

Financial Services Regulatory Highlights

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Obama Administration Advances its Regulatory Reform Agenda in Congress	1
Administration's Regulatory Reform Agenda Moves Forward: Legislation for Strengthening Investor Protection	3
Administration's Regulatory Reform Agenda Moves Forward: Legislation for Strengthening Consumer Protection Delivered to Capitol Hill	4
SEC Proposes Measures to Curtail "Pay to Play" Practices.....	5
Private Fund Investment Advisers Registration Act of 2009	6
Request for Comment on Proposed Interagency Liquidity Guidance ...	7
FinCEN Seeks Comments on AML Plan for Non-Bank Mortgage Lenders and Originators.....	7
Agencies Publish Final Rules and Guidelines to Promote Accurate Reports About Consumers	8
Treasury Releases Fact Sheet on Say-On-Pay	8
Federal Reserve Releases Interim Final Rule Amending Regulation Z.....	9
Treasury Releases Fact Sheet on New Independence for Compensation Committees.....	9
FINRA Issues Investor Alert, Regulatory Notice and Launches Industry Sweeps to Protect Muni Bond Investors	10
FinCEN Releases Latest Edition of the SAR Activity Review - By the Numbers	11
Additional Information	11

Obama Administration Advances its Regulatory Reform Agenda in Congress

On July 24, 2009, the Administration sent legislation to Congress as part of its Regulatory Reform proposal. The following are highlights of the key provisions pertaining to financial services oversight council, bank supervision, and market regulation, among other items.

Title I - Create a Financial Services Oversight Council

The President's plan will create a Financial Services Oversight Council to facilitate coordination of financial regulatory policy and resolution of disputes and identify emerging risks in financial markets. The Financial Services Oversight Council will replace the President's Working Group on Financial Markets and will have a permanent, full-time staff at Treasury. The Council will have eight members, one from each of the principal

federal financial regulators: (i) the Secretary of the Treasury, who shall serve as the Chair; (ii) the Chairman of the Board of Governors of the Federal Reserve System; (iii) the Chairman of the Commodity Futures Trading Commission (CFTC); (iv) the Director of the proposed Consumer Financial Protection Agency; (v) the Chairperson of the Federal Deposit Insurance Corporation (FDIC); (vi) the Director of the Federal Housing Finance Agency (FHFA); (vii) the Director of the proposed National Bank Supervisor (NBS); and (viii) the Chairman of the Securities and Exchange Commission (SEC).

Title II - Effective Consolidated Supervision of Systemic Financial Firms

Under the President's plan, all financial firms that are found to pose a threat to our economy's financial stability based on their size, leverage, and interconnectedness to the financial system will be subjected to consolidated supervision and regulation. These Tier 1 financial holding companies (Tier 1 FHCs) will be subject to consolidated supervision and regulation by the Federal Reserve regardless of whether they own insured depository institutions and will be subject to the nonfinancial activities restrictions of the Bank Holding Company Act. Tier 1 FHCs will be subject to stricter and more conservative prudential standards than those that apply to other bank holding companies, including higher standards on capital, liquidity, and risk management. These standards will be set with a focus on the risks that these firms could pose to the financial system as a whole, not just the risks to each institution.

TITLE III - Improvements to Supervision and Regulation of Federal Depository Institutions

The legislation creates a National Bank Supervisor through the consolidation of the Office of Thrift Supervision (OTS) and the Office of the Comptroller of

the Currency (OCC). This consolidation will also eliminate the thrift charter and thrift holding company framework.

The legislation requires the Federal Reserve, FDIC, and the National Bank Supervisor to adopt joint rules on bank regulatory fees to end arbitrage between regulators based on bank examination fees. Banks over \$10 billion in assets will pay bank examination fees regardless of charter, based on their size, complexity, and financial condition.

