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MSRB Proposes Four-Year Terms for Board Members.

WASHINGTON – The Municipal Securities Rulemaking Board is proposing to lengthen board members' terms to four years from three, claiming this will make them more effective.

The MSRB proposed the changes to its Rule A-3 on board membership on Monday and is asking for public comments to be submitted by Nov. 19. The self-regulator had previously asked for comments on longer board terms as part of a controversial proposal earlier this summer to ease the standard of independence for the board's public investor representative. That proposal was shelved after it drew criticism, including from the Securities and Exchange Commission's Investor Advocate.

The new amendments are "primarily designed to improve the continuity and institutional knowledge of the board from year to year, while retaining the benefits of the regular addition of new members," the MSRB said in its regulatory notice. Longer terms would be especially helpful when members work on more complex or unique rules that often take multiple years to formulate and implement, it said.

"As former board members frequently attest, there is a substantial learning curve when joining the board and members typically make increasing contributions with each year they become more knowledgeable about the work of the MSRB," said the board's executive director Lynnette Kelly.

The proposed new term structure would maintain the majority-public nature of the 21-member board, but would change the number of new board members every year to either five or six, instead of the current seven. The MSRB is proposing a transition period through 2020. In 2021 there would be six new members, the next year five, the next year five, and the next year five. The cycle would be repeated every four years. The MSRB currently considers the members that come on in the same year one "class" and names the class according to the year they end their terms.

The MSRB said each new class of five or six "would continue to be as evenly divided as possible between public representatives and regulated representatives."

As part of the changes, the MSRB would eliminate a current Rule A-3 requirement that every board class have at least one municipal advisor representative not associated with a dealer. The MSRB said that keeping the requirement "would create an unintended obligation that the board always include four non-dealer municipal advisors" and thus possibly decrease representation of other regulated entities.

"Nothing in this change would reduce the representation of municipal advisors nor would it prohibit the MSRB from deciding to include more than three non-dealer municipal advisors on the board," the MSRB said.

During the transitional period, different members of the board would be eligible for board-approved extensions each year.

In fiscal year 2017, one public representative from the class of 2016 would get a one-year extension and six new members would join the board. The next year, one public and two regulated representatives from the class of 2017 would receive a one-year extension and five new members would join. Then in 2019, three public and two regulated members from the class of 2018 would get one-year extensions and five new members would join the board. And by 2020, the board would have completed the transition and welcome a class of five new members who would serve four year terms.

A committee of board members not being considered for extensions would nominate the members eligible for extensions in each of the transition years and then the board would vote on each proposed term extension. The extensions and board composition during and after the transition period "would be consistent with the statutorily-required compositional requirements of the board," the MSRB said.

While the MSRB said it recognizes there are numerous combinations of classes and members to achieve the change, it said it feels its specific recommendations would "achieve the transition expeditiously and efficiently while minimizing any disruption."

However, the board included several alternatives for commenters to consider when responding to the proposal, including whether members should serve terms longer than four years and whether the MSRB should make it easier for members to serve consecutive terms, even though the self-regulator said it believes the regular turnover every four years has benefits.

It also listed alternatives, including: a new proposed lifetime cap on the number of years a member could serve; devoting more resources to educating board members; and changing to four-year terms but keeping the rotation of seven new people every year and having no new members every fourth year.

The MSRB also posed two questions at the end of its notice asking if the proposed amendments would give the board greater continuity and institutional knowledge as well as whether the amendments would impose costs or burdens on any industry participants.

Michael Decker, managing director and co-head of municipal securities at the Securities Industry and Financial Markets Association, said SIFMA thinks the proposed term limit extension is "a great idea" and although the dealer group is still looking at the proposal, a longer term will "make board members more effective in decision making."

Jessica Giroux, Bond Dealers of America general counsel and managing director of federal regulatory policy, said BDA plans to discuss MSRB's suggested changes to Rule A-3 "with an eye toward flushing out any of our concerns related to proposed details surrounding adjustments to classes and how the transition process will proceed."

A spokesman for the National Association of Municipal Advisors said the group will be submitting comments. The Government Finance Officers Association could not immediately be reached for comment.

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