



BDA 10 *Years Strong*

Advocacy / Membership / Events



3Q 2018 Fiscal Year



To: BDA Member Firms

Re: 3Q Update on Advocacy, Membership, and Events

As we progress into our third quarter of FY 2018, the BDA has launched an all hands on deck lobbying effort to rescind or modify the amendments to FINRA Rule 4210 before they are finalized in March 2019. As a direct result of your support and advocacy efforts, we have been gaining momentum on this legislative and regulatory priority.

On July 12, 2018, BDA members participated in a Capitol Hill fly-in to educate key congressional offices and their staff on the harmful ramifications the amendments to FINRA Rule 4210 will have on small-to medium-sized broker-dealers. We were also honored to host a fundraiser for Representative Bill Huizenga (R-MI), Chairman of the House Financial Services Committee's Subcommittee on Capital Markets, Securities and Investment.

As directed by the BDA Board under the leadership of Board Chair, Brian Brennan of KeyBanc Capital Markets, the BDA has also been leading advocacy efforts on a number of fixed income issues and hosted events targeted to the regulatory, legislative, market and business issues most relevant to middle-market, regional and small fixed-income dealers.

Looking forward, the BDA is planning a DC Roundtable in early 2019 focused on the role of municipal bonds in infrastructure investment in order to be a central thought leader and help drive the conversation

for both infrastructure financing and any future tax law changes. The BDA is also forming a working group to proactively represent members firms on fixed income market structure issues before the SEC.

I am pleased to announce that the BDA now represents over 75 firms with the addition of RBC Wealth Management, Sandler O'Neill, and B. Riley FBR. The leadership at these firms, engaged directly through BDA committees and working groups, simply makes the BDA a stronger and more impactful advocate for all member firms.

A full event schedule is below. We are expecting over 45 people at the annual BDA Institutional Fixed Income Roundtable in Chicago on August 16. In addition, we have been ramping up our planning efforts for the National Fixed Income Conference on October 25 and 26 in Washington, DC.

Thanks to your engagement, the BDA has become the industry leader for events focused on the US fixed income markets.

As always, thank you for your continued support and please contact me if you need anything from the BDA.

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Federal Regulatory and Legislative Priorities 3Q 2018 Update

Regulatory Priorities

FINRA Rule 4210 (Regulatory & Legislative Priority)

In April 2018, FINRA asked the SEC to delay Rule 4210 amendments to March 2019, indicating that many market participants have requested that FINRA reconsider the potential impact of amended Rule 4210 on smaller and medium-sized broker-dealers. The BDA and its members are leading the charge in the request of this delay and would like FINRA and the SEC to reconsider these amendments.

The BDA believes that the 4210 amendments represent a regulatory overreach by FINRA. FINRA is using a broad statutory authority of the Securities and Exchange Act in an attempt to adopt a systemic risk rule, potentially violating congressional intent. The BDA also believes that the 4210 amendments are anti-competitive. The margin requirements will push small- to medium-sized dealers out of the trading of these securities with larger buy-side institutions. The BDA expects large buy-side institutions to halt trading these securities with BDA members due to practical demands. The amendments could actually create systemic risk as they may consolidate the trading of these securities into a fewer number of counterparties instead of the broad number and kind of counterparties who currently trade these securities.

The BDA has proposed a “capital charge” in lieu of margin, which would allow dealers to remain competitive with money manager accounts and still manage any systemic risk.

The BDA continues to engage Capitol Hill, FINRA and the SEC on next steps for FINRA Rule 4210 amendments. The BDA and its members are consistently in contact with FINRA staff discussing the details of the “capital charge” proposal.

On Capitol Hill, the BDA strategy is two-fold: 1) request support for the rescission the amendments before they are finalized on March 25, 2019 and 2) have members of Congress reach out to FINRA and the SEC in support of the “capital charge” proposal if the amendments are not rescinded.

In June 2018, House Municipal Finance Caucus Chairman Randy Hultgren (R-IL) wrote a letter to the SEC and FINRA, in favor of the BDA “capital charge” proposal and warned of regulatory overreach by FINRA. As part of a grassroots lobbying effort, BDA members participated in a Capitol Hill fly-in in July 2018 and met with members of Congress on the amendments to FINRA Rule 4210.

