SEC No-Action Relief for Broker-Dealers Relying on Registered Investment Advisers for Anti-Money Laundering Obligations

The SEC has extended a former no-action letter position that permitted broker-dealers to rely on SEC registered investment advisers to perform its customer identification obligations for shared customers. The former position allows broker-dealers to rely on certain financial institutions to meet customer identification obligations under Rule 17a-8 of the Securities Exchange Act of 1934 as long as the institution is subject to an anti-money laundering program regulated by a federal regulator.

Even though investment advisers are not currently subject to an anti-money laundering program, the SEC has provided no-action relief since 2004 to permit U.S. investment advisers registered under the Investment Advisers Act to perform customer identification obligations for broker-dealers, and has, in this no-action letter dated January 11, 2013, extended this position for an additional two years, provided that the investment adviser

enters into a
contract in which it agrees to implement its own anti-money laundering program
consistent with the rules of the Treasury Department's Financial Crimes
Enforcement Network, and annually certify compliance to the broker-dealer.

Additionally, a
broker-dealer's reliance on the investment adviser must be reasonable under the
circumstances. To that end, broker-dealers
must perform due diligence on the investment adviser at the outset of the
relationship and as appropriate throughout., Broker-Dealers should also assess
money laundering risks presented by an investment adviser and its customers based
on the particular facts and circumstances.

If you have previously relied on registered
investment advisers to meet your anti-money laundering obligations, you may
want to check that they are still registered with the SEC and did not changed to
state registration in 2012.

Link: *www.sec.gov/divisions/marketreg/mr-noaction/2011/sifma011111.pdf*