

# REGISTERED INVESTMENT ADVISOR

PRACTICE



**TRUSTED**



**EXPERIENCED**



**PERSONALIZED**

**MILLER  
CANFIELD**

[millercanfield.com](http://millercanfield.com)

Miller, Canfield, Paddock and Stone P.L.C. (Miller Canfield) is a national full-service business law firm with a group of attorneys specifically dedicated to offering registered investment advisors (RIAs) a full range of legal services. From individualized consultations, registration services, succession and tax planning, and mergers and acquisitions, to litigation and investigations and enforcement actions, we offer customized and effective solutions for our clients.

## FORMATION AND REGISTRATION

Miller Canfield advises clients who desire to form their own RIA firm.

The first step in our process is direct and personal discussions with the client, focusing on the client's business model, operations and firm objectives. Miller Canfield then prepares and/or reviews Form ADV Part 1, prepares Form ADV Part 2A, and prepares and/or reviews Form ADV Part 2B for clients. We will assist with the registration of the RIA and its investment advisory representatives through IARD. We also prepare and/or file additional documents that may be required by Federal and State regulators.

Along with these registration services, Miller Canfield prepares the client investment management agreement, investment advisor representative employment agreements, the compliance manual, privacy policy and code of ethics, and reviews and/or prepares all of the other documentation necessary for the RIA to operate in compliance with securities laws and regulations. We also modify and/or update compliance documents in conformance with the business activities of the RIA.



Miller Canfield recognizes that one of the most challenging aspects for individuals looking to establish an independent RIA is transitioning from a current employer.

We have extensive experience throughout the country in assisting with such transitions and provide both pre-transition counseling and post-transition representation. The firm provides advice on restrictive covenants, non-solicitation agreements and employment agreements applicable to them. The firm recognizes the highly individualized nature of these types of restrictions, and counsels individuals regarding actions which are specifically allowed and specifically prohibited, including contact and solicitation of clients serviced through a current or former employer.

## COMPLIANCE, EXAMINATIONS, AND INVESTIGATIONS

Miller Canfield works with its RIA clients and their advisors to navigate the host of federal and state laws and regulations that often apply simultaneously, sometimes creating challenging or inconsistent obligations, as well as keeping abreast of actual and potential regulatory developments that could impact our clients' operations.



For example, many RIAs have professionals that are registered representatives regulated by FINRA, investment advisor representatives regulated by the SEC and state regulators, insurance representatives regulated by state insurance bureaus, tax advisors regulated by federal and state tax authorities, among other designations and legal authorities. Miller Canfield assists and advises RIA clients and their advisors to ensure compliance with these laws and regulations.

The firm assists clients with executing and documenting the clients' supervisory procedures/compliance program. We evaluate the effectiveness of company policies and procedures and make recommendations to update and enhance these procedures to maximize overall effectiveness and reduce liability for the RIA. We can also assist in developing remedial actions and measures on an as-needed basis.

Miller Canfield advises its RIA clients on social media usage, marketing matters, including website content, performance advertising, and the limitations and obligations with regard thereto. We can provide compliance updates, alerts and reminders of certain compliance and supervisory requirements.

In addition, Miller Canfield assists RIA firms that are audited by the SEC, State Securities Departments or self-regulatory organizations. We work with your CCO and/or other consultants in responding to the audits. Miller Canfield also represents firms and individual investment advisor representatives being investigated by regulatory organizations and in State regulatory enforcement and disciplinary proceedings. We assist with the response to these investigations and proceedings, determine which documents and information should be produced, and represent the firm and/or the individual at any hearings.

## MERGERS, ACQUISITIONS, REORGANIZATIONS, AND SUCCESSION PLANNING

Miller Canfield has a special niche representing RIAs in connection with their mergers and acquisitions, reorganizations and succession planning activities.

We advise on the appropriate legal structure for the merger and/or acquisition, and on the tax ramifications and the liabilities attendant to the various structures. We draft and negotiate all appropriate and necessary documentation including, but not limited to, stock purchase agreements, asset purchase agreements, option agreements, buy-sell agreements, escrow and security agreements, financing agreements, employment agreements and consulting agreements.

To the extent an acquisition has an equity roll-up component, we assist clients in the structuring and negotiation of the roll-up's offering documents, including subscription agreements and disclosure documents.