The BDA continues to work with partners on the House Financial Services Committee and Senate Banking Committee to pressure the SEC and FINRA to rethink the amendments.

SEC Fixed Income Market Structure Committee

The BDA Taxable Committee continues to play an active role in the SEC Fixed Income Market Structure Committee. BDA members of the SEC’s Fixed Income Market Structure Advisory Committee (FIMSAC) include Horace Carter (Raymond James), Amar Kuchinad (Trumid Financial), and Richard McVey (MarketAxess).

In July 2018, FIMSAC held a meeting in Washington and the main topic of discussion on the agenda was improving the current state of pre-trade transparency in the municipal and corporate bond markets. Several BDA members (Horace Carter at Raymond James, Rick McVey at MarketAxess, and Ron Valinoti at Municipal Bond Information Services) were panelists on various discussion topics and they shared their perspectives and experiences concerning pre-trade transparency in the muni market.

Retail Confirmation Mark-up Disclosure Rules

In January 2018, BDA members met with SEC Chairman Jay Clayton, SEC Commissioner Kara Stein, and senior staff to SEC Commissioner Mike Piwowar in support of a delay of the mark-up rules and to make clear to the SEC the numerous compliance problems small firms are facing with vendors, etc. The BDA also explained to the commissioners the “general market liquidity provider” amendment. During the meeting with Chairman Clayton, he prompted the BDA to draft a “business plan” laying out the framework of steps to be taken if a delay of enforcement were to be granted.

Following the meeting, the plan BDA presented to the SEC included a “conformance period,” in which the regulations would not be enforced if broker-dealers acted in good faith and worked to come into full compliance with the rules by December 31, 2018. As a follow-up, in March 2018, BDA members also met with the two new SEC commissioners, Hester Peirce and Robert Jackson, Jr., regarding the mark-up rules.

Despite opposition from various trade groups, in late April 2018, the SEC denied the conformance period proposal for retail confirmation mark-up disclosure rules and they became effective on May 14, 2018.

Recently, the MSRB released guidance on the rules. After receiving feedback from member firms, the BDA has been in contact with the MSRB about the problematic nature of the timing of the guidance and the lack of support provided.

SEC Municipal Disclosures-Rule 15c2-12

The BDA continues to advocate on Rule 15c2-12 to the SEC Office of Municipal Securities. Working with the Legal and Compliance Committee, the BDA continues to encourage Commissioners to update the Commission’s interpretative guidance, which was last updated in 1994.

MSRB Seeks to Establish Rule for Municipal Advisors/Update Dealer Standards on Advertising

The BDA has been active in submitting comments in opposition to the MSRB’s proposed new rule, MSRB Rule G-40, on advertising by municipal advisors, and amendments to MSRB Rule G-21, on advertising by municipal securities dealers. In May 2018, the SEC has approved MSRB’s proposed rule change with an effective date of February 7, 2019.

BDA submitted comments in February 2018 to the SEC in response to the MSRB’s proposed new rule and met senior SEC staff in April 2018. BDA also submitted a joint letter with NAMA and SIFMA, requesting for the SEC to institute disapproval proceedings for the MSRB’s proposed amendments to Rule G-21 and new Rule G-40 until the MSRB further clarifies and addresses these key issues within the text of the rules themselves.

Recently, the BDA submitted comments in July 2018 to the MSRB on their draft set of frequently asked questions (FAQs) related to the application of Rule G-40 and a municipal advisor's use of case studies and municipal advisory client lists.

Legislative Priorities

Promoting Tax-Exempt Municipal Bonds and Private Activity Bonds

The BDA has been building relationships with various state and local groups, coalitions and trade associations to continue to advocate for the protection of tax-exempt municipal bonds and for expanded use of private-activity bonds.

In July 2018, both the House Ways and Means and Transportation and Infrastructure Committees released outlines of potential tax reform and infrastructure spending plans to be debated this fall. While neither draft proposal directly address municipal bonds, or private-activity bonds, both present an opportunity for the BDA to be a thought leader going forward through the fall of 2018 and into the new Congress next year.

Municipal Advance Refundings

The BDA is leading the advocacy push for H.R. 5003, legislation that would fully reinstate municipal advance refundings. While disappointed in the elimination of advance refundings in the *Tax Cuts and Jobs Act of 2017*, the BDA continues to work simultaneously with Capitol Hill, the Municipal Bonds For America Coalition, the full issuer community and the U.S. Treasury Department to find a regulatory and market-based no cost solution for municipal bond issuers.

