

**Rule G-44: Supervisory and Compliance Obligations of Municipal Advisors**

(a) *Supervisory System.* Each municipal advisor shall establish, implement, and maintain a system to supervise the municipal advisory activities of the municipal advisor and its associated persons that is reasonably designed to achieve compliance with applicable securities laws and regulations, including applicable Board rules (“applicable rules”). Final responsibility for proper supervision shall rest with the municipal advisor. A municipal advisor’s supervisory system shall provide, at a minimum, for the following:

(i) *Written Supervisory Procedures.* The establishment, implementation, maintenance and enforcement of written supervisory procedures that are reasonably designed to ensure that the conduct of the municipal advisory activities of the municipal advisor and its associated persons are in compliance with applicable rules. The written supervisory procedures shall be promptly amended to reflect changes in applicable rules and as changes occur in the municipal advisor’s supervisory system, and such procedures and amendments shall be promptly communicated to all associated persons to whom they are relevant based on their activities and responsibilities.

(ii) *Appropriate Principal.* The designation of one or more municipal advisory principals to be responsible for the supervision required by this rule.

(b) *Compliance Processes.* Each municipal advisor shall have in place and implement processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable rules, and shall conduct, no less frequently than annually, a review of the compliance policies and supervisory procedures.

(c) *Chief Compliance Officer.* Each municipal advisor shall designate one individual to serve as its chief compliance officer.

(d) *Annual Certification.* Each municipal advisor shall have its chief executive officer(s) (or equivalent officer(s)) certify in writing annually that the municipal advisor has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable rules. This requirement, however, shall not apply to municipal advisors that are subject to a substantially similar certification requirement of Financial Industry Regulatory Authority with respect to all applicable rules.

(e) *Exemption for Federally Regulated Banks.* A municipal advisor that is a bank or separately identifiable department or division of a bank as defined in Securities Exchange Act Rule 15Ba1-1(d)(4) shall, to the extent it engages in municipal advisory activities in the exercise of any fiduciary powers as defined in 12 C.F.R. Section 9.2(g) or substantially identical powers, be exempt from this rule and Rule G-8(h)(iii) if such municipal advisor certifies in writing annually that it is, with respect to such activities, subject to federal supervisory and compliance

obligations and books and records requirements that are substantially equivalent to the supervisory and compliance obligations of this rule and the books and records requirements of Rule G-8(h)(iii).

(f) *Definition.* “Municipal advisor,” for purposes of this rule, shall mean a person registered or required to be registered as a municipal advisor under section 15B of the Act and rules and regulations thereunder.

**---Supplementary Material:**

**.01 Written Supervisory Procedures.** A municipal advisor’s written supervisory procedures shall take into consideration, among other things, the advisor’s size; organizational structure; nature and scope of municipal advisory activities; number of offices; the disciplinary and legal history of its associated persons; the likelihood that associated persons may be engaged in relevant outside business activities; and any indicators of irregularities or misconduct (*i.e.*, “red flags”).

**.02 Small Municipal Advisors.** A municipal advisor with few personnel, or even only one associated person, can have a sufficient supervisory system under this rule. The rule allows the designation of one person to be responsible for supervision, and allows the tailoring of written supervisory procedures based on, among other things, an advisor’s size. In the case of a municipal advisor with a single associated person, the written supervisory procedures must address the manner in which, in the absence of separate supervisory personnel, such procedures are nevertheless reasonably designed to achieve compliance with applicable rules.

**.03 Appropriate Principal.** Designated supervisory principals must be vested with the authority to carry out the supervision for which they are responsible and have sufficient knowledge, experience and training to understand and effectively discharge their responsibilities. They also must have the authority to implement the established written supervisory procedures and take any other action necessary to fulfill their responsibilities. Even if not so designated, whether a person has responsibility for supervision under this rule depends on whether, under the facts and circumstances of a particular case, that person has the requisite degree of responsibility, ability or authority to affect the conduct of the employee whose behavior is at issue.

**.04 Review of Compliance Policies and Supervisory Procedures.** The reviews under paragraph (b) of this rule should, at a minimum, consider any compliance matters that arose since the previous review, any changes in the municipal advisory activities of the municipal advisor or its affiliates, and any changes in applicable rules that might suggest a need to revise the written compliance policies or supervisory procedures. Although paragraph (b) specifically requires reviews to be conducted at least annually, municipal advisors should consider the need, in order to comply with all of the other requirements of this rule, for interim reviews.