Title V - Office of National Insurance

Title V establishes an Office of National Insurance in the Department of the Treasury, which will be headed by a Director, who shall be appointed by the Secretary of the Treasury. The Office of National Insurance shall have the authority, pursuant to the direction of the Secretary to:

- Monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system;
- Recommend to the Board of Governors of the Federal Reserve System that it designate an insurer, including its affiliates, as an entity subject to regulation as a Tier 1 financial holding company;
- Assist the Secretary in administering the Terrorism Insurance Program established in the Department of the Treasury under the Terrorism Risk Insurance Act of 2002;
- Coordinate Federal efforts and establish Federal policy on prudential aspects of international insurance matters, including representing the United States as appropriate in the International Association of Insurance Supervisors and assisting the Secretary in negotiating International Insurance Agreements on Prudential Measures;
- Determine, whether State insurance measures are preempted by International Insurance Agreements on Prudential Measures; and

- Consult with the States regarding insurance matters of national importance and prudential insurance matters of international importance.

Title VI - Increase Regulation and Supervision of All Financial Holding Companies and Close Exemptions from BHC Act coverage

The legislation will require all financial holding companies including Tier 1 FHCs, to be well capitalized and well managed on a consolidated basis, significantly raising minimum capital standards for these firms. It will also strengthen firewalls between banks and their affiliates to better protect the federal safety net that supports banks, to better prevent spread of the subsidy from the federal safety net to non-depository bank affiliates, and to better address conflicts of interest in banking organizations. All companies that control an insured depository institution will be subject to robust, consolidated supervision and regulation at the federal level by the Federal Reserve and will be subject to the nonfinancial activity limits contained in the Bank Holding Company Act strengthening the separation between banking and commerce providing for strong oversight and blocking regulatory arbitrage.

TITLE VIII - Provide Enhanced Supervision over Systemically Important Payment Systems

The purposes of title VIII are to mitigate systemic risk in the financial system and promote financial stability by:

- Authorizing the Federal Reserve Board (FRB) to prescribe uniform standards for the management of risks by systemically important financial market utilities and for the conduct of systemically important payment, clearing and settlement activities by financial institutions;
- Providing the FRB an enhanced role in the supervision of risk management standards for systemically important financial market utilities;
- Strengthening the liquidity of systemically important financial market utilities; and
- Providing the FRB an enhanced role in the supervision of risk management standards for

systemically important payment, clearing, and settlement activities by financial institutions.

Title IX - Comprehensive Regulation of Critical Markets

Banking regulators and the SEC will issue regulations that require the securitizer of an asset-backed security to retain 5 percent of the credit risk of the underlying assets. The legislation also expands the SEC's authority to require loan-level disclosure for asset-backed securities in a standard format to enhance the ability of investors to perform their own due diligence.

TITLE XI - Provide the Government with Emergency Authority to Resolve Any Large, Interconnected Financial Firm in an Orderly Manner

The Administration's plan gives the federal government the authority necessary to avoid the disorderly resolution of large, interconnected firms when the stability of the financial system is threatened. The proposed resolution authority would supplement (rather than replace) bankruptcy laws and be modeled on the existing resolution regime for insured depository institutions under the Federal Deposit Insurance Act. Use of the authority will be subject to a strict regime of checks and balances, including requiring two-thirds vote by the Federal Reserve Board and the Board of the FDIC or the SEC, as well as the approval of Treasury.

The resolution authority will give Treasury the ability to appoint the FDIC or the SEC as conservator or receiver

for a failing financial firm that poses a threat to financial stability. The conservator or receiver of the firm will have a broad set of powers including authority to take control of the operations of the firm and to sell or transfer all or any part of the assets of the firm. The resolution authority will also include the ability to provide loans, assume liabilities, or inject capital subject to checks and balances and only if a systemic risk determination has been made.

The legislation will require prompt corrective action from large, interconnected firms should their capital levels decline. Tier 1 FHCs will be subject to a prompt corrective action regime that would require the firm and its supervisory agency to take corrective actions as the firm's regulatory capital levels decline. This regime will mirror the prompt corrective action regime for insured depository institutions established under the Federal Deposit Insurance Corporation Improvements Act (FDICIA).

