

SEC Approves Guidance with Respect to Dealer-Affiliated PACs

November 2010

On October 12, 2010, the Securities and Exchange Commission (SEC) approved interpretative guidance issued by the Municipal Securities Rulemaking Board (MSRB) that relates to the treatment of PACs affiliated with brokers and dealers under MSRB Rule G-37. The interpretive guidance becomes effective on December 12, 2010, and can be found at www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2010/2010-45.aspx.

This guidance is meant to assist broker/dealers and banks that own broker/dealers in complying with the pay-to-play contribution ban under MSRB Rule G-37. The guidance outlines when a PAC is dealer-controlled and thus is subject to the pay-to-play ban. Such criteria include situations where covered personnel at the broker/dealer (known as "municipal finance professionals") are involved in the creation of the PAC, its control, its funding and its management.

Further, the advice elaborates on Rule G-37's ban on indirect contributions by those who are prohibited from making direct contributions. The MSRB warns that dealer-affiliated PACs can be vehicles for such impermissible circumvention of the rules. Thus, such broker/dealers and banks must institute two-way informational firewalls in order to avoid potential violations or establish other written supervisory procedures that ensure compliance with Rule G-37.

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