MSRB Proposes Gift Limit for MAs.

WASHINGTON — The Municipal Securities Rulemaking Board is proposing to establish limits on the gifts and non-cash benefits that municipal advisors can provide in their professional capacities.

The MSRB on Thursday released draft amendments to its Rule G-20 on gifts and gratuities, which is already in place for broker-dealer advisors. The board seeks to extend the existing provisions to cover non-dealer MAs who are facing many new regulations for the first time.

The rule currently prohibits a dealer from giving directly or indirectly any thing or service of value, including gratuities, in excess of $100 per year to a person if that gift is related to the muni securities activities of the employer of the recipient. The amendment would clarify that the gifts also cannot be related to muni advisory activities.

"Restrictions on excessive gift-giving by municipal finance professionals are critical to ensuring that important state and local financing decisions are based on merit," said MSRB executive director Lynnette Kelly. "The MSRB seeks to hold all regulated financial professionals to the same high standards of integrity in their work with state and local governments."

Not all gifts will be subject to the limit. "Normal business dealings" such as occasional gifts of meals or entertainment recognized by the Internal Revenue Service as deductible business expenses are not subject to the proposed rule, nor are gifts commemorating a transaction, such as a desk ornament. De minimis and promotional gifts of nominal value are allowed, as are personal gifts such as wedding presents and bereavement gifts "that are reasonable and customary for the circumstances."

The amendments would add the requirement that exempt gifts not be "so frequent or so extensive as to raise any question of propriety or to give rise to any apparent or actual material conflict of interest." The draft amendments for municipal advisors also would explicitly prohibit dealers and municipal advisors from receiving reimbursement of certain entertainment expenses from muni bond proceeds.

That provision would address a regulatory gap recently highlighted by a first of its kind Financial Industry Regulatory Authority enforcement action against Alabama-based Gardnyr Michael Capital, Inc. in April. FINRA slapped that firm with $20,000 of fines for using bond proceeds to pay itself back for three trips to New York during which, according to FINRA investigators, GMCI executives and sometimes members of their families spent thousands of dollars unrelated to muni business. FINRA charged the group with violating fair dealing and supervision rules, but conceded that no rule specifically prohibited such conduct.

The MSRB further proposed to modify its Rules G-8 on books and records and G-9 on preservation of records to reflect that municipal advisors will need to keep and preserve a history of the gifts they give for at least five years. The MSRB is seeking comment on some specific areas, including the prevalence of gift giving among muni advisors, whether the rule's exceptions are appropriate, and what the adoption of the changes would likely mean for the market.

The MSRB will host a webinar on the proposed changes on Nov. 13. The MSRB has set up a web resource to provide education and news to MAs, many of whom are unused to be regulated by any agency.

“As the regulatory environment continues to evolve, the MSRB recognizes the need for continued education and outreach to municipal advisor professionals,” Kelly said.

Comments on the proposal are due to be submitted to the MSRB by Dec. 8.

THE BOND BUYER

BY KYLE GLAZIER

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