

Bond Case Briefs

Municipal Finance Law Since 1971

MSRB to Propose New Price Transparency Rule.

WASHINGTON — The Municipal Securities Rulemaking Board plans to request comment on whether it should require dealers to disclose a price rather than a markup as a way of improving muni market transparency for retail investors.

The board made that decision at its quarterly meeting in Chicago last week, MSRB chairman Daniel Heimowitz said in a conference call Tuesday.

The MSRB proposal would be an attempt to address concerns about hidden markups in so-called “riskless principal transactions,” when bonds are bought and sold within a short time frame so the dealer has little risk the market will change. But Heimowitz said the board had trouble coming to a consensus on what constitutes a riskless principal transaction, and will be interested in hearing from market participants about whether the disclosure of a reference price could achieve the same goal as disclosure of a markup.

The board would propose a rule that would require a dealer to disclose to its customer, when making a retail-sized sale of \$100,000 or less, what the dealer paid for that same security on the same day. The rule would only apply to principal and not agency trades.

There have been increasingly loud calls for dealers to disclose their markups on riskless principal transactions, with Securities and Exchange Commission chair Mary Jo White and Commissioner Michael Piwowar sounding the call in recent weeks. Additionally, Sens. Mark Warner, D-Va. and Tom Coburn, R-Okla., introduced a bill in March that would require that disclosure.

“The MSRB recognizes the importance of a coordinated and workable approach to providing investors with additional information about the market for the securities they trade,” said Heimowitz. “We are committed to publishing a proposal that can be shaped with public input into regulations that address improved transparency.”

The MSRB also will be seeking input on other approaches, including requiring markup disclosure, Heimowitz said.

More imminently, the board will seek SEC approval this month of a best execution rule, something that has long existed in the corporate market but which has been a sticking point for munis until recently. The rule would require dealers to use “reasonable diligence” when handling orders and executing municipal security trades for retail investors to “obtain a price that is as favorable as possible under prevailing market conditions.” The final MSRB draft includes some changes that the board’s executive director, Lynnette Kelly, called “technical” tweaks clarifying the exemption from the rule for transactions involving sophisticated municipal market professionals who need less protection. An earlier draft made it seem as if SMMPs must read the policies and procedures of dealer firms, but the board wants them to only understand that dealers have those policies and procedures, Kelly said.

The board also discussed a slew of municipal advisor rules, Heimowitz said. The MSRB will publish

for public comment in the coming weeks a proposal to amend its Rule G-37, its pay-to-play rule for municipal securities dealers, to also cover municipal advisors. The proposal would prohibit MAs from engaging in muni advisory business with state or local governments or their subdivisions for two years if certain political contributions are made to those entities' officials. The board also agreed to propose applying to MAs its existing rule G-20, governing the giving of gifts by dealers to persons whose employers are engaged in municipal securities activities.

"Establishing appropriate pay-to-play and gift regulations for municipal advisors will help ensure that all regulated municipal market professionals are held to the same standards of integrity," said Heimowitz. "Uniform rules on pay-to-play activities and gift-giving will serve to effectively and fairly guard against corruption, an appearance of corruption and conflicts of interest in the municipal market."

The board also plans to ask the SEC to sign off on an earlier proposal to set professional qualification requirements for MAs. The proposal would create two classes of MA professionals, principals and representatives, and require all MA representatives to pass an exam once one becomes available. The draft submitted to the SEC will not be greatly changed from the one offered for comment earlier this year, the MSRB officials said.

THE BOND BUYER
BY KYLE GLAZIER
AUG 5, 2014 4:59pm ET