

Registration Deadline Looms for 'Municipal Advisors'

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The Municipal Securities Rulemaking Board (MSRB) today issued a reminder about the year-end MSRB registration requirement for "municipal advisors" under the Dodd-Frank Wall Street Reform and Consumer Protection Act. MSRB registration for municipal advisors is *in addition* to other MSRB registrations and interim registration with the Securities and Exchange Commission (SEC). Before registering with the MSRB, municipal advisors must first complete [SEC registration Form MA-T](#).

On December 20, 2010, the SEC issued proposed rules to define and explain various statutory terms, including "municipal advisor." The term "municipal advisor" covers persons, both corporate and natural, who provide advice to, or on behalf of, a municipal entity with respect to "municipal financial products" or the issuance of municipal securities, including advice with respect to the structure, timing, terms and other similar matters concerning such financial products or issues, or who undertakes a solicitation of a municipal entity for these purposes. It includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders and swap advisors.

The term *excludes* a broker, dealer or municipal securities dealer *only* when it is serving as an underwriter for a municipal securities offering. However, the SEC would *not exclude*:

- A broker-dealer advising about the investment of bond proceeds or the advisability of a municipal derivative unless acting as an SEC-registered investment adviser; or
- A broker-dealer acting as a placement agent for a private equity fund that solicits a municipal entity or obligated person to invest in the private equity fund

The term also *excludes* any SEC-registered investment adviser and the investment adviser's representatives when giving investment advice to a municipal entity but not when engaged in other municipal advisory activities, described above, for which investment adviser registration is not required. The SEC's release is silent about state-registered investment advisers, so they are not excluded from this definition. A registered commodity trading advisor and its associated persons are excluded when providing advice related to swaps. Attorneys providing traditional legal advice and engineers providing engineering advice also are excluded.

The statute does not exclude banks from the definition of "municipal advisor." However, the SEC's release asks if, by rule, banks should be permitted to give advice about traditional banking products such as insured checking and savings accounts and certificates of deposit.

MSRB Notice 2010-60 is available [here](#). Here are links containing additional information:

- [SEC Proposes Permanent Rule Requiring Municipal Advisors to Register With Agency](#)
- [Proposed Rule: Registration of Municipal Advisors](#)
- [Form MA](#)
- [Form MA Execution Page](#)
- [Form MA-I](#)
- [Form MA-W](#)
- [Form MA-NR](#)
- [Form MA Instructions and Glossary](#)

The Broker-Dealer/Investment Adviser Group at Warner Norcross & Judd would be pleased to assist you in understanding these new requirements and completing the registration process. Feel free to contact Shane Hansen (616.752.2145 or shansen@wnj.com) or any other member of group.