

SEC and SRO Enforcement Developments Regarding Broker-Dealers

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The Morgan Lewis Securities Litigation and Enforcement Practice has published an outline highlighting recent key U.S. Securities and Exchange Commission (the SEC or the Commission) and Financial Industry Regulatory Authority (FINRA) enforcement developments and cases regarding broker-dealers.

There have been a number of important enforcement developments this year at the Commission, including the SEC's first-ever deferred prosecution agreement, the finalization of the whistleblower rules under the Dodd-Frank Wall Street Reform and Consumer Protection Act, and a continued focus on individual liability in enforcement actions. Moreover, a federal judge has raised concerns about the SEC's practice of allowing defendants to neither admit nor deny the allegations contained in a settlement. For his part, the Director of the SEC's Division of Enforcement has criticized certain defense counsel tactics and raised questions about multiple representations in investigations. All the while, the Commission continues to be active and aggressive in bringing enforcement actions. The SEC brought significant cases in the insider trading, collateralized debt obligation, municipal bond, and customer privacy areas.

FINRA's enforcement program has a new leader, new rules, a new disciplinary action database, and revised Sanction Guidelines. FINRA also appears to be bringing more cases with large fines. Notably, while it has brought cases in several traditional areas, it has also opened new fronts in other investigations. Key FINRA disciplinary actions were in areas related to mortgage-backed securities, prospectus delivery, and structured products.

The full outline, which also includes summaries of approximately 60 cases, is available at <http://www.morganlewis.com/pubs/SEC-SROEnforcementDevelopments-Fall2011.pdf>.

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