

Governmental and self-regulation of the securities industry

Category : Regulation of Financial Advisors and Investment Advisers

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Summary: Regarding regulation of financial planners and investment advisors, the picture can sometimes be confusing. While various state and federal government entities can enforce laws, these agencies usually are not be involved in the direct management and regulation of market brokers and other financial or investment advisors. The U.S. Securities and Exchange Commission (SEC) (<http://www.sec.gov>) administers and enforces federal securities laws, but does not directly regulate the securities markets. Instead, under the Securities Exchange Act of 1934, as amended, self-regulating organizations (SROs), such as the New York Stock Exchange (NYSE) (<http://www.nyse.com>) and the National Association of Securities Dealers (NASD) (<http://www.nasd.com>) provide ongoing private regulation in place of direct governmental regulation. Concerning NASD, for example, "NASD has long served as the primary private-sector regulator of America's securities industry. We oversee the activities of more than 5,155 brokerage firms, approximately 104,790 branch offices and more than 659,560 registered securities representatives. In addition, we provide outsourced regulatory products and services to a number of stock markets and exchanges. NASD licenses individuals and admits firms to the industry, writes rules to govern their behavior, examines them for regulatory compliance and disciplines those who fail to comply. We oversee and regulate trading in equities, corporate bonds, securities futures and options. And we provide education and qualification examinations to industry professionals while supporting securities firms in their compliance activities. We also operate the largest securities dispute resolution forum in the world, processing over 8,000 arbitrations and 1,000 mediations a year."1 Regarding the investigation and prosecution of investor fraud, national and state governmental agencies both can have a direct role. The SEC has exclusive jurisdiction as to the registration and qualification of certain "covered securities," including the securities traded on the major markets. However, the States also have authority to pursue violations for deceit and fraud related to covered securities and any other securities. Thus, you may see the SEC and/or the States take joint or separate actions regarding violations of the law. Both the SEC and the States can sanction securities law violators. For example, the office of New York State Attorney General Eliot Spitzer has been quite aggressive recently in some securities enforcement matters.

1) <http://www.nasd.com> then click on "About NASD" (October 2005)

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