The Federal Reserve will require each Tier 1 FHC to prepare and maintain a credible plan for the rapid resolution of the firm in the event of severe financial distress.

Title XII -- Strengthen Accountability for Emergency Authorities.

The legislation will require prior written approval of the Treasury Secretary for lending by the Federal Reserve under its emergency lending authority.

Administration's Regulatory Reform Agenda Moves Forward: Legislation for Strengthening Investor Protection

On June 30, 2009, the U.S. Treasury released a statement regarding legislation for strengthening investor protection. If enacted, the legislation would provide authority for the SEC to establish a new standard or standards of conduct for broker-dealers and investment advisers that provide investment advice about securities to retail investors. The legislation also proposes that the SEC be required to examine and, if appropriate, to ban "compensation schemes," sales practices and conflicts

of interest involving broker-dealers or investment advisers that are contrary to the public interest. Additionally, the legislation would also establish a permanent Investor Advisory Committee to keep the voice of investors present at the SEC.

Fairness

The legislation would give the SEC authority to require fiduciary duty for any broker, dealer, or investment

adviser who provides investment advice about securities, aligning the standards based on activity, instead of based on legal distinctions that are no longer meaningful. The SEC would also be empowered to examine and ban forms of compensation that encourage financial intermediaries to steer investors into products that are profitable to the intermediary, but are not in the investor's best interest. The legislation would also give the SEC authority to prohibit mandatory arbitration clauses in broker-dealer, municipal securities dealer, and investment advisory agreements.

Disclosure

In regards to disclosure, the legislation would give the SEC authority to regulate the quality and timing of disclosures and clarify the SEC's authority to conduct consumer testing and encourage it to do so.

Accountability

The legislation would authorize the SEC to establish a fund, out of which it would compensate whistleblowers,

use monies that it collected from enforcement actions that are not distributed to investors. The legislation would also provide for confidentiality of information provided by whistleblowers. The legislation also addresses liability standards in order for the SEC to pursue serious misconduct. Finally, the legislation would also give the SEC authority to remove regulated persons from all aspects of the securities industry rather than just a specific segment. Currently, if an individual were barred from being an investment adviser, this would not necessarily impede them from applying to become a broker-dealer.

Investor Engagement

The legislation would formally establish and make permanent the SEC's Investor Advisory Committee, which would be required to meet at least twice a year. The Committee would continue to advise the SEC on regulatory issues concerning new products, trading strategies, fee structures and the effectiveness of disclosure.

Administration's Regulatory Reform Agenda Moves Forward: Legislation for Strengthening Consumer Protection Delivered to Capitol Hill

On June 30, 2009, the U.S Department of Treasury released a statement regarding legislation for strengthening consumer protection. With leaders in Congress committed to enacting regulatory reform by the end of the year, the Administration today delivered to Capitol Hill a bill that would create the Consumer Financial Protection Agency. The agency will be dedicated to looking out for American families when they take out loans or use other financial products or services – with a mission to promote access and protect consumers from unscrupulous practices across the market. This new agency will implement and enforce the new credit card bill signed into law by President Obama and Congress and have authority to combat the worst abuses in mortgage markets. This legislation creates an agency to promote transparency, simplicity, fairness, accountability, and access – laying the cornerstone for

the effort to fundamentally reform our system of financial regulation.

An agency will be created that is dedicated to the interests of Consumers and will be responsible for:

- Concise and clear information that consumers can understand and use.
- Protect consumers from unfair or deceptive practices.
- Providing Fair, efficient and innovative financial services markets for consumers.
- Providing access to financial services.

Additionally, the proposed legislation will have a single point of accountability for consumer protection by:

- Bringing together the current fragmented responsibility for consumer protection.
- Requiring risks to consumers to be monitored by the agency.
- Requiring the agency to weigh both the benefits and the costs of the legislation.
- Streamlining and consolidating regulatory requirements.
- Creating consistent standards.
- Creating a level playing field and enforce compliance across all institutions.
- Requiring accountability for effective rule writing and enforcement.
- Instituting regular reviews of new regulations.

