Muni Market Awaits 2 Treasury Regulations.

Treasury is finalizing the reissuance rule it released at the end of 2018 and is preparing to release proposed guidance to facilitate the transition away from Libor.

U.S. Treasury Associate Tax Legislative Counsel John Cross told attorneys attending a National Association of Bond Lawyers conference in Chicago on Thursday that other the other regulatory actions involving the municipal bond market constitute small administrative guidance.

Among the administrative guidance in the works are answers to continuing questions about student loan bonds and using economic defeasance to "turn off" Build America Bonds.

Treasury also is considering offering guidance on the definition of an instrumentality in terms of public universities that are exempt from a new federal excise on large university endowments.

That project could impact the municipal bond market in the same way as the effort to redefine political subdivisions did prior to Treasury's withdrawal of that proposed regulation.

Internal Revenue Service enforcement officials told NABL workshop attendees in another workshop session the service is hiring five new revenue agents, up from the current 20, and two additional tax law specialists.

The new positions, which are posted on the USJOBS website, will reverse what has been a long term decline in staffing in the tax-exempt bonds section of the IRS through attrition, mostly because of retirements.

IRS officials also are reconsidering the 2017 reorganization that combined the tax-exempt bond office with the office of Indian tribal governments to form a new ITG/TEB office within the Tax Exempt & Government Entities Division (TEGE) managed by Christie Jacobs.

Allyson Belsome, senior manager of ITG/TEB Technical, said her unit which does the selection of audits would be unaffected by a reorganization, but the field audit group may be split into separate TEB and ITG teams.

The guidance on the elimination of the London Interbank Offered Rate (Libor) was sent by Treasury to the White House Office of Management and Budget on Aug. 28.

"We have gone through most of the gauntlets for public release," Cross said. Review by OMB's Office of Information and Regulatory Affairs is the final step in the process.

The Federal Reserve considers the release of the guidance sometime this fall to be "critical" to making the transition because it impacts $2 trillion in swaps in the marketplace, Cross said.

The Alternative Reference Rates Committee sent a letter to the Treasury in April summarizing on what issues the guidance should consider, including new rates other than the Secured Overnight Financing Rate (SOFR).

“People are looking for other alternatives,” Cross said, indicating that there will be an effort to provide flexibility.

NABL members have expressed concern that if floating rate bonds based on Libor switch to another benchmark rate, the switch may be considered a material change to the bonds that causes them to be considered newly reissued.

A re-issuance would make the bonds subject to the latest tax laws and rules and could even make them taxable.

The proposed Treasury guidance is expected to address that potential problem.

The Securities Industry and Financial Markets Association listed $76.9 billion in publicly issued municipal bonds from 872 issuances that used floating rate debt as of Dec. 18, 2018. That’s only 2% of the $3.8 trillion municipal bond market and includes debt that uses the SIFMA index but doesn’t include swaps.

Libor-based municipal debt was an even smaller amount at $47.6 billion or about 1.3% of the overall muni market.

As for the proposed reissuance rule, NABL, the Bond Dealers of America, the Government Finance Officers Association and the Securities Industry and Financial Markets Association submitted comments earlier this year requesting a continuation of the practice that allows remarketing reissuances at a premium.

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