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MSRB to Lawmakers: 680 Firms, 4,500 Professionals Registered as MAs.

WASHINGTON – About 680 firms, with 4,500 associated professionals, were registered as municipal advisors as of September, the Municipal Securities Rulemaking Board's chairman told House and Senate committee leaders in a letter detailing the board's compliance with the Dodd-Frank Act.

"I am writing to update you regarding a major milestone for the MSRB," Nat Singer, the board's chairman told the leaders of House Financial Services and Senate Banking committees. "We have just concluded development of a core regulatory framework for municipal advisors, implementing a regime mandated by Congress under the [Dodd-Frank Act]."

The letter describes the new MSRB rules that make up that framework as well as the initiatives the board has implemented to protect municipal issuers and other entities and to enhance its EMMA system as well as its educational and outreach efforts.

The MSRB also created a majority-public member board, as mandated by the Dodd-Frank Act, which was signed into law by the president on July 21, 2010.

Dodd-Frank required non-dealer MAs for the first time ever to become subject to federal regulation and gave the MSRB regulatory jurisdiction over them.

On Sept. 30, 2013, the Securities and Exchange Commission adopted final registration rules for MAs, which defined the term "municipal advisor" and set forth exemptions from that definition. MAs must register with both the SEC and the MSRB.

The MSRB amended its Rule A-12 on registration to require new MA registrants to pay a \$300 annual fee per professional in addition to a MA firm's payment of a \$1,000 initial and a \$1,000 annual fee. Singer told the committee leaders that the MSRB projects for its fiscal 2017, which begins on Oct. 1, that 3.2% of its revenues will be funded by MA fees.

Dodd-Frank also required MAs to become subject to a federal fiduciary duty to put their issuer and other clients' interests first before their own. MSRB Rule G-42, which took effect on June 23 of this year, establishes core standards of conduct for MAs under which they owe a fiduciary "duty of loyalty" to their municipal issuer clients and are required "without limitation ... to deal honestly and with the upmost good faith with a municipal entity and act in the client's best interests without regard to the financial or other interests of the municipal advisor."

The rule also contains a "duty of care" to their clients requiring MAs to: exercise due care in their work; be qualified to provide advisor services; make a "reasonable inquiry" into the facts relevant to a client's request before deciding whether to proceed; and undertake a "reasonable investigation" to determine their advice is not based on bad information.

The rule requires written documentation of the advisory relationship between an MA and its client, including: the scope of services to be performed and the disclosure of any conflicts of interest or

legal and disciplinary events; the specific fee structure associated with the engagement, and a prohibition against the MA acting as a principal in muni transactions.

New Rule G-44 establishes supervisory and compliance requirements for MAs under which they must develop, implement and maintain supervisory procedures reasonably designed to ensure their MA activities comply with all regulatory requirements.

The MSRB has extended a number of its rules to MAs, including G-17 on fair dealing, G-20 on gifts and gratuities, and G-37 on political contributions. Rule G-37, which took effect on Aug. 17, is designed to prevent pay-to-play practices of giving contributions to state or local officials who can award MA business.

The MSRB also amended its Rule G-3 on professional qualifications requirements to define two classifications for MA professionals: representatives and principals. Both classifications of MAs are required to take and pass the Series 50 Municipal Advisor Representative Examination. The MSRB is developing a separate qualification exam for principals. The board also amended its Rules G-8 on books and records and G-9 on preserving records to require MAs to retain records on general business proceedings, gifts, gratuities, and written supervisory procedures, among other things.

Singer said MSRB protects municipal issuers and other entities through three mission-driven objectives: rules for broker-dealers and MAs that promote fair, and prevent fraudulent and manipulative, market practices; the collection and dissemination of underwriting and trade data; and education and outreach activities. The letter details those activities as well as improvements that have been made to EMMA.

The Bond Buyer

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