

BDA ADVOCACY PRIORITIES

Third Quarter 2017

Regulatory Advocacy Issues

FINRA and MSRB's Retail Confirmation Markup Disclosure Rules

In November 2016, the SEC approved the MSRB's and FINRA's retail confirmation disclosure rules that will require dealers to disclose a markup for certain retail trades. The rules are effective on May 14, 2018. BDA member firms discussed the cost and complexity of automating the "waterfall" concept for corporate, Agency, and municipal securities trades for retail investors in meetings with the SEC, FINRA, and MSRB throughout the first half of 2017 in order to prepare dealers for the 2018 compliance date.

BDA Letter to the Treasury Department on Capital Markets Regulatory Reform

The Treasury Department is currently working on a series of policy papers examining the U.S. financial regulatory system, including U.S. capital markets regulation. In August 2017, the BDA submitted a letter to the Secretary of the Treasury, which highlighted concerns with U.S. broker-dealer industry consolidation and explained specific concerns with MSRB and FINRA retail confirmation rules and the mortgage margin amendments for FINRA Rule 4210. The Treasury report will be the first statement with policy specifics and recommendations related to the U.S. capital markets by the Trump Administration.

FINRA Mortgage Security Margin Amendments

In October 2015, FINRA filed proposed amendments with the SEC to Rule 4210 to establish margin requirements for transactions in TBAs, specified pools, and collateralized mortgage obligations. FINRA amended the rule three times, including changes BDA recommended to increase to the allowable gross open position limit and the minimum margin transfer threshold, and to permit risk limits for advisor accounts to be made at the advisor level. The SEC approved the rule in June 2016. In August 2017, BDA submitted a letter to FINRA, which highlighted BDA member compliance questions and resubmitted a recommendation for amending the rule to reduce the competitive burdens caused by the rule, especially for middle-market dealers.

MSRB's Minimum Denomination Rule Filing with the SEC

BDA submitted two comment letters to the MSRB stating that proposed MSRB Rule G-49 should be focused on issuances with 'minimum authorized denominations' of \$100,000 or greater. The MSRB filed its minimum denomination rule with the SEC in February 2017, but later withdrew the proposal and stated that it would continue to work on amendments to the minimum denomination rule. In September 2017, the BDA will continue the discussion with the MSRB as it considers amendments to MSRB Rule G-15 and will advocate for regulatory alternatives to reduce regulatory burdens in the municipal securities market.

SEC's Proposed Amendments to Rule 15c2-12

In February 2017, the SEC proposed two new amendments to Rule 15c2-12. The amendments propose to add two new events to the existing material events that would be required to be disclosed under an issuer or obligated persons continuing disclosure agreement. Specifically, the SEC proposes to add the incurrence of a material “financial obligation” or agreement to a material debt covenant or debt provision that would modify the priority rights of the issuers or obligated persons existing debt holders as a material event under 15c2-12. The BDA met with the SEC’s Office of Municipal Securities in June 2017 and discussed the policy concerns BDA raised in its comment letter.

The Department of Labor’s Fiduciary Duty Rule

In April 2016, the Department of Labor (DOL) approved a rule to expand the definition of 'fiduciary' under ERISA. The new rule applies a fiduciary duty to those providing investment advice to retirement investors. In January 2017, the Trump Administration issued a Presidential Memorandum directing the DOL to review the rule. As a result, the DOL delayed the April 2017 applicability date for the new rule by 60 days and then subsequently sought to delay the applicability of the rule’s most significant amendments until 2018. BDA has submitted multiple comment letters in 2016 and 2017, advocating for a harmonized best interest standard of care for both retirement and non-retirement investors.

Request for Comment on Draft Amendments to MSRB Rule G-34 (CUSIP Requirements)

BDA submitted a comment letter in March 2017 that disagreed with how the MSRB had fashioned its regulatory proposal. BDA stated that the MSRB should not craft a rule that requires CUSIP numbers in transactions where the issuer and purchasing investors do not want a CUSIP number and that a CUSIP number requirement will have substantial negative consequences for the market.

Legislative Advocacy Issues

Financial Reform Legislative Priorities

BDA will work with Congress and the Administration to advance regulatory reform legislation. This will include working to advance BDA’s advocacy priorities including requiring more stringent regulatory cost-benefit analyses, High Quality Liquid Asset legislation, amendments to the Department of Labor Fiduciary Duty Rule, revisiting the Municipal Advisor Rule, and more.

Protecting Tax-Exempt Bonds and the Municipal Bonds for America Coalition

The Administration and Congress remain committed to passing tax reform measures by the end of 2017. In July 2017, the BDA submitted policy recommendations to Senate Finance Committee Chairman Orrin Hatch (R-UT) advocating for retaining the municipal tax exemption, increasing the dollar limit for bank qualified bonds from \$10mm to \$30mm, and allowing for the expanded use of private activity bonds. BDA continues to engage with the House Ways & Means and Senate Finance committees voicing opposition to any proposal that modifies or eliminates the tax-exempt status for municipal bonds. Additionally, BDA works with industry partners, including issuers and state and local groups, through the Municipal Bonds for America (MBFA) Coalition to preserve the tax exemption. The MBFA Coalition is engaged with key House and Senate offices through its advocacy efforts, including the Municipal Bonds 101 Seminars.

Bank Qualified Bonds

BDA continues to support legislation to increase the annual volume limit for bank-qualified bonds from \$10 Million to \$30 million and to index for inflation. Past legislation has also allowed for the use of pooled financings and would calculate the volume cap at the issuer, rather than issuance, level. BDA has lobbied Congress extensively on the bank-qualified issue and we will continue to do so in the tax reform discussion into Fall 2017.