

Dual Registrant Issues

Wednesday, November 3, 2010

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Dual Registrant Issues

- Introduction
- Fiduciary Duty & The Dodd-Frank Wall Street Reform and Consumer Protection Act
- Trading Issues for Dual Registrants
- Disclosure Issues for Dual Registrants
 - Dodd Frank Mandate
 - Form ADV Part 2 Revamp and the Brochure Supplement
 - Rule 12b-1 Proposal and Disclosure Implications
- Other issues



Fiduciary Duty & Dodd-Frank

- **SEC Authority to Mandate Fiduciary Duty for Brokers**
 - Conflicting Authorizations
 - Key Components
 - “Best Interest” Standard
 - Focus on “Personalized Investment Advice” to “Retail Customers”
 - Comfort for Dual Registrants on Receipt of Commissions, Offering Limited & Proprietary Products and Non-Continuing Duty
- **Prelude to Fiduciary Duty for Brokers – SEC Study**
 - Broad Focus – Beyond Fiduciary Duty
 - SEC Outreach for Comments & Industry Feedback
 - Possible Realignment of Regulatory & Oversight Authority
- **Implications for Dual Registrants**



Trading Issues

- **SEC's 2-Year Principal Trade/Non-Discretionary Account Sweep**
- **Sunset of Rule 206(3)-3T (Principal Trades)**
- **Possible SEC Principal Trade Exemptive Relief**



Disclosure Issues

- **Dodd-Frank – SEC Mandate to:**
 - **Facilitate clear disclosure to investors of brokerage and advisory relationships, including material conflicts**
 - **Issue rules designating “point of sale” disclosures to be provided by brokers to retail investors before purchasing investment products & services**
 - **Issue rules governing sales and compensation practices and conflicts**



Disclosure Issues

- Form ADV Part 2 Revamp and the Brochure Supplement
 - Part 2 – New Subjects & Delivery Requirements
 - Brochure Supplement
 - New Form
 - Covered Persons
 - Required Topics & Information Needed
 - Transition Challenge for Large Firms
- FINRA Regulatory Notice 10-54 (akin to Form BD Part 2)



Disclosure Issues

- **Rule 12b-1 Proposal and Disclosure Implications**
 - Overview of Proposal
 - Confirmation Disclosure
 - Prospectus Disclosure, including on revenue sharing arrangements
 - Implications for Broader Changes in Business Models



Other Issues

- **The SEC's Pay-to-Play Rule – Issues for Dual Registrants**
- **Conflicting Regulatory Regimes, including regarding Advertisements**



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