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SIFMA Asks SEC to Reject 'Inefficient' MSRB Account Transfer Proposal.

WASHINGTON - The Securities Industry and Financial Markets Association is urging the Securities and Exchange Commission to reject proposed Municipal Securities Rulemaking Board changes on customer account transfers, saying the amendments are inefficient and that the board would be better off simply cross-referencing other regulators' rules.

Bond Dealers of America is not asking the SEC to disapprove the proposal, but is seeking several changes including extending the period between when the changes are adopted and when they become effective to give dealers more time to adjust to a number of amendments taking effect then.

The SIFMA and BDA comments respond to an SEC filing from the MSRB containing proposed changes to MSRB Rule G-26 on customer account transfers. Rule G-26 currently requires dealers to cooperate in the transfer of customer accounts and includes various procedures for carrying out the transfer process. A transfer occurs when a customer decides to transfer an account from one dealer, the carrying party, to another, the receiving party. G-26 lays out specific time frames during which the transfers must occur as well as limits on why the receiving party can protest a customer's transfer instruction.

The rule was adopted in 1986 and is part of an industry-wide initiative to create a uniform customer account transfer standard, according to the MSRB. The standard is primarily driven by the Automated Customer Account Transfer Service (ACATS) of the National Securities Clearing Corp. (NSCC). ACATS is a system that facilitates the transfer of securities from one trading account to another at a different brokerage firm or bank.

The MSRB's rule, which governs municipal security-only customer account transfers, is similar to other self-regulatory organization rules, such as New York Stock Exchange's Rule 412 and Financial Industry Regulatory Authority's Rule 11870. The MSRB periodically modifies its requirements under G-26 to conform to provisions in the parallel rules of other self-regulatory organizations, which have changed somewhat in recent years, so that there is a consistent standard.

SIFMA echoed its past comments to the MSRB in its most recent letter, saying that Rule G-26 in its current form is unnecessary and that dealers would be better off having the MSRB cross-reference the other regulators' rules, particularly FINRA Rule 11870.

"SIFMA and its members feel the proposed amendments take an approach that is a step backward; instead of supporting rulebook simplification and harmonization and promoting automation to facilitate faster transactions, the proposed amendments are inapposite," wrote Leslie Norwood, managing director and associate general counsel with SIFMA.

Norwood added that SIFMA still believes that most of the firms subject to G-26 and no other regulatory rules regarding account transfers don't participate in ACATS anyway.

The MSRB responded to FINRA's past suggestions by saying that if it were to simply incorporate

FINRA's Rule 11870 by reference, it "potentially could be seen as delegating its core mission to protect investors, issuers, and the public interest and to promote a fair and efficient municipal market."

SIFMA said it strongly disagrees with the MSRB's rationale for rejecting their recommended approach and pointed to other MSRB rules like G-41 on anti-money laundering compliance program and G-35 on arbitration that include cross-references.

"In this instance, the MSRB would not be seen to be delegating its core mission to protect the municipal securities market, as there is nothing particularly unique regarding the transfer of customer accounts with respect to municipal securities," Norwood wrote.

She added that if the MSRB stays with its decision against cross-referencing, it could choose to instead allow FINRA member firms to follow FINRA 11870 and NYSE member firms to follow NYSE Rule 412 instead of G-26 while also requiring firms not covered by either to follow Rule G-26.

"If the primary purpose of the changes and the draft amendments is to re-establish consistency with ACATS and the rules of other SROs by conforming G-26 to significant updates by the NSCC, the NYSE and FINRA that have relevance to municipal securities, the best way to accomplish this is to have one governing rule that is cross-referenced by the other self-regulatory organizations," Norwood wrote.

Additionally, SIFMA said that having different rules for account level transfers could result in: additional compliance burdens, conflicting examiners from different regulators applying different rules to the same customer account transfer, and confusion among customer.

"We feel these reasons are significant enough to warrant complete rule harmonization governing these procedures," Norwood wrote.

Both SIFMA and BDA included concerns in their letters about the need to harmonize the timeframes under MSRB Rules G-26 and G-12 on uniform practice with FINRA rule 11870 because G-12 was recently amended to shorten the amount of time dealers had to close out account transfer fails. Both dealer groups said FINRA should harmonize its rule to those of the MSRB.

BDA also proposed that the effective date be changed from some time around January 2018 to about 180 days after the adoption of the Department of Labor's principal trading and best interest contract exemptions, which are to become applicable on Jan. 1, 2018. The group said that having an effective date around January 2018 would add to already significant regulatory changes dealers will have to be adjusting to around that time.

BY SOURCEMEDIA | MUNICIPAL | 07/06/17 07:08 PM EDT

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