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SEC Announces Municipal Advisor Examination Initiative

On August 19, 2014, the Securities and Exchange Commission (SEC) announced that its Office of Compliance Inspections and Examinations (OCIE) will begin a two-year examination initiative (the initiative) through the National Exam Program (NEP) aimed at municipal advisors that are newly registered with the SEC but are not registered as broker dealers with the Financial Industry Regulatory Authority (FINRA). The SEC announced that a "significant percentage" of municipal advisors will be examined as part of the Initiative, and that municipal advisors will be informed if they have been selected for examination. The SEC did not announce the date the Initiative will begin, but the announcement suggests that it will begin later this year.

The Initiative will have three phases, summarized below: engagement, examination and informing policy.

Engagement: The SEC will conduct outreach to municipal advisors to inform them of their obligations under Dodd-Frank and new SEC and Municipal Securities Rulemaking Board (MSRB) rules, the initiative, and the OCIE's practices. In addition, starting later this year the SEC will hold a Compliance Outreach Program for municipal advisors.

Examination: NEP staff will review one or more of the following risk areas of selected municipal advisors for compliance with the SEC's final municipal advisor rule and applicable MSRB rules once those rules are approved by the SEC and become effective:

1. compliance with SEC and MSRB registration rules;
2. compliance with the fiduciary duty requirement established under Dodd Frank and SEC and MSRB rules (including, but not limited to, MSRB Rule G-20 on gifts, gratuities and non-cash compensation);
3. accuracy of disclosures made by municipal advisors to their client municipalities;
4. fair dealing (including, but not limited to, compliance with MSRB Rule G-37 on political contributions);
5. policies, procedures and controls in place to supervise a municipal advisor's business;
6. compliance with the books and recordkeeping requirements under SEC and MSRB rules; and
7. the knowledge base and training of the municipal advisor staff on rules including MSRB G-3, which includes, among other things, testing and continuing education requirements.

Informing policy: The NEP staff intends to report its observations learned from the initiative to the SEC.

The SEC's letter and press release announcing the new examination program are available here: <http://www.sec.gov/about/offices/ocie/muni-advisor-letter-081914.pdf> and http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370542678782#.U_Ort9JOWJA.

Please contact us with any questions.