The firm also advises as to all regulatory requirements incident to the transitioning of customers to the acquiring entity, the notification of customers from the divesting entity, the confidentiality of customer information and regulatory requirements and filings. We also have considerable experience and regularly assist clients, whether on the acquiring or the selling side, in the conduct and oversight of legal due diligence attendant to the acquisition.

Miller Canfield recognizes both the legal and practical needs for succession planning for the RIA client. We prepare governing and business continuity documents for RIAs with multiple owners, such as operating and shareholder agreements, addressing management structure, voting rights, distributions, restrictions on transfer of ownership and rights of first refusal for transfer of ownership, as well as post-acquisition employment and consulting agreements, including the terms for transition on death, disability or termination of employment of an owner. For RIAs owned by a sole individual, Miller Canfield engages in an assessment of the RIA's business continuity objectives and opportunities, including the transition to key employees, family members or unrelated third parties.



## GENERAL TRANSACTIONAL MATTERS; CORPORATE REPRESENTATION AND FINANCE

Miller Canfield drafts and negotiates all types of commercial contracts, including those specific to RIAs, such as advisory services agreements with clients, sub-advisory agreements with other RIAs as well as agreements with custodians of clients' funds, solicitation agreements and client consent letters.

We also negotiate and draft all necessary business operational documents, and counsel RIAs on all business transactions, including commercial leases, restrictive covenants, license and other technology agreements, third-party service provider contracts, and all other agreements that are necessary for daily business operations.

RIA owners often wish to complement their core business activities with ancillary services for their clients, such as, for example, the procurement of insurance products. Our team is well-versed in assisting clients in the creation and operation of vehicles for the delivery of those services in a manner compliant both with regulations applicable to RIAs and also to the delivery of those complementary services.

Miller Canfield provides advice on general corporate and corporate governance matters since adherence to administrative and regulatory technicalities applicable to the business entity is required to ensure continued protection from personal liability.

In addition to other functions, Miller Canfield's general corporate counsel services include maintaining proper corporate books and records, documenting contracts and transactions with board of directors or managers' minutes, and advising officers, directors, managers and owners regarding their legal rights and responsibilities.

The implementation of a client's vision often requires more working capital than a client alone may have available to it to take advantage of opportunities to improve its service lines and expand its footprint. Miller Canfield represents its RIA clients in structuring and negotiating credit facilities, loan participations, loan modifications and workouts and accessing debt and equity capital markets for those purposes in full compliance with applicable securities laws. The firm is able to bring its finance experience to assist its RIA clients in their merger and acquisition activities as well.



## TAX ADVICE

**Miller Canfield provides advice regarding the tax-efficient formation, acquisition, disposition and restructuring of businesses.**

The firm also provides tax advice on ongoing operational issues, including owner compensation, profit distributions and generational planning. The firm provides tax planning for the resolution of complex litigation.

Miller Canfield represents clients before the IRS regarding audits and alleged tax deficiencies, as well as attempts at collection by the IRS under liens and levies on taxpayer's property. We pursue disputes in court if they cannot be resolved at the administrative level.

## EMPLOYMENT MATTERS AND EMPLOYEE BENEFITS

**Miller Canfield drafts and negotiates all types of employment-related agreements, such as employment contracts, consulting agreements, independent advisor representative agreements, covenants not to compete, non-solicitation agreements, confidentiality agreements and severance agreements.**

We also advise clients regarding the enforcement and defense of these agreements. We advise hiring employers how to onboard new investment advisors without violating existing non-solicitation restrictions or, where necessary, prosecute such actions on behalf of our RIA clients. We have extensive experience with both traditional transfers and transfers conducted pursuant to the Protocol for Broker Recruiting.

Miller Canfield provides services on ongoing employment related matters, including preparing employee handbooks, policies and procedures, advising employers regarding hiring and termination of employees, workplace harassment and violence, and workplace policies. We have extensive experience with employment related litigation and represent management clients faced with a full range of employment litigation in a variety of legal forums, including before the Department of Labor, EEOC, State, city and county agencies, arbitration forums and federal and state courts.

