- Be more proactive. Quick bullet point what to do, what to watch out for. Not a weekly 5 page dissertation.
- Improve dialogue between sales force and compliance on an ongoing and regular basis on areas of concern in order to head off problems.
- Better communication with the FC.
- Clearer communication between the external compliance department and our internal team...often feel they are not on the same page.
- When a rejection is issued I'd appreciate an explanation of why the rejection was issued PLUS help/advice with restructuring to both comply with the regs and help me accomplish what I want to do. Telephone contact would be extremely helpful. I think most of these folks hide and don't want to interact with the Reps so they don't give out their direct telephone #s.

# Data

**Question #10 (cont.): If there was one thing you can do to improve your compliance department what would it be?**

## Rules Development

Allow me to do things for my clients which are allowable. I don't like 'house' rules.

When making rules, consider effect on advisors.

That they would give suggestions instead of just saying NO!

The NASD is an SRO of our industry b/d's, yet no one has the courage to stand up against their preconceived bias that all of us are criminals out to take advantage of the public. Yes there are unethical and fraudulent reps and b/d's out there. Prosecute them! Don't penalize the rest of us with a plethora of rule minutia. They cannot write a rule for every breath we take, without killing our business and our industry.

Make the rules simpler..... Simple, easy to understand rules are easier to follow than the complex mess we have today. Today, one must CYA all the time.

Look at things from my perspective, from the advisor's perspective. I always think that they are 'sales prevention' as opposed to 'compliance'.

More so, NASD/SEC clear and unambiguous guidance, rather than 'What can we penalize him for now'.

Loosen up on advertising rules.

Relax rules around advertising.

## Procedures

Annual reviews would be annual after the 1st year but quarterly for the 1st year.

REQUIRE ESTIMATED COMPLETION DATE ON REQUEST.

Less forms. It seems when there is compliance concern it generates a different form.

# Data

**Question #10 (cont.): If there was one thing you can do to improve your compliance department what would it be?**

## Procedures

Annual reviews would be annual after the 1st year but quarterly for the 1st year.

REQUIRE ESTIMATED COMPLETION DATE ON REQUEST.

Less forms. It seems when there is compliance concern it generates a different form.

## Technology

Improve technology.

In response to every new regulatory area they come up with a new form that has to be completed, with no coordination or use of technology. We are drowning in paperwork and had to take on more staff to handle it. I wish they would look at the big picture and not be so reactionary.

Little less tech, More thinking and decision making, More People decisions. tech is great for discovering potential problems but you still need a manager to make business decisions otherwise don't call them managers.

## Lawsuits

Get rid of the attorneys who sue over technical mistakes, rather than the true loss for customer.

## Advertising/Marketing Support

It would be helpful if they produced marketing ads and letters for all reps to use based on ideas that currently are working for selective representatives.

## Compliance Officer Training

As a part of their training, mandate that they spend 3 months in a financial advisors office doing all the tasks they want us to do--posting the blotter, selling to clients, etc.

# Data

**Question #10 (cont.): If there was one thing you can do to improve your compliance department what would it be?**

Misc.

Nothing I can do; the system is broke.

That compliance would be a bit more lenient with experienced reps. Less experienced reps should be supervised a bit more than experienced ones.

Fire clients who refuse to take 100% of our advice regarding investments.

Give us more flexibility to be creative.

Currently I have a great relationship with my compliance department and no complaints. Of course this is the first time this has happened in 20 years. I guess I am finally lucky.

More thought given to how to implement the new ideas of a growing rep.

I feel that my compliance department does an excellent job.

# Conclusion

## ANSWER TO QUESTION #1:

**Do financial advisors spend an inordinate amount of time addressing compliance issues within their offices?**

With a quick review of the results of this survey it is plain to see that the answer here is “yes”. We have already pointed out that 39% of the respondents are concerned by the amount of paperwork they must address for compliance and legal departments. Couple this with fact that a combined 38% of those surveyed are spending more than 3 hours per week addressing compliance issues and you have a serious problem.

Advisors who are hamstrung with compliance work are not capable of reaching their maximum capability of growing their business. We have seen companies first hand that have been so absorbed by their legal and regulatory challenges that the business of serving investors became secondary.

# Conclusion

## ANSWER TO QUESTION #2:

**Are compliance departments preventing financial advisors from performing functions they know are legal and ethical?**

This question was a result of the years of experience we have in working with financial advisors across the country. Too often we are told about situations where simple activities and functions of the advisor's practice have been shot down by compliance departments even though the activity or function in question is completely legal according to the law. We have always believe half of those we work with have had a situation like this.

We were not far off in our personal beliefs.

39% of the respondents stated they have been restricted by their compliance departments when they knew the activity in question was permitted or legal. We know of plenty of broker/dealers that are supportive of their representatives and their business goals, but this is a problem that must be addressed by either the broker/dealers or the regulators.

# Conclusion

## ANSWER TO QUESTION #3:

### Are financial advisors fearful of potential lawsuits and sanctions?

With the constantly changing regulatory landscape, financial advisors have the right to worry about the potential for lawsuits and sanctions. The rules governing the industry are plentiful and often confusing. Advisors who are trying to keep up can find themselves in violation and in potential hot water.

As indicated earlier, 45% of financial advisors operate with fear of retribution from clients. This can easily be decreased if more broker/dealers take the time to educate their representatives. When asked to identify phrases that describe their external compliance offices, only 12% of respondents said their compliance office "educates and communicates". This is clearly an issue as only 16% of respondents indicated their external compliance offices help them "do business safely".

# Contact Information

To discuss the **2007 Financial Advisor Compliance and Legal Concerns Survey Report** with Katherine Vessenes, president of Vestment Advisors, please contact the following representatives:

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