

Bond Case Briefs

Municipal Finance Law Since 1971

MSRB Holds Quarterly Board Meeting.

Alexandria, VA - The Board of Directors of the Municipal Securities Rulemaking Board (MSRB) held its quarterly meeting October 29-31, 2014 where it focused on regulatory and market transparency initiatives aimed at promoting a fair and efficient municipal securities market, and held its annual policy meetings with the chairs of the Securities and Exchange Commission (SEC) and the Financial Industry Regulatory Authority (FINRA).

As part of the MSRB's ongoing development of a comprehensive regulatory framework for municipal advisors, the MSRB Board carefully considered issues raised by commenters on a recent proposal to address potential pay-to-play activities by municipal advisors. The Board agreed to seek SEC approval of amendments to MSRB Rule G-37 that would—consistent with the existing approach for dealers—generally prohibit municipal advisors from engaging in municipal advisory business with municipal entities for two years if certain political contributions have been made to entity officials with influence over the award of business. Like dealers, municipal advisors would be required to disclose their political contributions to officials and bond ballot campaigns for posting on the MSRB's Electronic Municipal Market Access (EMMA®) website.

"Two decades ago, the MSRB adopted its landmark pay-to-play rule to address any actual link, and the appearance of a link, between political contributions and municipal securities underwriting, a bold move that dramatically improved the integrity of the market," MSRB Board Chair Kym Arnone said. "Extending the well-established principles of this rule to municipal advisors will similarly work to promote the integrity of the market and the municipal advisory industry."

At its meeting, the Board also reviewed public comments on enhancements to the MSRB's Real-Time Transaction Reporting System (RTRS) and approved proceeding with rule changes to effect certain enhancements including the provision of indicators for customer trades involving non-transaction-based compensation arrangements and for transactions that occur on alternative trading systems. Another change would streamline trade reporting for dealers by eliminating a requirement for dealers to report the yield on customer trades although transaction yields would continue to be available for price transparency purposes and dissemination on EMMA.

"These changes are among the many steps the MSRB is taking to enhance EMMA and ensure it continues to evolve in response to user needs, changing municipal market practices and technological capabilities," Chair Arnone said.

Since 2012, the MSRB has been working to develop the next generation of a transaction reporting system that would provide additional post-trade and new pre-trade data to investors and other market participants. The MSRB is continuing the development of a "central transparency platform" for the municipal market and will soon turn to seeking market feedback on potential changes to the pre-trade reporting framework.

At its meeting the Board received an update from MSRB staff on a rulemaking initiative stemming from the SEC's 2012 Report on the Municipal Securities Market. That report recommended the MSRB consider for the municipal securities market a "best-execution" transaction standard, which

already exists in the corporate market, and the development of practical guidance on such a rule. The MSRB is awaiting SEC action on the MSRB's best-execution proposal to create an explicit obligation for 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. At its meeting last week, the Board agreed to develop, in coordination with FINRA, practical guidance for dealers on the application of best-execution regulations for both the municipal and corporate markets, and to harmonize that guidance as appropriate. The MSRB's proposed best-execution rule is in the late stages of the rulemaking process at the SEC and the MSRB is turning to the development of practical guidance in anticipation of the rule being approved before the end of the year.

The Board also received a staff update on a rulemaking initiative to require dealers to disclose pricing information for the dealers' same-day principal trades in the same security on retail customer trade confirmations. This effort also stems from a recommendation in the SEC's 2012 report that the MSRB consider requiring the disclosure of pricing reference information to retail investors. In July 2014 the Board agreed to seek comment on a draft rule in coordination with FINRA's effort to develop a similar proposal for the corporate bond market. The proposed approach would provide investors with information generally already publicly available on the MSRB's EMMA website but would provide it directly to investors in connection with their transactions so they can independently assess the prices they are receiving from dealers.

The SEC is playing a coordinating role among the three regulatory organizations, and the MSRB and FINRA are harmonizing their proposed rules and plan to publish them for public comment simultaneously to allow for efficient responses to both proposals. The MSRB plans to seek specific comment on whether any differences between the municipal and the corporate bond markets justify differences in regulations in this area. The MSRB, consistent with its policy on economic analysis in rulemaking, also plans to seek input on alternative regulatory approaches, including a potential markup disclosure requirement targeting trades that could be considered riskless principal transactions.

In a final rulemaking action, the Board agreed to seek SEC approval of changes to regulations governing the EMMA system in response to a new disclosure requirement established by the SEC for asset-backed securities. The changes would enable EMMA to receive submissions that will be required beginning in early 2015 by Rule 15Ga-1 under the Securities and Exchange Act, related to repurchases and replacements of assets pooled in asset-backed securities.

As part of its meeting last week, the Board met with SEC Chair Mary Jo White and FINRA Chairman and Chief Executive Officer Richard Ketchum to discuss top issues facing the municipal securities market. These conversations with the leadership of the SEC and FINRA support regulatory coordination and informed policymaking in areas of mutual interest.

Date: November 3, 2014

Contact: Jennifer A. Galloway, Chief Communications Officer
(703) 797-6600
jgalloway@msrb.org