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MSRB Holds Quarterly Meeting.

The Board of Directors of the Municipal Securities Rulemaking Board (MSRB) held its quarterly meeting October 23-25, 2013 where it established priorities for implementation of a regulatory framework for municipal advisors and agreed to develop and solicit public comment on a “best execution” rule for the municipal market, among other decisions affecting municipal market transparency and integrity.

In light of the Securities and Exchange Commission’s (SEC) September 2013 final registration rule for municipal advisors, which addresses interpretative issues relevant in determining whether a firm or individual is engaging in municipal advisory services, the Board agreed to proceed with the development of a regulatory framework for advisors that prioritizes five rules aimed at protecting municipal entities and investors. They are: fiduciary duty and fair dealing standards of conduct of municipal advisors to municipal entities and obligated persons; supervision requirements for municipal advisory firms and their employees; rules to address the potential for pay-to-play activities by municipal advisors; limitations on gifts and gratuities to employees of municipal securities issuers and other market participants; and duties of solicitors. Additional conforming rule changes will also be proposed as appropriate.

The Board directed staff to focus immediately on a proposed rule that will provide guidance on the statutory fiduciary duty owed by municipal advisors to municipal entities and the duty of fair dealing owed by municipal advisors to municipal entities and obligated persons. The Board will request public comment as soon as it has completed its review and development of a proposed rule.

“We are proceeding with municipal advisor rulemaking in a thoughtful and thorough manner, and one that acknowledges the challenges of writing rules for a newly defined class of financial professionals,” said MSRB Chair Daniel Heimowitz. “While we diligently develop rules, we will also put in place a professional qualifications program, and conduct targeted education and outreach for advisors to address the full scope of our responsibilities.”

At its meeting, the Board also discussed comments received on the MSRB’s concept proposal about establishing a best execution rule for the municipal securities market. The Board directed MSRB staff to develop and publish for public comment a rule proposal modeled on Financial Industry Regulatory Authority’s (FINRA) best execution rule for the equity and corporate fixed income markets, Rule 5310. The Board said it would ensure that any rule proposal takes into consideration the unique characteristics of the municipal market.

“A best execution rule in the municipal market would improve market efficiency by assuring the flow of information in support of fair pricing for investors,” said Heimowitz.

Taking up earlier work, the Board will proceed with two proposals to simplify existing rules – one to consolidate municipal securities dealers’ fair pricing obligations and one to consolidate the MSRB’s multiple registration rules and forms for municipal securities dealers and municipal advisors. The Board reviewed comments received and approved filing both of the proposals with the SEC.

The Board also conducted a thorough review of its professional qualifications regime, which consists of examinations and continuing education requirements. In connection with this review, the Board agreed to request public comment on potential changes to the continuing education requirements for municipal securities dealers.

Finally, the Board met with SEC Chair Mary Jo White and FINRA Chairman and Chief Executive Officer Richard Ketchum to discuss top issues facing the municipal securities market. These conversations with the leadership of the SEC and FINRA support coordination and informed policymaking in areas of mutual interest, including enforcement.