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Opinion: Why It Is Time To Break Up The insiders Club That Regulates The $4 Trillion Muni-Bond Market

Investors and the public are not served by a board filled with Wall Street lifers

For a self-regulatory group that oversees a $4 trillion (that's 12 zeroes) municipal-bond market that finances public projects across the United States, the Municipal Securities Rulemaking Board has all the trappings of an insular Wall Street eating club.

The MSRB director made $1.05 million last year. The chairman of the Securities and Exchange Commission only makes $165,300. Transparency at the MSRB is dubious with data downloads too costly for all but the Vanguards of the world.

Public seats on the board largely go to those with close former ties to broker-dealers and banks. The current MSRB chairman is an equity partner at a Wall Street investment bank. The vice chair is a managing director at Bank of America Merrill Lynch.

Break up the club

Some reforms have been made, but it's clear that many more are needed. The recent flurry of resignations and retirements among MSRB executives makes it an especially appropriate time to break up the Cosmos Club of bonds, and better protect investors as well as the public interest.

I filed the MSRB Reform Act, along with Sens. Elizabeth Warren and Doug Jones, because the board that oversees the muni-bond market is too secretive and too incestuous. Its membership shares the same DNA. That means the rulebook for municipal bonds is in the hands of a board that resembles a revolving door of longtime industry confederates.

The irony is that the MSRB exists because regulations were needed to tame a mammoth municipal-bond market that finances schools, bridges, roads and other public projects.

In theory, the MSRB is supposed to protect the public interest, investors, and state and local governments. In practice, the MSRB membership structure is more shaded toward protecting the financial professionals who broker the deals.

Public seats

The Dodd-Frank Act was supposed to level the playing field by ensuring that the majority of the board represents the public. That's why there are "public seats" and "private seats" on the board. But a lot of those public seats still go to retired investment bankers and other Wall Street lifers who earned their livings profiting off the sale and issuance of municipal bonds.

Board members make $45,000 a year. Staff makes a lot more. A partial source for the largesse is the pricey annual subscription that the MSRB charges for data downloaded through the Electronic Municipal Market Access System, or EMMA.

Those who do pay for a subscription to EMMA help provide the funding that's needed to pay the MSRB's executives and board members. Compensation at other agencies, such as the SEC, is capped. There's no such restriction at the MSRB.

EMMA generated a lot of buzz about transparency when it launched a few years ago because it was supposed to offer a window into municipal-bond trading. Smaller investors would finally be able to see investment data and the prices for which bonds are trading, allowing them to better build their portfolios.

The problem with EMMA is that it is cost prohibitive for the small investors who were supposed to benefit from the new transparency. Bulk downloads of primary market disclosure documents, such as municipal securities official statements (a prospectus for bonds) and certain preliminary official statements, cost $20,000. Access to continuing disclosure documents, such as audited financial statements, costs $45,000. Average mom-and-pop investors can buy two cars for that price.

My legislation makes necessary changes to ensure that the MSRB satisfies its original purpose of protecting investors and municipalities.

Much-need distance

My bill whittles down the board from 21 to 15 members. It creates some much-needed distance between board members and their industry ties by requiring that anyone who holds one of the public board seats must be separated from his employment as a banker, broker or municipal adviser for at least five years.

It also requires a salary cap for board members and requires that the SEC approve their selection. At present, the MSRB board selects its own members in a closed meeting, kind of like picking the pope.

I've got nothing against the MSRB board members personally. I know several of them, and they are fine people. I'm sure the others are, too. I just don't think the $4 trillion municipal bonds market should be overseen by a structure that resembles Skull and Bones.

MARKET WATCH

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John Kennedy is a Republican senator from Louisiana.