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SIFMA Releases Best Practices For Broker's Brokers.

WASHINGTON — The Securities Industry and Financial Markets Association has released some best practice guidance designed to help firms comply with the Municipal Securities Rulemaking Board's Rule G-43 on broker's brokers.

Rule G-43, which was approved by the Securities and Exchange Commission in June 2012 and became effective on Dec. 22, 2012, affirms a broker's broker's duty to make a reasonable effort to obtain a fair and reasonable price for municipal securities and reminds selling and bidding dealers of their fair-pricing obligations. The MSRB also issued a related interpretative notice for dealers using the services of a broker's broker.

Broker's brokers serve as intermediaries between broker-dealers seeking to buy and sell municipal securities on behalf of customers. They help provide liquidity in the secondary market.

An alternative trading system is not considered to be a broker's broker if it meets a series of conditions.

David Cohen, SIFMA managing director and associate general counsel, said the SIFMA guidance originated with the group's broker's brokers committee.

"They felt there were some gaps and the market would benefit from some uniform practices," he said. "We thought it was helpful to develop some uniform practices [in areas] that G-43 was silent on as well as to highlight the fair-dealing obligations of all of the parties in the bid-wanted process."

The guidance, for example, stresses that if dealers selling munis use the bid-wanted process for price discovery, with no intention of selling the bonds through the process, they run the risk of violating Rule G-17 on fair dealing.

It also warns of possible G-17 violations from the practice of "pennying up," under which a dealer selling munis does not provide a competitive bid prior to the collection process, and then purchases the munis afterward for its own account at prices exceeding the high bid obtained by the broker's broker by a very small amount.

In addition, SIFMA says a selling dealer may want to make a broker's broker aware that it will be in competition with the broker's broker "to avoid any appearance of impropriety should the selling dealer decide to internalize the bid without executing the sale to the high bidder in the bid-wanted" process.

BY LYNN HUME

DEC 16, 2013 4:35pm ET