SEC Proposes Measures to Curtail "Pay to Play" Practices

On July 22, 2009, the SEC voted to propose measures intended to curtail "pay to play" practices by investment advisers that seek to manage money for state and local governments. The proposal relates to money managed by state and local governments under important public programs. Such programs include public pension plans that pay retirement benefits to government employees, retirement plans in which teachers and other government employees can invest money for their retirement, and 529 plans that allow families to invest money for college.

Restricting Political Contributions

Under the proposed rule, an investment adviser who makes a political contribution to an elected official in a position to influence the selection of the adviser, as manager for public funds, would be barred for two years from providing advisory services for compensation, either directly or through a fund. The rule would apply to the investment adviser as well as certain executives and employees of the adviser. Additionally, the rule would apply to political incumbents as well as candidates for a position that can influence the selection of an adviser. There is a de minimis provision that permits an executive or employee to make contributions of up to \$250 per election per candidate if the contributor is entitled to vote for the candidate.

Banning Solicitation of Contributions

The proposed rule also would prohibit an adviser and certain of its executives and employees from coordinating, or asking another person or political action committee (PAC) to:

- Make a contribution to an elected official (or candidate for the official's position) who can influence the selection of the adviser; or
- Make a payment to a political party of the state or locality where the adviser is seeking to provide advisory services to the government.

Banning Third-Party Solicitors

The proposed rule also would prohibit an adviser and certain of its executives and employees from paying a third party, such as a solicitor or placement agent, to solicit a government client on behalf of the investment adviser.

Restricting Indirect Contributions and Solicitations

Finally, the proposed rule would prohibit an adviser and certain of its executives and employees from engaging in pay to play conduct indirectly, such as by directing or funding contributions through third parties such as spouses, lawyers or companies affiliated with the adviser, if that conduct would violate the rule if the adviser did it directly. This provision would prevent advisers from circumventing the rule by directing or funding contributions through third parties.

Private Fund Investment Advisers Registration Act of 2009

On July 15, 2009, the Administration delivered proposed legislation to Capitol Hill requiring nearly all investment advisers to private investment pools (hedge funds, private equity funds, venture capital funds) to register with the SEC and subjecting them to new reporting and recordkeeping requirements. The proposed legislation is referred to as the Private Fund Investment Advisers Registration Act of 2009 and its stated objectives include:

- Assisting the SEC in protecting investors from fraud and abuse;
- Increasing transparency; and
- Providing regulators with sufficient information to monitor and manage potential systemic risk.

Registration

By amending Section 203(b) of the Investment Advisers Act, the proposal eliminates the private adviser exemption for U.S. advisers. It requires all U.S. investment advisers to private investment funds and with more than \$30 million under management to register with the SEC.

A private-adviser exemption would still be available to any foreign adviser that had less than 15 clients in the United States, less than \$25 million attributable to U.S. clients, and did not hold itself out generally as an adviser in the U.S.

The proposed legislation also requires a foreign investment adviser, who advises an offshore fund with 10 percent or more of its outstanding securities owned by U.S. persons, to register with the SEC. Although it is not clear, it appears that this requirement is intended to apply regardless of the size of the offshore fund or the number of US investors.

Regulatory Reporting

As part of the proposed legislation, any registered investment adviser to a private fund is required to maintain records and to submit reports to the SEC regarding its private funds. Such reports will include:

- Amount of assets under management;
- Use of leverage (including off-balance sheet leverage);
- Counterparty credit risk exposures;
- Trading and investment positions; and
- Trading practices.

The SEC will make information relating to the private funds available to the Board of Governors of the Federal Reserve System and the Financial Services Oversight Council that is considered necessary to determine and assess the systemic risk of a private fund or assessing whether a private fund should be designated a Tier 1 financial holding company.

The proposed legislation requires the confidentiality of the information contained in the reports and records required to be filed with the SEC, something for which the industry has lobbied hard.

