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MSRB to File Revised Closeout Proposal With SEC, Review Reserve Funds.

WASHINGTON – The Municipal Securities Rulemaking Board will move forward with a revised proposal that would mandate municipal securities transactions be closed out within 20 instead of 30 days of settlement, Lynnette Kelly, the MSRB's executive director said on Monday.

The board decided to file the revised proposal with the Securities and Exchange Commission within a few weeks during a meeting held here on April 13 and 14.

Kelly said the board also met with SEC chair Mary Jo White for the quarterly meeting where White was "very complimentary of the MSRB's activities," particularly the board's efforts to work with the Financial Industry Regulatory Authority on a proposal setting up a process to determine markups on munis.

The new closeout procedures would change a years-old portion of MSRB Rule G-12 on uniform practices and, according to its regulatory notice, would lessen the effect of interdealer transaction failures on the market. G-12 currently recommends that a dealer who fails to deliver securities to another dealer by the agreed upon settlement date close out the interdealer trade failure within 90 days of the settlement date.

The board's move from its originally proposed shorter timeframe of 30 days to 20 days appears to be in response to the Securities Industry and Financial Markets Association's comments that the board cut the time period down to within 15 days of settlement. SIFMA suggested there be a caveat that if both sides in a transaction agree more time is needed, they can extend the timeline another 15 days on a case by case basis.

Kelly said the MSRB didn't go along with SIFMA's proposal because it would effectively keep the limit at 30 days anyway. There was "no magic" to the 20-day limit, she added, and industry participants will have a chance to comment when the SEC asks for input after the MSRB filing.

The 21-member MSRB board also discussed comments, most of which were complaints, on a proposal for dealers to look at a "waterfall" of factors to determine prevailing market prices and markups.

That proposal would change MSRB Rule G-30 on prices and commissions, incorporating an already established FINRA process for corporate debt.

Most comments from dealer groups, like SIFMA and the Bond Dealers of America, argued the FINRA-based approach does not fit the municipal market and should instead give dealers the flexibility to adopt firm-specific policies and procedures within parameters the MSRB establishes.

Ben Watkins, the director of bond finance for Florida, said the "stringent definitions and interpretations of rules" found in the MSRB proposal would "only burden the market."

But the SEC’s Investor Advocate supported the proposal and asked it to be tightened.

Kelly said the board “spent a very long time really digging into those comments” and said there will be further board discussion on the proposal during its July meeting if not earlier.

The board also tackled other issues associated with more long-term MSRB duties and board governance.

It is now working under a new governance policy designed to address its reserve fund level when it falls above or below certain target levels. The MSRB policy sets a reserve target of approximately 12 months of operating expenses less depreciation expense plus three times annual capital needs. The board’s reserves currently exceed that target and Kelly said there will be ongoing conversations to determine what to do given the excess funds.

The board plans to reach a decision on the reserve funds during its July meeting.

In addition to governance concerns, the board discussed methods to fulfill its Dodd-Frank Act mandate to establish continuing education standards for newly regulated municipal advisors. The self-regulator plans to issue a request for comment in the fall about how best to set those standards, after MAs have taken the board’s permanent qualification exam.

Advisors who took the MSRB’s pilot exam, which took place between January 15 and February 15, are expected to hear whether they passed in early June, after an MSRB committee meets to go over the questions with an expert to determine a pass rate, Kelly said.

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