
SIFMA Raises Concerns On Proposed Solicitor Municipal Advisor Regulations: Cadwalader

SIFMA raised concerns on MSRB's proposed Rule G-46 ("Duties of Solicitor Municipal Advisors"). The proposed rule would codify previously issued interpretive guidance on the requirements applicable to solicitor municipal advisors under MSRB Rule G-17 ("Conduct of Municipal Securities and Municipal Advisory Activities").

In a comment letter, SIFMA took issue with the following aspects of the proposal, among others:

- the lack of clarity with respect to the standard of conduct applicable to solicitor municipal advisors (i.e., a fair dealing standard and not a fiduciary standard);
- the lack of precision in codifying guidance under MSRB Rule G-17;
- inconsistencies with MSRB Rule G-42, governing the duties of non-solicitor municipal advisors, as pertaining to (i) the documentation of the solicitor relationship, (ii) representations made to solicited entities, (iii) the lack of a list of prohibited conduct, (iv) the timing and method of disclosures, and (v) recordkeeping requirements;
- inaccuracies in the disclosure statement that solicitor municipal advisors are required to provide to solicited entities; and
- the lack of further clarification as to (i) what activities constitute an undertaking to solicit a solicited entity, (ii) inadvertent solicitation and (iii) the applicability of other MSRB rules.

SIFMA recommended that the MSRB continue to engage with market participants to better understand the types of activities that constitute a solicitation, different compensation structures and suitable disclosures for this line of business.

Cadwalader, Wickersham & Taft LLP

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