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MSRB to Propose Best-Execution, MA Rules.

WASHINGTON — The Municipal Securities Rulemaking Board plans to propose a rule that, for the first time, would establish a best-execution rule for dealers in the municipal market, MSRB officials said Tuesday, calling it "a very significant development for the municipal market."

Recapping the results of their meeting in Atlanta late last week, the officials told reporters in a conference call that the proposed rule would require dealers to use "reasonable diligence" to provide the "most favorable terms" for munis given market conditions. It would be based on the Financial Industry Regulatory Authority's Rule 5310 for equities and corporate debt, and would not apply to dealer trades with sophisticated municipal market professionals who require less protection.

"A best-ex rule is a key step to complement dealers' current obligations to achieve a price that is fair and reasonable," said MSRB board chair Dan Heimowitz. "The MSRB is committed to improving the structure and efficiency of the municipal market for the benefit of retail investors."

Heimowitz said the proposed rule would be put out for comment in the coming weeks, though he said the timing is difficult to pin down in part because the MSRB will need to conduct an economic analysis of it under a formalized cost-benefit analysis it recently put in place.

As described by Heimowitz and MSRB executive director Lynnette Kelly, the proposed rule would go a bit beyond the "execution with diligence standard" that the Securities Industry and Financial Markets Association proposed last year. SIFMA's proposal would have required dealers to use reasonable diligence to get a "fair and reasonable" price for customers.

But more in line with SIFMA's proposal, the MSRB rule would not necessarily require dealers to get the absolute best price on each transaction and would provide dealers a variety of ways to demonstrate "reasonable diligence" in meeting the new obligation.

The board also will ask the SEC to approve a $300 annual registration fee for each municipal advisor professional that would kick in the second quarter of the year. Heimowitz said the MSRB estimates it will collect about $2 million per year from these fees, which would be assessed in parallel with the July 1 effective date for the SEC's final registration rule, Kelly said.

In addition, the MSRB will propose a supervisory rule for MAs and a one-time professional qualifications exam.

The supervisory rule will be principles-based and will take into consideration the diversity of the MA population, including small and single-person firms, the MSRB said.

In preparation for the professional qualifications exam, the MSRB plans to survey MAs on their core activities to show which areas need testing. It will then develop a study outline, which must be approved by the SEC. The board hopes to implement a pilot exam program later this year or early next. Heimowitz said the proposed rule will not include a grandfather clause exempting established advisors from taking the test.

The board did not come to a decision about continuing education requirements for MAs he said.

All of the MA rules will apply to dealer as well as non-dealer MAs, though dealer-MAs have for years been subject to the same MSRB rules that applied to dealers.

The Dodd-Frank Act mandated a fiduciary duty for MAs to put their clients' interests first and subjected them to federal regulatory oversight. The MSRB is building from both that legislation and from the Securities and Exchange Commission's MA registration rule adopted last year.

BY KYLE GLAZIER

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