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MSRB: Best-Ex Rule Will Not Be Implemented Before Release of Guidance.

WASHINGTON - Implementation of the Municipal Securities Rulemaking Board's best-execution rule will start four months after the board releases guidance on the rule, instead of Dec. 7 as originally planned.

The MSRB announced the later date on Thursday in an effort to give dealers adequate time to review the guidance before the rule becomes effective. The guidance will be a collection of answers to frequently-asked-questions.

"Linking the effective date of the best-execution rule to the publication of the guidance will establish a clear implementation period and ensure that dealers have adequate time to review and make use of the guidance as they continue to prepare to comply with the new rule," the MSRB said in a news release.

Rule G-18, on best execution, requires dealers to use "reasonable diligence" to determine the best market for a security and to then buy or sell the security in that market so the price for the customer "is as favorable as possible under prevailing market conditions." The Securities and Exchange Commission called for the adoption of such a rule in its 2012 Report on the Municipal Securities Market.

Dealers would have to take into account a list of factors to meet the diligence requirement under the rule, including: the character of the market for the security; the size and type of transaction; the number of markets checked; the information reviewed to determine the current market for the subject security or similar securities; the accessibility of quotations; and the terms and conditions of the customer's inquiry or order.

The MSRB filed the best-ex rule with the SEC in August 2014 and the commission approved it later that year on Dec. 8. The effective date for the rule was to be one year from the SEC's approval, but the need to coordinate between the MSRB, SEC and the Financial Industry Regulatory Authority, which has its own best ex rule for corporate bonds, caused the guidance process to take longer than expected.

"The MSRB is continuing to coordinate with the SEC and FINRA with the goal of publishing best-ex implementation guidance in short order," said MSRB executive director Lynnette Kelly. "Facilitating dealers' compliance with their new obligations and ensuring that retail investors consistently receive the benefit of fair handling of their orders to buy or sell municipal securities is a top priority for the MSRB."

Dealers had expressed concern that the implementation date for the rule was looming and the MSRB still had not provided them with answers to questions they felt they needed to know to for compliance. There had been questions about how dealers could prove they had used "reasonable diligence" or had found a price that was "as favorable as possible."

Jessica Giroux, senior counsel and senior vice president of federal regulatory policy for Bond Dealers of America, said BDA was concerned about the short period of time that remained before the previous implementation date. But she added that, "since the MSRB has announced it will delay the implementation date to coincide with the delay in anticipated guidance, we are pleased that our members will have additional time to read, comprehend and put in place processes and systems to ensure compliance with the rule."

David Cohen, a managing director and associate general counsel with the Securities Industry and Financial Markets Association, said, "SIFMA welcomes the delay, as it will allow dealers time to amend and further refine the implementation of policies and procedures that have been under development. We also welcome the coordination with FINRA. SIFMA has concerns, however, that four months is not a sufficient amount of time for dealers to design, test, and implement any changes to their systems as a result of the guidance."

THE BOND BUYER

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