

Regulators, laws, rules

Securities and Exchange Commission (SEC)

- Federal agency regulating securities markets and participants
- 3 prong mission:
 - Protect investors
 - Maintain fair, orderly, and efficient markets
 - Facilitate capital formation
- Enforces all federal securities legislation, including:
 - Securities Act of 1933
 - Securities Exchange Act of 1934
 - Investment Company Act of 1940
 - Insider Trading Act of 1988

Financial Industry Regulatory Authority (FINRA)

- Self-regulatory organization
- Regulates securities firms and registered representatives
- Controls the registration process
- Requires representatives to register via Form U4
 - Form U4 disclosures
 - 10 year employment history
 - 5 year residence history
 - All criminal history
 - All financial history
 - Outside business activities
 - Regulatory punishments
 - Statutory disqualifications
 - Any felony conviction (last 10 years)
 - Securities-related misdemeanor convictions (last 10 years)
 - License suspended or revoked by another regulator
 - Proof of false statements made
 - Form U4 submitted to CRD
 - U4 disclosures made public to BrokerCheck
- Facilities code of procedure
 - May institute punishments for firms or representatives
 - Censures
 - Fines
 - Registration suspension or revocation

Municipal securities rulemaking board (MSRB)

- Self regulatory organization governing the municipal markets
- Writes municipal regulations, does not enforce
- Enforces MSRB rules (securities firms):
 - SEC
 - FINRA
- Enforces MSRB rules (banks):
 - The Federal Reserve Board
 - Office of Comptroller of the Currency
 - Federal Deposit Insurance Corporation (FDIC)

North American Securities Administrators Association (NASAA)

- Regulates financial industry at the state level
- Enforces provisions of the Uniform Securities Act

Securities Act of 1933

- Primary market legislation
- Requires issuers make disclosures by prospectus
- Registration form filed, 20 day cooling off period
 - Allowed = indications of interest, tombstone, red herring
 - Prohibited = sales, recommendations, advertising
- Exempt securities
 - Regulation A+
 - Small dollar offering rule
 - Tier 1 - up to \$20 million
 - Tier 2 - up to \$75 million
 - Subject to purchaser limits (10% rule)
 - Regulation D
 - Private placement exemption
 - May offer to unlimited accredited investors
 - No more than 35 non-accredited investors
 - Accredited investors
 - \$1 million net worth (excl. residence)
 - \$200k (single) income / \$300k (joint) income
 - Financial institutions
 - Non-financial orgs w/ \$5 million+ in assets
 - Officers, directors, or partners of issuer
 - Series 7, 65, or 82 holders
 - Rule 147
 - Intrastate offering rule
 - Avoids SEC registration if offered in one state only
 - May re-sell to another state resident immediately
 - Must wait 6 months to re-sell outside of state

Securities Exchange Act of 1934

- Secondary market legislation
- Regulates securities markets and their participants
- Created the SEC
- All forms of fraud are illegal and prohibited
- Market manipulation is prohibited
 - Spreading false rumors
 - Pump and dump schemes
 - Painting the tape / matched orders
 - Marking the open or close

Insider Trading Act of 1988

- Trading prohibited on material, non-public information
- \$25 million max fine (firms)
- \$5 million max fine, 20 year max jail sentence (individuals)
- Treble civil penalties (3x profit made or loss avoided)

Regulation S-P

- Firms must safeguard non-public customer information
- Must provide easy "opt out"
- Privacy notices required at account opening + annually

FINRA RULES

- Communications
 - Correspondence
 - 25 or fewer retail investors in 30 days
 - Emails, small group letters, etc.
 - No principal pre-approval
 - No filing with FINRA, but subject to review
 - Retail communications
 - More than 25 retail investors in 30 days
 - Websites, billboards, mass mailings, etc.
 - Principal pre-approval required
 - RCs filed with FINRA 10 days before use (pre-filing)
 - RCs from firms in 1st year of business
 - Investment company performance rankings
 - Securities futures communications
 - RCs filled with FINRA within 10 days of use (post-filing):
 - Investment company material without perf. ranks
 - DPP and CMO communications
 - Securities derivatives communications
 - Institutional communications
 - Only made available to institutional investors
 - No principal pre-approval or filing with FINRA
 - Public appearances
 - Unscripted seminars or interviews on media programs
 - No pre-approval or filing with FINRA
 - Subject to written supervisory procedures (firm-based)
 - Continuing education (CE)
 - Regulatory element CE
 - Conducted and facilitated by FINRA
 - Must be completed annually
 - Firm element CE
 - Conducted and facilitated by member firms
 - Must be completed annually
 - Maintaining Qualifications Program (MQP)
 - Allows former reps to retain FINRA licenses for 5 years
 - Must continue CE after leaving the industry
 - Outside business activities (OBAs)
 - Representatives must disclose earnings outside of firm
 - Written disclosure to firm required (firm may deny OBA)
 - Gifts
 - Maximum \$100 in gift value may be given
 - Business entertainment not subject to \$100 limit (not excessive)
- Performing securities transactions outside of firm
 - Considered "selling away" - may if:
 - Written disclosure firm
 - Written approval from firm if being paid
- Recordkeeping requirements
 - 3 years - employee records, trade confirms, statements
 - 4 years - complaints (FINRA)
 - 5 years - CTRs, SARs, CIP information
 - 6 years - Customer account records, complaints (MSRB)
 - Lifetime - SPAM
 - S - stock certificates
 - P - partnership agreements
 - A - articles of incorporation
 - M - meeting minutes