



**Broker-Dealer**

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**STRADLEY  
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## Our Practice

Stradley Ronon's broker-dealer practice group provides a broad range of legal services to broker-dealers, underwriters, distribution participants and other financial intermediaries. Our clients include general and special purpose firms and broker-dealers. Our special purpose broker-dealer clients include broker-dealers specializing in one or more of the following product areas: private placements and generally private funds, registered funds, real estate securities, capital acquisition and crowdfunding, among others.

**Broker-Dealer Status Issues** – The practice group 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:

- the M&A broker-dealer exemption under Section 15(b)(13) of the 1934 Act
- the exemption for so-called finders and business brokers under applicable Securities and Exchange Commission (SEC) releases and SEC staff no-action letters
- the exemption for issuers and their associated persons from broker status under Rule 3a4-1 of the 1934 Act

- the exemption for private placement portals under Section 4(c) of the Securities Act of 1933, as amended
- the exemption for foreign broker-dealers under Rule 15a-6 of the 1934 Act
- the exemption for banks under Regulation R of the 1934 Act
- the exemption for insurance networking arrangements under applicable SEC releases and no-action letters

### **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. We advise and assist brokers and dealers in applying for membership with the Financial Industry Regulatory Authority (FINRA) and other self-regulatory organizations, providing advice and assistance in completing and filing 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 assist with filing a Continuing Membership Application, obtaining approval from FINRA and working with broker-dealers as they add new products and services. We provide these and the other services discussed to both general and special purpose broker-dealers.

### **Customer Facing Documents**

– Our attorneys 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 clients, including 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 & securities practice group to provide multi-disciplinary advice in this area.

### **Regulatory Compliance**

– Broker-dealers are subject to the SEC's net capital, customer protection, books and records and notification rules (collectively, financial responsibility rules). We advise and assist 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. We provide advice on 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 and staff guidance. More recently, as the use of social media has grown as a marketing tool and 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 assist our clients in preparing for such regulatory examinations by advising on current issues of interest to the regulators and through mock examinations to help clients in their preparedness for such examinations. Through such 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 advise our clients on the underlying purposes of the regulatory provisions in question to enable the clients to appropriately structure the request in a manner most likely to obtain regulatory relief without their business purposes. Many of our practice group members are former SEC staffers who utilize their experience to help navigate our



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 advise our clients on compliance with the Employee Retirement Income Security Act of 1974 (ERISA) and Section 4975 of the Internal Revenue Code with respect to ERISA plans and retail retirement accounts, such as IRAs and 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 counsel 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 –** Working with our corporate & securities practice group, 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.

**Labor and Employment –** Working with our employment and labor practice group, 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**

– Working closely with our securities litigation & enforcement practice group, we 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 and SEC 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. We work closely with our securities litigation & enforcement practice group on such issues.

For more information on our Broker-Dealer practice,  
visit [www.stradley.com/broker-dealer](http://www.stradley.com/broker-dealer).



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## ABOUT STRADLEY RONON

For more than 95 years, Stradley Ronon has helped private and public companies – from small businesses to Fortune 500 corporations – achieve their goals. With nine offices and more than 200 attorneys, Stradley Ronon is proud to help companies manage their legal challenges and grow their businesses.

[www.stradley.com](http://www.stradley.com)

## LOCATIONS

Pennsylvania  
Washington, D.C.  
New York  
California  
New Jersey  
Illinois  
Delaware



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