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SIFMA Calls for IRS to Withdraw Proposal on Political Subdivisions.

Last week, SIFMA staff testified at a public hearing conducted by the IRS on proposed changes to the definition of "political subdivision" in the context of which issuers are eligible to issue tax-exempt bonds. In our presentation, we reiterated our call for the IRS to withdraw its proposal on the basis that the rule is unnecessary and that it would drastically constrain the ability of state and local governments to finance needed infrastructure. The proposal would have a particularly onerous effect on special districts and similar issuers.

Under the IRS's proposal, in order to qualify as a political subdivision and issue tax-exempt bonds, an entity such as a special district would need to possess "sovereign powers, governmental purpose, and governmental control." Sovereign powers would be demonstrated by "eminent domain, police power, or taxing power," which is the extent of the current definition. Governmental purpose would require that an entity serve a public purpose and operate "in a manner that provides a significant public benefit with no more than incidental benefit to private persons." Governmental control would be demonstrated by the ability to approve and remove a majority of an entity's governing body, the ability to elect a majority of the governing body, or the ability to approve or direct an entity's funds or assets. The proposal includes other provisions as well. Read the full IRS proposal.

At last week's hearing, of the approximately 10 presenters, which included representatives of dealers, issuers, bond lawyers, developers and other market participants, all but one expressed substantial opposition to the IRS proposal.

View SIFMA's full comment letter to the IRS on this issue.