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BDA Delivers Strong Message to SEC: Reject the Exemptive Order Outright.

Both the BDA and C-Suite Leaders Submit Comments with the SEC

Today, following extensive work with the BDA working group, BDA policy committees, and outside counsel Nixon Peabody and Davis Polk, the **BDA submitted two letters in opposition to the SEC request for comment**.

The BDA comments, which can be viewed here, argue that the Commission should dismiss this request in full, and not grant any form of relief as requested by PFM and NAMA.

In addition to the formal comments, the BDA also submitted a C-Suite Letter with the SEC, signed by leadership of 19 BDA full member firms. The letter strongly reiterates the BDA position of collective opposition to the request and the need to swiftly dismiss the exemptive order.

It has been clear from the beginning that the SEC intends to move forward with some form of exemptive relief. While we outright oppose this request it is very important the BDA is "at the table" to ensure any potential relief is a narrow as possible.

Next Steps

The BDA continues to meet with leaders on Capitol Hill to educate on the issue, and is working to get House and Senate legislators involved in pushing back against the SEC request both on and off the record. These meetings are on-going, and the BDA will provide updates going forward.

The BDA is also planning meeting with Commissioners in the coming weeks. While details are still coming together, these meetings will include BDA members and will help further the organizations arguments against SEC action on the exemptive order.

Prior BDA Actions

The BDA has continued to lead the industry response to the PFM and NAMA requests. Following mid-September meetings with leadership at the SEC Office of Trading and Markets, including chief counsel, and the Office of Municipal Securities and Commissioner Robert Jackson, the BDA was tasked with finding a narrow framework for exemptive relief.

While BDA remains opposed to the SEC issuing any form of the requested relief, we believe that, if relief were to be granted, it should be in the form of a **narrowly tailored exemptive order** that makes clear that engaging in the activity constitutes acting as a broker-dealer but, under the limited circumstances, the SEC would exempt municipal advisors from broker-dealer registration requirements.

Following prior fall meetings with SEC staff, the BDA has sent two prior letters in response to the

PFM and **NAMA** requests for guidance regarding private placement activity by non-dealer municipal advisors.

The September 9th letter, which can be viewed here, focuses on historical precedent, competitive disadvantages and the erosion of investor protections provided by the broker-dealer regulatory regime.

While the **first letter** submitted by the BDA on June 28th addressed directly the problems that would arise from the request for interpretative guidance if granted, including rolling back decades of settled law on what constitutes broker-dealer activity.

Shortly after learning about the letter, BDA staff met with the SEC and the conversation with SEC staff focused on concerns we have with the request, including that it would negate the substantial regulatory protections under BD regulations in place to protect investors.

Bond Dealers of America

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