Broker-Dealer

Stradley Ronon's broker-dealer practice provides a broad range of legal services to broker-dealers, underwriters, distribution participants and other financial intermediaries. We represent both general and special purpose broker-dealers offering a diverse range of brokerage products and services to their customers.

Our Services

Formation, Registration and Membership

We assist in the formation and registration of brokers and dealers with the SEC and state securities administrators under federal and state law, including assistance in drafting organizational documents and the completion and filing of all necessary forms. Our team guides general and limited purpose broker-dealers in applying for membership with the Financial Industry Regulatory Authority (FINRA) and other self-regulatory organizations, including the completion and filing of FINRA's new membership application (Form NMA), as well as all other related forms and documents. When brokers and dealers have a business expansion or a change in ownership or control, we file a continuing membership application (Form CMA), obtaining approval from FINRA and working with broker-dealers as they add new products and services, including in the fintech space.

Customer-Facing Documents

Our lawyers prepare, review and revise all agreements and disclosures necessary to establish and maintain customer relationships. These include account applications, customer brokerage account agreements and required accompanying legal disclosures.

Securities Transfer, Clearance and Settlement

We advise issuers, broker-dealers, transfer agents, banks and trust companies on issues relating to securities transfers, clearance and settlement issues. We often work with our corporate and securities practice to provide multidisciplinary advice in this area.

Regulatory Compliance

Broker-dealers are subject to the SEC's net capital, customer protection, books and records, credit and reporting rules (collectively, financial responsibility rules). We regularly counsel clients in complying with current financial responsibility rules, the impact of proposed and final amendments to such rules, and available exemptions from such rules in light of historical and recent SEC and FINRA staff guidance. We also work with clients on other regulatory compliance issues, including documentation of written policies and procedures, training personnel, and addressing compliance issues as they arise. Our firm is well versed in addressing a host of issues, including supervision of personnel and written supervisory procedures; sales practices; suitability and Regulation Best Interest; antifraud and insider trading; privacy policies; know-your-customer requirements, anti-money laundering and sanctions; codes of ethics and compliance programs for dual registrants; and other compliance issues under securities laws, SEC and FINRA rules, and other applicable laws and regulations.

Advertising and Social Media

We regularly review and comment on broker-dealer marketing materials and other communications with the public, which are subject to extensive SEC and FINRA rules, state laws and staff guidance. As the use of social media has become one of the top compliance challenges facing broker-dealers, we have advised our clients on how to navigate SEC and FINRA requirements that do not expressly address the application of such requirements to social media.

Preparatory and Live Exams

Broker-dealers are subject to regulatory examination by both the SEC's Division of Examinations and FINRA staff, and we prepare our clients for such regulatory examinations by advising on current issues of interest to the regulators. Through mock examinations, we assess a client's responsiveness to document production requests and the ability to evidence compliance with applicable requirements. We also work with clients on requests for information from the examination staff, as well as responding to any deficiencies noted at the conclusion of the examination.

No-Action, Interpretive and Exemptive Requests

Many of our clients are engaged in, or propose to engage in, activities that are not squarely within the definition of broker or dealer or require regulatory assurance that their proposed business activities would not be within the scope of concerns underlying regulatory provisions. In such circumstances, we have assisted our clients in seeking no-action relief, interpretive guidance or exemptive relief from the SEC staff. We counsel our clients on the underlying purposes of the regulatory provisions in question to enable them to appropriately structure the request in a manner most likely to obtain regulatory relief without their business purposes. Many of our team members are former SEC staffers who utilize their experience and in-depth knowledge to help navigate clients through the process of seeking regulatory relief.

Rulemaking Comment Letters

With the proliferation of rule proposals from the SEC and other regulators in recent years, we have assisted clients in formulating thoughtful comments in response to such proposals. Our advice has ranged from advising on the potential consequences of proposed rules to working with our clients to draft comment letters that respond to specific requests for comments.

ERISA and Tax

We counsel our clients on compliance with the Employee Retirement Income Security Act (ERISA) and Section 4975 of the Internal Revenue Code with respect to ERISA plans and retail retirement accounts, such as individual retirement accounts (IRAs) and health savings accounts (HSAs). Clients turn to us for advice regarding fiduciary status, prohibited transactions and exemptions in all contexts, including creating, structuring and offering products and services to retirement investors. We also advise clients on issues raised by investments in proprietary funds and products, householding assets for fee discounts, cash sweeps, receiving shareholder servicing, revenue sharing and other third-party payments, and principal trading.

Capital Markets

In collaboration with our corporate, mergers and acquisitions, and securities practice, we advise financial intermediaries, including underwriters and distribution participants, on capital market transactions, including the issuance of equity, fixed-income and derivative securities. Our work in this area includes issues relating to underwriting, distribution of securities, secondary market impact, registered and exempt transactions, and sales practices.

Employment

Alongside our employment practice, we represent employers, employees and independent contractors in financial services on employment-related issues, including employment contracts, covenants not to compete, onboarding and exiting, focusing on regulated entities.

Compliance Issues and Disputes

Our team works closely with our financial services litigation and enforcement practice to address compliance issues as they arise, including internally identified compliance issues, customer complaints and regulatory concerns. When necessary, we work with our litigators in defending SEC and FINRA enforcement actions, customer arbitrations and court litigation. We also assist with FINRA, SEC and state reporting and disclosure requirements concerning these matters.

Internal Investigations and Governance

We work with regulated financial intermediaries on their internal investigations and governance-related issues, with a particular focus on conduct that requires a closer examination, in conjunction with our financial services litigation and enforcement team.

Broker-Dealer Status Issues

Our practice counsels firms and individuals on their status as “brokers” or “dealers” under the Securities Exchange Act of 1934, as amended (1934 Act), as well as under applicable state laws. Our advice often centers on the availability of one or more of the following formal or informal exemptions from broker-dealer registration and regulation:

- M&A broker-dealer exemption under Section 15(b)(13) of the 1934 Act.
- Exemption for so-called finders and business brokers under applicable U.S. Securities and Exchange Commission (SEC) releases and SEC staff no-action letters.
- Exemption for issuers and their associated persons from broker status under Rule 3a4-1 of the 1934 Act.
- Exemption for private placement portals under Section 4(c) of the Securities Act of 1933, as amended.
- Exemption for foreign broker-dealers under Rule 15a-6 of the 1934 Act.
- Exemption for banks under Regulation R of the 1934 Act.
- Exemption for insurance networking arrangements under applicable SEC releases and no-action letters.