



## Plain English Outline – What You Need to Know

### I. What is “Plain English?”

- A. According to the SEC, “the orderly and clear presentation of complex information”
- B. Plain English emphasizes the use of every day, concrete words
  - 1. Eschew obfuscation = not plain English
  - 2. Avoid confusion = plain English
- C. It also takes into account layout and design

### II. Why is Plain English so Important Now?

- A. The new Form ADV Part 2 moves disclosure from a check-the-box format to a plain English narrative. Similarly, the SEC requires funds to use plain English disclosures in the Summary Prospectus
- B. However, the role of plain English in the securities industry is not a recent phenomenon; the SEC published the Plain English Handbook in 1998

### III. Why Don’t We Write in Plain English?

- A. It isn’t easy. Rather, it is time consuming, and requires patience, concentration, and editing
- B. Many writers have become accustomed to crafting sentences they believe can only be interpreted one way
- C. This is especially true for those who draft documents that risk exposing a company to liability
  - 1. Prospectuses
  - 2. Annual and quarterly reports
  - 3. Other disclosure documents

### IV. The Process of Writing in Plain English

- A. The goal is to give investors the best chance of understanding complex information, including disclosure statements
- B. Before putting pen to paper, decide what information is required to convey your message
  - 1. Knowing your audience is the most important step in this process
  - 2. Sophistication level of your audience will drive how you write
  - 3. With respect to Form ADV Part 2, some advisers may decide to have different brochures for different investors
- C. Common Problems with Disclosure Statements
  - 1. Long sentences
  - 2. Passive voice
  - 3. Weak verbs
  - 4. Superfluous words
  - 5. Legal and technical jargon
  - 6. Abstract words
  - 7. Numerous defined terms
  - 8. Unreadable design and layout
- D. Principles of Writing in Plain English: Solving the common problems
  - 1. Use the active voice with strong verbs
    - a) Active vs. Passive Voice
      - (1) Active
        - (a) The subject of the sentence performs the action
        - (b) *Ex:* The consultant (subject) advises (verb) the client (object)
      - (2) Passive

- (a) The subject is acted upon
  - (b) *Ex:* The client (object) is advised (verb using *to be*) by the consultant (subject)
- b) Examples
- (1) **Before:** A system of multiple portfolio counselors *is used by* the investment adviser in managing the fund's assets.
  - (2) **After:** The investment adviser *uses* a system of multiple portfolio counselors in managing the fund's assets.
  - (3) **Before:** A concept release *was issued by* the SEC announcing that a comprehensive review of equity market structure will be conducted by the SEC.
  - (4) **After:** The SEC *issued* a concept release announcing it is conducting a comprehensive review of equity market structure.
- c) Don't necessarily omit the passive voice altogether. Using the passive voice can be strategically important, especially where you want to redirect the focus of the action to the object and off the actor. For example: "Mistakes were made"
- d) Look for weak or hidden verbs
- e) Scrutinize any sentences that use a form of "to be" or "to have"
- f) Minimize *is, are, was* and *were*
- g) Turn nouns in to strong verbs (tip: reduce the number of words that end in "-ion")
- (1) We made a determination => We determined
  - (2) We will make a distribution => We will distribute
2. Try using the personal pronoun "you"
- a) Adds clarity to what applies and to whom
  - b) Allows you to speak directly to your reader
  - c) Helps create concrete language
  - d) Keeps sentences short
  - e) Avoids the "he or she" dilemma
  - f) Example:
    - (1) **Before:** The investor should read the fund's prospectus and SAI before he or she decides to invest in the fund.
    - (2) **After:** You should read the fund's prospectus and SAI before you decide to invest in the fund.
3. Bring abstractions down to earth
- a) Use hypothetical situations
  - b) Use concrete terms
  - c) Example:
    - (1) **Before:** Sandyhill Basic Value Fund, Inc. (the "Fund") seeks capital appreciation and, secondarily, income by investing in securities, primarily equities, that management of the Fund believes are undervalued and therefore represent basic investment value.
    - (2) **After:** At the Sandyhill Basic Value Fund, we will strive to increase the value of your shares (capital appreciation) and, to a lesser extent, to provide income (dividends). We will invest primarily in undervalued stocks, meaning those selling for low prices given the financial strength of the companies.
4. Omit superfluous words
- "The most valuable of all talents is that of never using two words when one will do."  
-Thomas Jefferson
- a) This is an easy way to improve your document since it does not require changing your sentence structure
  - b) Using the active voice can help reduce wordiness
  - c) Simple Substitutions