Miller Canfield represents its RIA clients in all aspects of employee benefits and executive compensation matters. Areas of experience include drafting qualified ERISA plan documents, preparing communication materials, implementing executive compensation agreements, and providing advice when welfare benefit plan issues arise.

**Miller Canfield is well-versed in both who qualifies as a fiduciary to a qualified employee benefit plan (such as a 401(k) plan) and the fiduciary obligations placed on that qualifying individual or entity. We bring this experience to provide consultation to RIAs whose customers include employee benefit plans.**

## LITIGATION AND ARBITRATION

Miller Canfield maintains a strong concentration in securities litigation, representing both securities firms and individuals within the securities industry in SEC, FINRA, NYSE, and state securities department enforcement actions.

One member of the practice group, Steven Rotunno, serves as an arbitrator for FINRA. Another member, Matthew Allen, leads the firm's Securities Litigation Group. Steve and Matt have significant experience guiding RIAs and investment advisors through SEC, FINRA and state regulatory examinations, audits, and investigations.

In addition to litigating matters in courts across the United States, Miller Canfield attorneys have arbitrated cases on behalf of RIA firms before industry arbitration panels throughout the United States and around the globe. We successfully arbitrate all types of customer claims, including those claims of fraudulent misrepresentations, buying inappropriate investment vehicles, and violations of industry rules and regulations. We also represent individuals and firms in connection with forgivable loans and contract disputes. Steve and Matt's experience extends to acting as arbitrators themselves to decide cases for other parties, with Steve serving as an arbitrator for FINRA and Matt serving as a complex commercial arbitrator for the American Arbitration Association.



## FEE SUMMARY

Miller Canfield provides full-service investment advisor registration for a negotiated “not-to exceed” fee, which is dependent upon the nature of the advisor’s business and its registration needs.

For advisory firms that do not need the full-service package, Miller Canfield provides requested services at an hourly rate. However, we may also bundle certain services and/or documents for a flat or not-to exceed fee.

Miller Canfield can provide a complete suite of services to support an investment advisor’s CCO. We provide on-call consultation with regard to these services. We can also act as a legal resource for the advisor, and our attorneys will be available on an as-needed basis to answer questions regarding ongoing compliance issues and regulatory matters.



# THE RIA TEAM

STEVEN  
ROTUNNO



**OF COUNSEL**

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Steven leads Miller Canfield's RIA practice. He provides advice to clients as to all of the firm's RIA services.

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MATTHEW  
ALLEN



**PRINCIPAL**

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Matthew has extensive experience representing RIA firms, corporations, audit committees, and officers and directors in a broad array of civil and criminal securities investigations and enforcement actions by the U.S. Department of Justice, the SEC, FINRA, and various state governments and regulators.

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THOMAS  
APPLEMAN



**SENIOR COUNSEL**

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Tom is a Senior Counsel in the firm's Corporate and Transactions Practice Group. He is a seasoned transactional attorney with more than 40 years' experience advising and counseling clients in merger, acquisition, business combination, joint venture, strategic alliance, divestiture, and debt and capital financing transactions, and corporate governance and regulatory compliance matters.

BARRY  
KALTENBACH



**PRINCIPAL**

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Barry is a Principal in the Litigation and Dispute Resolution Practice Group. He has extensive experience assisting clients throughout the country in navigating restrictive covenants in the financial services industry, including defending enforcement actions in court and before arbitration panels. He has also advised clients in issues related to the Protocol for Broker Recruiting.



**CHRISTIE  
GALINSKI**

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Christie is head of the tax practice at Miller Canfield and has more than 15 years of tax experience relevant to RIA firms, including taxation of financial products, partnership taxation, M&A and self-employment taxes.



**VERA  
HANSEN**

**ASSOCIATE**

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Vera is a member of the firm's Corporate and Transaction Practice Group. She has experience in preparing, reviewing and revising the wide range of documents necessary to create registered investment advisory firms and enable them to transact business across different jurisdictions.



**RAFAEL  
RUIZ-AYALA**

**SENIOR COUNSEL**

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Rafael is a corporate and transactional attorney with ample experience in the organization and capitalization of business entities and the negotiation of strategic business transactions, including mergers and acquisitions, joint ventures and partnerships for RIAs and other clients in rapidly evolving and highly regulated industries.



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