Disclosures and Recordkeeping

In addition to the confidential regulatory reporting, the Act's language allows the SEC to require advisers to private funds to provide records, reports and other documents to investors, prospective investors, counterparties and creditors.

Additionally, the legislation makes clear that the SEC has authority to examine "all records of a private fund maintained by an investment adviser," not just those listed as required books and records under the Advisers Act.

Rulemaking Authority

The proposed legislation also attempts to clarify the rulemaking authority of the SEC by giving the SEC the authority to define the term "client" differently as the SEC determines necessary for the different purposes of the Advisers Act.

In addition, the language disallows the ability of advisers to withhold the identity of clients and investors from the SEC.

Request for Comment on Proposed Interagency Liquidity Guidance

On July 6, 2009, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration (the Agencies) released a request for comment on the proposed *Interagency Guidance on Funding and Liquidity Risk Management*. This proposed guidance would strengthen liquidity risk management principles by aligning the U.S. principles with the more stringent guidance issued by the Basel Committee on Banking Supervision in September 2008.

The proposed guidance reflects increasing concerns for managing funding and liquidity risk. The guidance reiterates the process that institutions should follow to appropriately identify measure, monitor and control their

funding and liquidity risk. It re-emphasizes the importance of cash flow projections, diversified funding sources, stress testing, a cushion of liquid assets, and a formal well-developed contingency funding plan as the primary tools for measuring and managing liquidity risk.

The Agencies expect all financial institutions to manage liquidity risk using processes and systems that are commensurate with the institution's complexity, risk profile, and scope of operations. Liquidity risk management processes and plans should be well documented and available for supervisory review. Failure to maintain an adequate liquidity risk management process is considered an unsafe and unsound practice.

Comments should be submitted on or before September 4, 2009.

FinCEN Seeks Comments on AML Plan for Non-Bank Mortgage Lenders and Originators

On July 15, 2009, the Financial Crimes Enforcement Network (FinCEN) issued an advance notice of proposed rulemaking (ANPRM) to solicit public comment on a wide range of questions pertaining to the possible application of anti-money laundering (AML) program and suspicious activity report (SAR) regulations to non-bank residential mortgage lenders and originators.

In FinCEN's recently issued mortgage fraud reports, SAR analysis showed non-bank mortgage lenders and originators initiated many of the mortgages that were associated with SAR filings. In addition, although its focus is limited to gathering information relevant to the possible AML responsibilities of this industry sector, this ANPRM complements ongoing regulatory reform and consumer protection initiatives, as regulator and consumer protection agencies also benefit from the data provided by SARs.

FinCEN is soliciting comment on the following:

- An incremental approach to the issuance of regulations for loan and finance companies that would initially affect only those persons engaged in non-bank residential mortgage lending or origination;
- How any such regulations should define persons engaged in non-bank residential mortgage lending or origination;
- The financial crime and money laundering risks posed by such persons;
- How the AML programs for such persons should be structured;
- Whether such persons should be covered by BSA requirements other than the AML program requirement, including SAR reporting; and
- Whether any such persons should be exempted from AML program or SAR reporting requirements.

Comments should be received on or before August 20, 2009.

Agencies Publish Final Rules and Guidelines to Promote Accurate Reports About Consumers

Only July 1, 2009, the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency and the Office of Thrift Supervision (the Agencies), published final rules and guidelines to promote the accuracy and integrity and direct dispute provisions in section 312 of the Fair and Accurate Credit Transactions Act of 2003 (FACT ACT). The final rules implement the requirement that the Agencies issue guidelines concerning the accuracy and integrity of the information about consumers provided to consumer reporting agencies (CRAs), which is used to determine a consumers' eligibility for credit, employment, insurance, and rental housing. Additionally, furnishers of information must establish reasonable policies and procedures for implementing the guidelines.