**.05 Chief Compliance Officer.** A chief compliance officer has a unique and integral role in the administration of a municipal advisor’s compliance processes. A chief compliance officer is a primary advisor to the municipal advisor on its overall compliance scheme and the policies and procedures that the municipal advisor adopts in order to comply with applicable rules. To fulfill

this role, a chief compliance officer should have competence in the process of (1) gaining an understanding of the services and activities that need to be the subject of written compliance policies and written supervisory procedures; (2) identifying the applicable rules and standards of conduct pertaining to such services and activities based on experience and/or consultation with others; (3) developing, or advising other business persons charged with the obligation to develop, policies and procedures that are reasonably designed to achieve compliance with applicable rules and standards of conduct; and (4) developing programs to test compliance with the municipal advisor's policies and procedures. It is the intention of this rule to foster regular and significant interaction between senior management and the chief compliance officer regarding the municipal advisor's comprehensive compliance program. The chief compliance officer may be a principal of the firm or a non-employee of the firm. If a non-employee, then the person designated as chief compliance officer must have the competence described above and the municipal advisor retains ultimate responsibility for its compliance obligations.

**.06 Responsibility for Compliance Functions.** The chief compliance officer, and any compliance officers that report to the chief compliance officer, shall have responsibility for and perform the compliance functions contemplated by this rule. Nothing in this rule, however, is intended to limit or discourage the participation by any of the employees of the municipal advisor in any aspect of the municipal advisor's compliance program.

**.07 Ability of Chief Compliance Officer to Hold Other Positions.** The requirement to designate a chief compliance officer does not preclude that person from holding any other positions within the municipal advisor, including serving in any position in senior management or being designated as a supervisory principal, provided that person can discharge the duties of chief compliance officer in light of all of the responsibilities of any other positions.

**.08 Effect of Annual Certification on Business Line Responsibility.** The Board recognizes that supervisors with business line responsibility are accountable for the discharge of a municipal advisor's compliance policies and written supervisory procedures. The signatory to the certification required by this rule is certifying only as to having processes in place to establish, maintain, review, test and modify the municipal advisor's written compliance and supervisory policies and procedures and the execution of this certification and any consultation rendered in connection with such certification does not by itself establish business line responsibility.

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**Rule G-8: Books and Records to be Made by Brokers, Dealers, [and] Municipal Securities Dealers, and Municipal Advisors**

(a) - (g) No change.

(h) *Municipal Advisor Records.* Every municipal advisor that is registered or required to be registered under section 15B of the Act and the rules and regulations thereunder shall make and keep current the following books and records:

(i) General Business Records. All books and records described in Rule 15Ba1-8(a)(1)-(8) under the Act.

(ii) Reserved.

(iii) Reserved.

(iv) Reserved.

(v) Records Concerning Compliance with Rule G-44.

(A) The written supervisory procedures required by Rule G-44(a)(i);

(B) A record of all designations of persons responsible for supervision as required by Rule G-44(a)(ii);

(C) Records of the reviews of written compliance policies and written supervisory procedures as required by Rule G-44(a) and (b);

(D) A record of all designations of persons as chief compliance officer as required by Rule G-44(c);

(E) The annual certifications as to compliance processes required by Rule G-44(d); and

(F) Any certifications made as to substantially equivalent supervisory and compliance obligations and books and records requirements pursuant to Rule G-44(e).

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### **Rule G-9: Preservation of Records**

(a) - (d) No change.

(e) *Method of Record Retention.* Whenever a record is required to be preserved by this rule, such record may be retained either as an original or as a copy or other reproduction thereof, or on microfilm, [electronic or] magnetic tape, electronic storage media, or by the other similar medium of record retention, provided that such broker, dealer, ~~or~~ municipal securities dealer, or municipal advisor shall have available adequate facilities for ready retrieval and inspection of any such record and for production of easily readable facsimile copies thereof and, in the case of records retained on microfilm, [electronic or] magnetic tape, electronic storage media, or other similar medium of record retention, duplicates of such records shall be stored separately from each other for the periods of time required by this rule.

(f) *Effect of Lapse of Registration.* The requirements of this rule shall continue to apply, for the periods of time specified, to any broker, dealer, [or] municipal securities dealer, or municipal

advisor which ceases to be registered with the Commission, except in the event a successor registrant shall undertake to maintain and preserve the books and records described herein for the required periods of time.

(g) No change.

(h) *Municipal Advisor Records.* Every municipal advisor shall preserve the books and records described in Rule G-8(h) for a period of not less than five years, provided that the records described in Rule G-8(h)(v)(B) and (D) shall be preserved for the period of designation of each person designated and for at least six years following any change in such designation.

(i) *Municipal Advisor Records Related to Formation and Cessation of its Business.* Every municipal advisor shall comply with the provisions of Rule 15Ba1-8(b)(2) and (c) under the Act.

(j) *Records of Non-Resident Municipal Advisors.* Every non-resident municipal advisor shall comply with the provisions of Rule 15Ba1-8(f) under the Act.

(k) *Electronic Storage of Municipal Advisor Records Permitted.* Whenever a record is required to be preserved by this rule by a municipal advisor, such record may be preserved on electronic storage media in accordance with section (e). Electronic preservation of any record in a manner that complies with Rule 15a1-8(d) under the Act will be deemed to be in compliance with the requirements of this rule.