

Bond Case Briefs

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MSRB Votes to Extend Pandemic Relief and Implement a New Approach to Fees at Quarterly Board Meeting.

The Municipal Securities Rulemaking Board (MSRB) met virtually January 26-27, 2022 for its quarterly Board of Directors meeting, where the Board voted to extend certain temporary pandemic regulatory relief and refine its approach to the fees that enable the self-regulatory organization (SRO) to fulfill its mission to safeguard the \$4 trillion municipal securities market. The Board discussed several other ongoing initiatives to advance the four goals outlined in its [long-term strategic plan](#).

Regulatory Initiatives

“Our nation’s schools, hospitals and workplaces continue adapt to challenges presented by the pandemic,” said MSRB Chair Patrick Brett. “The MSRB has been operating fully remotely for nearly two years, and we appreciate the challenges posed to regulated dealer firms of conducting traditional in-person office inspections when their employees are working from remote offices.”

The Board voted to propose amending MSRB Rule G-27 to allow dealer firms to conduct office inspections remotely until December 31, 2022. This additional six-month extension would align with a similar extension that the Financial Industry Regulatory Authority (FINRA) filed with the Securities and Exchange Commission (SEC) earlier this month. Previous MSRB actions to provide temporary regulatory relief, data and information to support market participants during the pandemic are available on the MSRB’s [dedicated COVID-19 information page](#) on its website.

Also at its meeting, the Board determined to seek SEC approval of a proposal to implement structural changes to the organization’s approach to managing fee revenue and reserve levels to ensure a fair, equitable and sustainable balance of funding that will support its mandate to protect investors, issuers and the public interest.

As detailed in the MSRB’s [FY 2022 Budget](#) and [FY 2021 Annual Report](#), the majority of the MSRB’s revenue comes from market volume-based fees on regulated entities, which has contributed to a cycle in which the MSRB accumulates excess reserves and then implements temporary solutions such as fee rebates and temporary fee reductions.

“We share regulated entities’ frustration with this cycle, which we addressed most recently with the largest temporary fee reduction in MSRB history that is on target to return \$19 million in accumulated excess reserves to the industry by the end of this fiscal year,” Brett said. “Under the leadership of the Finance Committee and with the benefit of input from regulated stakeholders, the Board has undertaken a comprehensive examination of our finances.”

Finance Committee Chair Frank Fairman said, “We have developed an approach that maintains a sustainable financial model, adequately funds future expenses and, most importantly, mitigates the impact of market variability, providing a better mechanism for effectively managing reserve levels.” The MSRB plans to seek SEC approval of the new approach with an eye toward implementing it at the beginning of FY 2023.

The Board also met with FINRA President and CEO Robert Cook to discuss continued regulatory coordination on matters related to the municipal securities market.

Transparency Initiatives

The Board previewed preliminary concepts for a new user interface for the free Electronic Municipal Market Access (EMMA®) website based on extensive input from stakeholders.

“We are in the early stages of a complete transformation of the EMMA website that aims to make the market’s official online source for data and disclosures easier to navigate and more intuitive to use,” Brett said. “In the meantime, EMMA users can expect to see continued incremental improvements based on their feedback about pain points, such as recent improvements to help issuers more easily manage the process of associating individual securities to a disclosure filing in EMMA.” To help keep stakeholders informed of upcoming and longer-term EMMA enhancements, the MSRB now publishes a forward [roadmap of its transparency and technology initiatives](#) on its website.

Market Structure and Data

The Board also discussed a number of market structure topics, including price transparency considerations raised in the [SEC’s recent proposal to amend Regulation ATS](#) and the MSRB’s ongoing work to evaluate market feedback and data to understand the prevalence of pennyng in the municipal market. This practice involves a dealer’s purchase of bonds for its own account from a customer seeking to sell a municipal security—after the dealer has reviewed other dealers’ bids—by matching a high bid or purchasing the bond at a price that is nominally higher than the highest bid.

The Board also discussed early feedback on EMMA Labs, the MSRB’s new innovation sandbox, where market stakeholders can collaborate with MSRB staff to test active prototypes, help improve their utility and accelerate the pathway to bring enhanced market transparency tools to life on the EMMA website.

Public Trust

The Board discussed engaging with stakeholders on emerging market topics and also discussed the work of its standing committees, including the Nominating Committee’s efforts to solicit applications through February 7, 2022, for two public members and two regulated members of the Board.

“One of the most important jobs for an SRO is selecting a new class of market experts to join us in overseeing the long-term strategic direction of the organization,” said Meredith Hathorn, MSRB Vice Chair, and Chair of the Board’s Nominating Committee. “The four new members who will join our Board for FY 2023 will have the opportunity to help advance our thinking on a number of critical topics for our market. We’re making great strides in leveraging technology and structured data to support informed decision-making, and we’re in the early stages of gathering information on Environmental, Social and Governance (ESG) practices and developing strategies to advance Diversity, Equity and Inclusion (DEI) in the municipal securities market.”

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