

MEMO# 21295

June 20, 2007

SEC Staff's First "Compliance Alert" Addresses Broker-Dealers' Deficiencies Relating to the Sale of 529 Plan Securities

[21295]

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TO: 529 PLAN MEMBERS No. 7-07

BROKER/DEALER ADVISORY COMMITTEE No. 27-07 RE: SEC STAFF'S FIRST "COMPLIANCE ALERT" ADDRESSES BROKER-DEALERS' DEFICIENCIES RELATING TO THE SALE OF 529 PLAN SECURITIES

The staff of the Securities and Exchange Commission has published its first *ComplianceAlert* [\[1\]](#). This new publication is intended both to help chief compliance officers learn more about common deficiencies and weaknesses found by SEC examiners during inspections and encourage registrants to review compliance in these areas and implement improvements as warranted. The first issue of *ComplianceAlert* is divided into two main sections, one applicable to investment advisers and investment companies and the other to broker-dealers. These sections, in turn, are subdivided by type of registrant or type of deficiency. In some instances, the *ComplianceAlert* also provides information on effective compliance practices found by examiners. The contents of *ComplianceAlert* are briefly summarized below.

Among other issues, Section II of the *ComplianceAlert* discusses deficiencies or weaknesses found by the SEC staff that relate to broker-dealers' sales of 529 plans. (There were no deficiencies or weaknesses relating to 529 plan securities discussed in the Investment Adviser/Investment Company portion of the *ComplianceAlert*.) In particular, many broker-dealers appeared to lack adequate supervisory procedures or processes to review 529 plan transactions and customer accounts. Also, because many transactions are processed

manually, rather than through the broker-dealer's computer system, such processing did not facilitate supervision of these sales, including review of transactions. Also, such manual transactions did not appear on the broker-dealer's trade blotters, and they bypassed most exception reports – placing them outside the reach of crucial aspects of the firms' supervisory systems and procedures. The SEC staff also noted that it did not appear as though firms had incorporated training for registered representatives or supervisors with respect to the specific factors that could impact the suitability determinations when recommending 529 plan securities.

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endnotes

[1] *ComplianceAlert* is available on the SEC's website at: <http://www.sec.gov/about/offices/ocie/complialert.htm>. The SEC's website does not indicate how often they expect to publish *ComplianceAlert*.

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