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SIFMA: SEC Should Reject MA Fee; MSRB Should Overhaul Fees.

WASHINGTON — A dealer group is urging the Securities and Exchange Commission to suspend and reject the Municipal Securities Rulemaking Board's proposal to charge each municipal advisor professional $300 per year, warning it is unfair to dealer firms that have already paid for rules the MSRB is developing for MAs.

The group also wants the MSRB to overhaul its entire fee system so that fees are based on gross revenues from four sources: dealer underwriting, dealer sales and trading, MA advice on debt issuance, and MA advice on muni financial products.

The Securities Industry and Financial Markets Association made the pleas in a 10-page letter sent to the SEC on Wednesday that was signed by its managing director and associate general counsel David Cohen.

The letter also criticizes the MSRB for failing to provide more information or seek industry feedback on the proposed fee for MA professionals, which became effective immediately when announced on April 17. The SEC is currently collecting comments on the fee, with a May 22 deadline, and could revoke it.

The MSRB already charges MA firms a one-time initial fee of $100 upon registration and a $500 annual fee. Those fees have been in effect since 2010 when MAs had to begin registering with the MSRB. The MA professional fees, which are effective, technically won't start to be collected until July 1, when the SEC's final MA rule becomes effective with a phased-in compliance period.

"What SIFMA is asking for is an equitable allocation of MSRB's expenses across all regulated parties," Cohen said in a brief interview. "Dealers are currently funding about 90% of the MSRB's budget."

The board's expenses totaled nearly $27.78 million in 2013 according to its annual report, SIFMA said.

SIFMA is frustrated that dealers have already paid for all of the MSRB's rules, including those on registration, recordkeeping, professional qualifications and political contributions that the board must now develop or revise to cover MAs as well as dealers.

As a result, the proposed fee would amount to "a double tax on dealers," Cohen said, an irony since dealers wanted non-dealer MAs to become subject to MSRB rules to level the playing field.

Cohen told the SEC that most SIFMA dealers that have no intention of pursuing municipal advisory business are still considering registering public finance investment bankers as MAs "'as belt and suspenders' protection in the event of an MA 'foot fault.' They should not be made to shoulder the cost of additional MA regulation and rulemaking."

Broker-dealers already pay: a one-time fee of $100 upon registration; annual fees of $500; an assessment of $.03 per $1,000 of the par value paid by underwriters on most primary offerings; a fee of $.01 per $1,000 of the total par value of interdealer muni sales they report; a fee of $.01 per $1,000 of the total par value of the sales to customers that they report; a technology fee of $1.00 per transaction for each interdealer muni sale reported; and a technology fee of $1.00 per transaction for customer sales reported.

Cohen said the MSRB's "current hodgepodge of fees and assessments … has evolved over decades and is not necessarily fair, reasonable or equitable."

"The MSRB should consider abandoning its existing system of assessments in favor of a single tax on dealers and advisors that is based on an equalizing factor such as the gross revenue derived from municipal-related business regulated by the MSRB," he said in the letter.

SIFMA also criticized the MSRB for filing the MA professional fee as immediately effective.

"SIFMA believes all MSRB fee changes, including the [MA professional fee], could benefit from reasonable prior notice of proposed changes, solicitation of feedback from market participants on implementation / effectiveness of fee changes, and a more fulsome discussion of the rationale for a fee change," he told the SEC. "SIFMA thinks [the MA professional fee], in particular, lacks a sufficient discussion of the rationale for the fee changes or methodology of deriving the fee structure or the amount of the fee."

The proposed MA professional fee "deviates from existing MSRB fees, which are primarily based upon market activity of regulated entities," Cohen said.

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