



National Fire Protection Association

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RE: SEC Proposed Rule on Advisor Business Continuity and Transitions Plans (RIN 3235-AL62)

September 6, 2016

Thank you for the opportunity to provide comments on this proposed rule. NFPA is a global nonprofit organization, established in 1896, devoted to eliminating death, injury, property and economic loss due to fire, electrical, and related hazards. These losses include those incurred by businesses due to a disruptive event. Thus, NFPA is supportive of SEC's efforts to help the financial advisor sector reduce the risk of these losses.

Since 1995, NFPA has developed and published NFPA 1600 *Standard on Disaster/Emergency Management and Business Continuity/Continuity of Operations Programs*. NFPA 1600 contains all the necessary elements of a robust business continuity plan, including the requirements for program management, planning, implementation, training and education, exercises and tests, and program maintenance and improvement. This document forms the basis of business continuity plans for many public and private sector organizations, including Fortune 500 companies, and is used by FEMA to help meet the private sector preparedness efforts contained in Sec. 901 of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (PL 110-53).

NFPA recommends that the Business Continuity Plans proposed in this rule be developed in accordance with NFPA 1600. NFPA 1600 covers each of the specific areas the proposed rule would require in a written plan¹. In addition though, it offers more structure for important plan components, like risk assessments, program management, and education and training of employees, among other areas. Without a standard, plans will likely vary significantly in their effectiveness, be difficult to evaluate, and generally be more difficult for regulated parties develop. The use of NFPA 1600 would ensure the development of robust plans that meet the objective of improved preparedness and recovery capacity for financial advisors and their clients. It would serve the needs of both large and small operations.

NFPA suggests changing the proposed regulatory text in § 275.206(4)-4(a)(1) to read "*Business continuity and transition plan*". Adopt and implement a written business continuity and transition plan

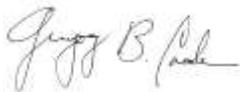
¹ (1) Maintenance of critical operations and systems, and the protection, backup, and recovery of data (NFPA 1600, 4.7.2, 5.5.3 & 6.9.2.2); (2) Pre-arranged alternate physical location(s) of the adviser's office(s) and/or employees; (3) Communications with clients, employees, service providers, and regulators (NFPA 1600, 6.4 & 6.5); (4) Identification and assessment of third-party services critical to the operation of the adviser (*Annex Material*); (5) Plan of transition that accounts for the possible winding down of the adviser's business or the transition of the adviser's business to others in the event the adviser is unable to continue providing advisory services. (NFPA 1600, 5.4)

that incorporates the contents of NFPA 1600 (2016)” and striking § 275.206(4)-4(b). Alternatively, the SEC could allow regulated parties to rely on NFPA 1600 as one method of compliance with this rule if greater flexibility achieves the Commission’s objectives.

NFPA 1600 is a voluntary consensus standard, developed through a process accredited by the American National Standards Institute (ANSI) and one that meets the criteria specified in §2(e) of OMB Circular A-119, *Federal Participation in the Development and use of Voluntary Consensus Standards and in Conformity Assessment Activities*. The process is open, balanced, transparent, and timely. In the case of NFPA 1600, the technical committee includes representatives from the financial services sector, as well as a number of other industries and public sector organizations. The NFPA standards development process also affords both due process and a mechanism for appeal. Furthermore, adopting NFPA 1600 for this rulemaking would be in keeping with the requirements of OMB A-119, §5(c), which require all federal rulemaking bodies to “use voluntary consensus standards in [their] regulatory, procurement, and program activities in lieu of government-unique standards, unless use of such standards would be inconsistent with applicable law or otherwise impractical.”

NFPA 1600 is available for free download on the NFPA website (<http://catalog.nfpa.org/NFPA-1600-Standard-on-DisasterEmergency-Management-and-Business-ContinuityContinuity-of-Operations-Programs-2016-Edition-P1438.aspx?icid=B484>).

Sincerely,

A handwritten signature in black ink, appearing to read "Gregory B. Cade". The signature is written in a cursive style with a large initial "G".

Gregory B. Cade
Director of Government Affairs
National Fire Protection Association