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SEC Exempts Accountants from Municipal Advisor Registration.

The US Securities and Exchange Commission (SEC) last month adopted rules establishing a permanent registration regime for municipal advisors as required by the Dodd-Frank Act; however, an accountant who provides audit or other attestation services will not have to register as a municipal advisor.

The new rule approved by the SEC on September 18 requires a municipal advisor to permanently register with the SEC if the advisor provides advice on the issuance of municipal securities or about certain “investment strategies” or municipal derivatives.

State and local governments that issue municipal bonds frequently rely on advisors to help them decide how and when to issue the securities and how to invest proceeds from the sales. These advisors receive fees for the services they provide.

Prior to the passage of the Dodd-Frank Act in 2010, municipal advisors were not required to register with the SEC like other market intermediaries. According to the SEC, this left many municipalities relying on advice from unregulated advisors, and they were often unaware of any conflicts of interest a municipal advisor may have had.

After the Dodd-Frank Act became law, the SEC established a temporary registration regime, and more than 1,100 municipal advisors have since registered with the SEC.

While the SEC’s definition of municipal advisor in the original proposed rule would not have required accountants who perform audits of financial statements to register, the rule would have encompassed accountants who perform other audit and attestation services, according to Barry Melancon, CPA, CGMA, president and CEO of the American Institute of CPAs (AICPA).

The final SEC rule states accountants do not have to register as municipal advisors if they provide accounting services that include audit or other attest services, preparation of financial statements, or issuance of letters for underwriters.

“Accountants providing audit and attestation services are already subject to layers of regulation that are intended to protect investors,” Melancon said in a written statement on September 27. “We are pleased that the SEC expanded the accountant exemption to include audit and attestation engagements, preparation of financial statements, and the issuance of letters for underwriters. We commend the SEC for its flexibility on this issue.”