

Bond Case Briefs

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Q4 2017: Municipal Advisor Exam Results.

On November 7, the SEC's National Examination Program issued a [Risk Alert](#) providing the SEC staff's observations after conducting over 110 examinations of municipal advisors during the Municipal Advisor Examination Initiative. Some of the key observations highlighted by the Risk Alert include:

- **Registration Deficiencies:** The SEC staff frequently observed failures to (i) register with the SEC or the MSRB prior to engaging in municipal advisory activities; (ii) file annual updates and/or amendments to Form MA, Form MA-I, and MSRB Form A-12 when required; and (iii) complete Form MA with accurate and complete information, particularly with respect to compensation arrangements and outside business activities. The SEC staff also observed instances of municipal advisors failing to pay MSRB registration fees and late fees and file a Form MA-W and withdraw MSRB Form A-12 when withdrawing from registration.
- **Books and Records Deficiencies:** The SEC staff frequently observed failures to (i) maintain copies of written and electronic communications sent or received by the firm related to municipal advisory activities; (ii) make and keep documents material to a recommendation made to a client; and (iii) prepare and maintain accurate, required financial records, including general ledgers and records of cash receipts and disbursements.
- **Supervisory Deficiencies:** The SEC staff frequently observed failures to (i) have a system to supervise the municipal advisory activities of employees that was reasonably designed to achieve compliance with all applicable rules, such as monitoring gifts, travel, and entertainment expenses (including the maintenance of accurate records of travel and entertainment expenses) and overseeing the firm's responses to requests for proposals; (ii) have WSPs reasonably designed to ensure compliance with applicable rules, tailored to the firm's business activities and conflicts of interest; and (iii) designate one or more principals to be responsible for supervisory activities.

Rule Changes

MSRB Implements New CE Program for Municipal Advisors

January 1, 2018, The MSRB begins implementation of the continuing education program for municipal advisors, as required by amendments to MSRB Rule G-3.

[Read the full information on the change.](#)

Per the MSRB release, the adoption of continuing education (CE) requirements for municipal advisors represents an important milestone in developing professional standards and CE requirements as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"). The adoption of the amendments to establish CE requirements for municipal advisors furthers the MSRB's mandate to protect investors, municipal entities, obligated persons and the public interest. The amendments to Rule G-3 help to ensure that those individuals engaging in municipal advisory activities on behalf of a municipal advisor, as well as those individuals that directly engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons, remain current in their industry knowledge. The

accompanying amendments to Rule G-8 promote compliance with a municipal advisor's recordkeeping requirements related to the administration of its CE program. Municipal Advisors have until December 31, 2018 to complete a needs analysis, develop a written training plan and deliver training to comply with the annual CE requirements for 2018.

Rule Changes

Changes to MSRB Rule G-34

The Municipal Securities Rulemaking Board (MSRB) received approval from the Securities and Exchange Commission (SEC) on December 14, 2017, to amend MSRB Rule G-34, on CUSIP numbers, new issue, and market information requirements (the "amendments").

[Read the full notice and additional information.](#)

The amendments will codify the MSRB's longstanding interpretive view that brokers, dealers and municipal securities dealers (collectively, "dealers") are "underwriters" when acting as placement agent in private placements of municipal securities, including direct purchases. In addition, the amendments will extend to non-dealer municipal advisors, the requirement that a municipal advisor obtain a CUSIP number when advising on a competitive transaction in municipal securities. Finally, the amendments will provide a principles-based exception for dealers (and municipal advisors in competitive sales) from the CUSIP number requirements when selling a new issue of municipal securities in certain circumstances where the dealer or municipal advisor reasonably believes (e.g., by obtaining a written representation) that the present intent of the purchasing entity is to hold the municipal securities to maturity or earlier redemption or mandatory tender. Dealers also will be able to rely on the principles-based exception with respect to the requirement to apply for depository eligibility for a new issue pursuant to Rule G-34.

The amendments will become effective on June 14, 2018.

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