Key provisions of the final rule require that entities that furnish information about consumers to CRAs generally must include a consumer's credit limit, if applicable, and

in the furnisher's possession. In addition, under the rules, if a consumer believes his or her credit report includes inaccurate information, the consumer may submit a dispute directly to the entity that provided the information to the consumer reporting agency, and that entity must investigate the dispute. The rules do not change a consumer's ability to submit a dispute to a consumer-reporting agency or alter a furnisher's duty to investigate a dispute referred by a reporting agency.

The agencies are also publishing an Advance Notice of Proposed Rulemaking (ANPR) to identify possible additions to the information that furnishers must provide to consumer reporting agencies, such as the account opening date.

These final rules and guidelines become effective on July 1, 2010.

Treasury Releases Fact Sheet on Say-On-Pay

On July 16, 2009, Treasury delivered "say-on-pay" legislation to Congress. The legislation would: 1) require non-binding annual shareholder vote on compensation for all public companies, including pay packages for senior executives; and 2) mandate a separate vote on golden parachutes in the case of merger or acquisition, with a clear and simple disclosure of the amounts executives will receive.

This proposal is similar to the say-on-pay rules that have been successful in the United Kingdom. The legislation delivered to Congress will require votes similar to those

mandated in the U.K. since 2002. The say-on-pay approach in the U.K. has led to substantially increased dialogue between firms and shareholders on compensation. In the U.S., shareholder interest in executive compensation has increased significantly and some U.S. companies have adopted the approach allowing shareholders to vote on compensation. Other companies have declined to permit shareholders to vote on executive pay, even when shareholders have noted to ask the company for that right. Say-on-pay legislation would encourage greater accountability and better disclosure in setting compensation.

Federal Reserve Releases Interim Final Rule Amending Regulation Z

On July 15, 2009, the Federal Reserve Board approved an interim final rule amending Regulation Z (Truth in Lending) to require creditors to increase the amount of notice consumers receive before the rate on a credit card account is increased or a significant change is made to the account terms. The amendments will also allow consumers to reject such increases by cancelling the account before those changes become effective.

The interim final rule implements regulations in the Credit Card Act as follows:

- Creditors must provide written notice to consumers 45 days before the creditor increases an annual percentage rate on a credit card account or makes a

significant change to the terms of a credit card account.

- Creditors must inform consumers in the same notice their right to cancel the credit card account before the increase or change goes into effect. If a consumer does so, the creditor is generally prohibited from applying the increase or change to the account.
- Creditors generally must mail or deliver periodic statements for credit cards and other open-end consumer credit accounts at least 21 days before payment is due.

The interim final rule amendments will go into effect on August 20, 2009.

Treasury Releases Fact Sheet on New Independence for Compensation Committees

On July 16, 2009, Treasury delivered draft legislation to Congress that would take steps to ensure compensation committees are independent. Compensation committees are responsible for negotiating executive compensation arrangements that protect long-term shareholder value. Yet some compensation committees may not be fully independent of management -for example, because the directors themselves stand to gain from the decisions of executives. And even where the members of the committee are independent of management, they may lack the tools to bargain effectively with executives over complex compensation decisions or may receive advice from consultants or legal counsel that face conflicts of interest.

The proposed legislation takes three important steps to ensure that compensation committees have the independence and expert assistance they need to serve their important role:

- First, the legislation requires that members of the compensation committee meet exacting standards

for independence, just as Sarbanes-Oxley did for members of audit committees.

- Second, to ensure that committees are receiving objective advice, the legislation requires that any compensation consultants and legal counsel they hire be independent from management.
- Finally, the legislation requires that compensation committees be given the authority and funding to hire independent compensation consultants, outside counsel, and other advisers who can help ensure that the committee bargains for pay packages in the best interests of shareholders. At the same time, it requires that if the committee decides not to use its own compensation consultant, it explain that decision to shareholders.

To ensure that compensation committees setting executive pay are independent from management, the Administration will require that compensation committee members meet stronger standards for independence. The Administration will also give compensation

committees the authority and funding to retain their own compensation consultants and counsel to help them set compensation packages that protect shareholder interests. Finally, the Administration will ensure that

compensation consultants and outside counsel that work for compensation committees are independent from management.

