

MSRB and FINRA Send Pay-to-Play Rules to the SEC

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On December 16, 2015, the Municipal Securities Rulemaking Board (MSRB) and the Financial Industry Regulatory Authority (FINRA) each sent proposed pay-to-play rules to the Securities and Exchange Commission (SEC). The SEC then published a summary of each set of rules and asked for comments. Comments on the proposed rules are due by January 20, 2016.

The MSRB rules are an extension of its current pay-to-play Rule G-37 to cover "municipal advisors" and certain of their employees. The municipal advisor rule additions make no changes to the general parameters of Rule G-37. This means that municipal advisors may not receive compensation from states or localities for certain types of municipal advisory activities within two years of a direct or indirect prohibited contribution being made to a covered officer of a given jurisdiction. There is, however, an exception for, among other things, a de minimis contribution of \$250 or less per election from a natural person who is able to vote for the recipient candidate. In addition, there is a ban on certain coordination and solicitation activity.

The FINRA rules are for broker dealers that act as placement agents and third-party solicitors for affiliated investment advisers. The FINRA rule tracks the SEC's pay-to-play rules for investment advisers, prohibiting the receipt of compensation from state or local government agencies for solicitation and distribution activities within two years of a prohibited contribution by a broker-dealer or one of its covered associates. There is, however, a de minimis exception for contributions by natural person covered associates of \$350 per election if the individual can vote for the candidate and \$150 per

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election if not. The Rule also prohibits indirect contributions to covered government officials through family members, PACs, or other persons. In addition, there is a ban on certain coordination and solicitation activity.

The proposed FINRA rule and related documents can be found at <http://www.sec.gov/rules/sro/finra/2015/34-76767.pdf>. The MSRB file can be found at <http://www.msrb.org/~media/Files/SEC-Filings/2015/MSRB-2015-14.ashx>.