- (1) In order to => To
  - (2) In the event that => If
  - (3) Despite the fact that => Although
  - (4) In light of => Because/Since
  - d) Reduce “whether or not” to simply “whether”
  - e) Eliminate any laundry list of adjectives
    - (1) Do not add multiple words to your sentence, hoping at least one will convey your message
    - (2) This is a waste of time for both the writer and the reader
  - f) Example of shortening a sentence:
    - (1) **Before:** The following table below represents the maximum sales charges, redemption fees, and account fees that an investor may expect to pay, as determined by the class of the share, if he or she were to buy and hold the respective share classes of the fund. (45 words)
    - (2) **After:** This table describes the fees and expenses that you may pay if you buy and hold shares of the fund. (20 words)
5. Use positive sentences
- a) Generally shorter and easier to understand
  - b) Negative phrases can often be replaced by a single word
    - (1) Does not include => Excludes
    - (2) Not able => Unable
    - (3) Not unlike => Similar
  - c) **Before:** After-tax returns are not shown for shares other than Class A shares.
  - d) **After:** After-tax returns are shown only for Class A shares.
6. Use short sentences
- a) The longer the sentence, the harder it is for the reader to understand your point
  - b) Don’t overcomplicate sentences by packing in too much information
    - (1) Rule of thumb: try to keep your average sentence length to about 30 words or less
    - (2) Tip: Without even reading it, look at the number of lines on which a single sentence appears. When a sentence gets to four lines, it is probably too long
    - (3) Look to break it up: which, that and who clauses often indicate where a single sentence can naturally break into two
  - c) Replace jargon and legalese with short, common words
    - (1) Ruthlessly apply this rule
    - (2) Don’t create jargon or acronyms just for your document
      - (a) Avoid acronyms that aren’t widely known
      - (b) Do use ERISA and REIT; Do not make up an acronym just for your fund name or type
    - (3) When you can’t avoid jargon, explain it when you first use it
      - (a) **Example:** The fund pays transaction costs, such as commissions, when it buys and sells securities (or “turns over” its portfolio).
      - (b) The reader now knows that “portfolio turnover” means buying and selling securities
    - (4) For some, spotting jargon can be difficult, particularly where you read it daily. Have an appropriate layperson read through to spot for confusing words or phrases
  - d) Defined terms
    - (1) Use them sparingly
    - (2) Can lead to confusion where the reader is forced to return to the definition
    - (3) “Don’t let a shortcut for the writer become a roadblock for the reader”
  - e) Use the simpler synonym, where one exists
    - (1) “End” instead of “terminate”

- (2) “Use” instead of “utilize”
  - f) Keep the subject, verb, and object close together
    - (1) This is the natural order of English speakers
    - (2) Try not to interrupt your sentences with too many modifiers
    - (3) Tip: read the sentence out loud. Does it sound like something you would say?
  - g) When using “if...then” conditional statements, remember the SEC rules of thumb
    - (1) One “if,” one “then”: start with the “if” clause
    - (2) One “if,” multiple “thens”: start with the “if” clause and tabulate the “thens”
    - (3) Multiple “ifs,” one “then”: start with the “then” clause and tabulate the “ifs”
    - (4) Multiple “ifs,” multiple “thens”: Either break it down to more than one sentence or create a table
  - h) Parallel sentence structure
    - (1) Creates cohesive sentences that are easier to read
    - (2) **Before:** We invest the Fund’s assets in short-term money market securities to provide you with liquidity, protection of your investment, and high current income.
    - (3) **After:** We invest in short-term money market securities to provide you with liquidity, protect your investment, and generate high current income.
    - (4) **Rule of thumb:** if the preposition before the verb is the same for all verbs in a parallel sentence, you don’t have to repeat it
  - i) Steer clear of “respectively”
    - (1) It may use less words, but tends to complicate the sentence
    - (2) Requires the reader to backtrack
7. Design and layout
- a) Make it look attractive
  - b) This tends to increase the readability of the document
    - (1) Readers are more likely to want to read it
    - (2) Document will be easier to read
    - (3) Should not be an issue with ADV Part 2; must follow the given order

## V. Additional SEC Guidance

- A. Instructions to Form ADV Part 2:
  - 1. Write your brochure and supplements in plain English, taking into consideration your clients’ level of financial sophistication. Your brochure should be concise and direct. In drafting your brochure and brochure supplements, you should:
    - a) Use short sentences
    - b) Use definite, concrete, everyday words
    - c) Use active voice
    - d) Use tables or bullet lists for complex material, whenever possible
    - e) Avoid legal jargon or highly technical business terms unless you explain them or you believe that your clients will understand them
    - f) Avoid multiple negatives
  - 2. Consider providing examples to illustrate a description of your practices or policies
- B. Do not include kitchen sink disclosure to the ADV
  - 1. Do not include any and every potential conflict that might arise
  - 2. **“[D]iscuss only conflicts the adviser has or is reasonably likely to have, and practices in which it engages or is reasonably likely to engage” – Instructions to ADV Part 2**
  - 3. If an undisclosed conflict or business practice does arise, provide supplemental disclosure
  - 4. Do not obscure required information by littering the document with “might,” “may,” and “potentially”
- C. Rule 13a-20 under the Securities and Exchange Act of 1934 Act (Rule 13a-20) (’34 Act) also contains standards on presenting reports in plain English
  - 1. Items to avoid

- a) Legalistic or overly complex presentations that make the substance of the disclosure difficult to understand
  - b) Vague "boilerplate" explanations that are imprecise and readily subject to different interpretations
  - c) Complex information copied directly from legal documents without any clear and concise explanation of the provision(s)
  - d) Disclosure repeated in different sections of the document that increases the size of the document but does not enhance the quality of the information
2. While this guidance relates specifically to reports required by the '34 Act, it remains sound general advice to writing plain English