FINRA Issues Investor Alert, Regulatory Notice and Launches Industry Sweeps to Protect Muni Bond Investors

[On June 30, 2009, FINRA announced that it launched an initiative to survey retail sales practices in the municipal securities market, promote investor protection in that market and give retail investors online tools and information that will help them make informed investment decisions when trading in that market.](#)

FINRA investigators currently are conducting sweeps to gather information in three distinct areas:

- One broad sweep is looking at industry sales and supervisory practices with respect to sales of municipal bonds to retail investors. Firms are being asked to provide FINRA with detailed data on a range of retail muni bond transactions during the first quarter of this year. The requested information includes sales data, marketing data, pricing data and procedures, disclosure practices, customer complaints and supervisory procedures and practices.
- A second, more targeted sweep is examining potential conflicts, disclosure practices and marketing by firms underwriting municipal securities involving swaps and derivatives for small municipalities. These highly complex instruments typically allow municipalities to finance debt with lower variable interest rates than they would receive through a fixed offering, but involve significant interest rate and repayment acceleration risks through the swap contracts.
- A third, narrowly targeted sweep is seeking information from firms that engaged in retail sales of certain so-called municipal Gas Bonds that were underwritten and guaranteed by the now-defunct Lehman Brothers and quickly became distressed.

Also on June 30, 2009, as part of the same initiative, FINRA issued a Regulatory Notice to securities firms and brokers reminding them of their ongoing obligation to disclose material information to customers - including changes in the financial condition of the issuing municipality - as well as their obligations regarding suitability of recommendations to customers and supervision of the firm's municipal securities activities. At the same time, to help the investing public better understand and mitigate the risks of investing in municipal bonds, FINRA issued an Investor Alert called *Municipal Bonds - Staying on the Safe Side of the Street in Rough Times*, as well as an online Muni Bond Check List, which provides a step-by-step guide to help investors avoid the most common pitfalls of muni bond investing.

The FINRA Investor Alert, issued in partnership with the Municipal Securities Rulemaking Board (MSRB), also informs investors that brokerage firms and banks that sell muni bonds are required to have procedures to obtain annual financial and operating data from muni bond issuers. Investors should treat missing or past-due financial information from a bond issuer as a potential red flag.

FinCEN Releases Latest Edition of the SAR Activity Review - By the Numbers

On July 7, 2009, FinCEN released the 12th edition of [The SAR Activity Review - By the Numbers \(the Review\)](#). The Review shows a continued overall rise in SAR filings including an increase in depository institution filings related to all seven areas of suspected fraud listed on the SAR form. The Report presents a compilation of numerical data gathered from SARs filed in 2008, plus graphical interpretations, by industry, and by region, and comparisons to prior years.

The Review reveals that of the 20 different violation types tracked, seven of the categories relate specifically to fraud and all seven showed an increase in SAR filings during the year. These categories are: check fraud, mortgage loan fraud, consumer fraud loan, wire transfer fraud, commercial loan fraud, credit card fraud and debit card fraud.

Ongoing FinCEN analysis of the data suggests some possible reasons for the increases. Fraud may be reported in association with other suspected crimes, or a SAR may indicate several types of suspected fraud being perpetrated by the same suspect. For instance, of the total number of reported instances of identity theft SARs filed by depository institutions, approximately 35 percent were listed in combination with credit card fraud and/or one or more other violations such as check fraud or consumer loan fraud.

This Review serves as a companion piece to the SAR Activity Review - Trends, Tips and Issues, which together provide information about the preparation, use and utility of SARs. For more information regarding the SAR Activity Review- Trends, Tips and Issues, please refer to the summary that PwC previously addressed in the May Issue of Financial Services Newsletter.

Additional Information

If you would like additional information about the topics discussed in this newsletter, or about PwC Financial Services Regulatory, please call:

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