

Bond Case Briefs

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Broker-Dealer Settles Charges for Unregistered Municipal Advisory Operations.

A broker-dealer [settled](#) SEC charges for operating as an unregistered municipal advisory firm by providing advice to a municipality regarding securities that were purchased with the proceeds from an issuance of bonds. In a release, the SEC stated that “[t]he action marks the first time the SEC has charged a broker-dealer for violating the municipal advisor registration rule.”

The SEC found that a registered representative of the firm made recommendations for specific financial products that included subjective opinions, which the SEC determined constitutes as investment advice. The SEC said that the broker-dealer failed to adequately supervise registered representatives’ municipal securities activities. The broker-dealer maintained (i) improper procedures to enable its registered representatives to identify municipal bond proceeds accounts, (ii) inadequate training on the municipal advisor registration requirements and (iii) insufficient electronic communication monitoring to identify potential communications violations.

As a result, the SEC determined the broker-dealer violated Exchange Act Section 15B(a)(1)(B) and 15B(c)(1) (“Municipal securities”) as well as MSRB Rule G-27 (“Supervision”). To settle the charges, the broker-dealer agreed to (i) cease and desist, (ii) accept a censure, (iii) pay a civil monetary penalty of \$100,000, plus additional disgorgement and prejudgment interest.

Commentary

Firms that provide services to municipalities should be mindful that the definition of “municipal advisor” does not correspond to the definition of “investment adviser,” and that it is not intuitive.

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