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SEC Approves MSRB Solicitor Muni Advisors Rule Amendments.

The SEC approved the MSRB rule amendments to establish core standards of conduct and duties for "solicitor municipal advisors."

As previously covered, the rule amendments establish new MSRB Rule G-46 ("Duties of Solicitor Municipal Advisors") to provide standards of conduct for solicitor municipal advisors when "engaging in solicitation activities that would require them to register with the SEC and the MSRB."

MSRB Notice 2023-03 states that Rule G-46 requires solicitor municipal advisors to (i) provide full and fair written disclosure regarding any material conflicts of interest and material legal or disciplinary events to solicitor clients and (ii) disclose material facts related to the solicitation including the advisor's role and compensation and material conflicts of interest. The new rule also prohibits such advisors from (i) publishing any materially false or misleading information regarding the capacity, resources or knowledge of the solicitor client and (ii) delivering inaccurate invoices or making payments for the purpose of retaining a municipal advisory activity engagement.

The adopted rule amendments also codify previously issued interpretive guidance concerning the requirements applicable to solicitor municipal advisors under MSRB Rule G-17 ("Conduct of Municipal Securities and Municipal Advisory Activities"), MSRB Rule G-42 ("Duties of Non-Solicitor Municipal Advisors") and IAA Rule 206(4)-1 ("Investment Adviser Marketing"). Further, it adds specific recordkeeping obligations for solicitor municipal advisors under MSRB Rule G-8 ("Books and Records to be Made by Brokers, Dealers, and Municipal Securities Dealers and Municipal Advisors") with respect to solicitation of advisory services.

The compliance date for Rule G-46 and the related amendments to Rule G-8 will be March 1, 2024.

Fried Frank Harris Shriver & Jacobson LLP

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