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BDA Submits Letter in Support of Recent FIMSAC Proposal.

Today, after consultation with various members and Committees, the BDA submitted a letter to FIMSAC in favor of their recent proposal titled, "Preliminary Recommendation Regarding Certain Principal Transactions with Advisory Clients in Negotiated Municipal Underwritings."

In the letter, the BDA urges the FIMSAC to adopt the Municipal Securities Transparency Subcommittee's Recommendation for a rule change related to Section 206(3) of the Investment Advisers Act that would permit RIAs with affiliated BDs to offer negotiated municipal new issues to non-discretionary advisory clients under a streamlined compliance approach along the lines of Rule 206(3)-3T. The BDA also urges the SEC to act on the FIMSAC's recommendation promptly.

The letter can be found [here](#).

Background

At its April 15, 2019 meeting, the SEC's Fixed Income Market Structure Advisory Committee (FIMSAC) discussed a recommendation made by the FIMSAC's Municipal Securities Transparency Subcommittee. The recommendation is to reinstate in amended form a change to SEC Rule 206(3) under the Investment Advisers Act. Under current rules a member of a negotiated municipal underwriting syndicate is prohibited from selling the bonds to its non-discretionary advisory clients "without disclosing to such client in writing before the completion of such transaction the capacity in which he/she is acting and obtaining the consent of the client to such transaction." These disclosures and consents have to be undertaken for each transaction. From 2007 through 2016, the SEC implemented on a temporary basis SEC Rule 206(3)-3T. This temporary amendment allowed broker-dealers to sell their non-discretionary advisory clients certain securities on a principal basis that might not be available on an agency basis, or might be available on an agency basis only on less favorable terms, while protecting clients from conflicts of interest as a result of such transactions. 206(3)-3T expired in 2016.

The FIMSAC is considering recommending that the SEC consider a rule that permits members of negotiated underwriting syndicates to meet the requirements of section 206(3) of the Advisers Act when acting in a principal capacity to sell new-issue municipal bonds during the negotiated order period. The FIMSAC did not come to a final decision on this recommendation at its April meeting. Instead, the group decided to further discuss the issue by phone and raise it again at the next FIMSAC meeting.

Bond Dealers of America

June 28, 2019