Grassroots lobbying efforts are ongoing with BDA membership contacting their representatives in Washington. In May 2018, the BDA Municipal Bond Division Leadership submitted comments to the House Ways and Tax Policy Means Subcommittee's hearing titled, "Tax Reform and Small Businesses: Growing Our Economy and Creating Jobs," requesting to restore the ability of state and local governments to save taxpayer dollars and generate additional funds for infrastructure and other key initiatives by restoring tax-exempt advanced refundings.

In July 2018, both the House Ways and Means and Transportation and Infrastructure committees released outlines of draft proposals for “Tax Reform 2.0” and “Building a 21st Century Infrastructure”. While neither draft proposal directly address municipal bonds, advance refundings or private-activity-bonds, both present an opportunity for the BDA to be a thought leader going forward.

The BDA continues to work with its partners on Capitol Hill and within the issuer community to help drive the conversation in both infrastructure financing and any future tax law changes. While it is thought that neither bill have a high probability of passage or debate before the November elections this year, 2019 can present many opportunities. The BDA is currently drafting plans to be a central thought leader that include a Congressional Roundtable and opportunities for BDA member Capital Hill fly-ins. As the fall progresses, the BDA will be in further contact about these opportunities.

Financial Regulatory Reform Legislation: High Quality Liquid Assets

Working in tandem with state, local and issuer groups, the BDA has long-supported the introduction and re-introduction in the House and Senate and passage through the House of legislation to define municipal bonds as high-quality liquid assets (HQLA) under banking liquidity rules.

Municipal securities were classified as level 2B HQLA in the *Economic Growth, Regulatory Relief, and Consumer Protection Act*, (S. 2155) passed by both the House and Senate and signed into law on May 24, 2018.

The BDA will be tracking and updating members as the federal banking agencies amend regulations to reflect the change in law.

PCAOB Audit Exemption Legislation

The BDA, working with small broker-dealer firms, helped introduce legislation that which would allow eligible firms to conduct their annual audits in a less costly and burdensome manner. *The Small Business Audit Correction Act* (S. 3004 & H.R. 6021) introduced by Senators Tom Cotton (R-AR) and Doug Jones (D-AL) and Representatives French Hill (R-AR) and Vicente Gonzalez (D-TX) would exempt small, privately-held, non-custodial broker-dealer firms from the requirement to use a Public Company Accounting Oversight Board (PCAOB)

registered audit firm for their annual audits.

Over the last few months, the BDA has been actively meeting with members of the House Financial Services and Senate Banking Committees. The BDA will continue to do so to garner support for enactment of the bill.

Municipal Bonds for America (MBFA) Coalition

The coalition is dedicated to preserving the tax-exempt status of all municipal bonds, including private-activity bonds and the recent loss of advance refundings.

As discussions on Capitol Hill continue to develop on a federal infrastructure package and changes to the tax code begin to take form in “Tax 2.0,” simply a second phase of tax cuts, the MBFA will host its annual Capitol Hill briefing for members of Congress and staffers on municipal finance on September 24, 2018. The coalition will also provide an opportunity for BDA members to participate in a legislative Hill day on September 25, 2018, in which BDA members will have the opportunity to explain to legislators why the tax-exemption is critical for infrastructure financing, while explaining the many benefits of the traditional municipal bond market.

Additional BDA Priorities 3Q 2018

BDA-Hosted Member Fly-In and Political Fundraiser

On July 12, 2018, BDA members participated in a Capitol Hill fly-in, and BDA-PAC hosted a fundraiser for Representative Bill Huizenga (R-MI), Chairman of the House Financial Services Committee’s Subcommittee on Capital Markets, Securities and Investment. The primary focus of the meetings was amendments to FINRA Rule 4210.

FinCEN Customer Due Diligence

The BDA continues to work with membership on developing best practices for the Customer Due Diligence (CDD) rule, which went into effect in May 2018. FinCEN issued final rules under the Bank Secrecy Act to clarify and strengthen customer due diligence requirements for: banks; brokers or dealers in securities;

mutual funds; and futures commission merchants and introducing brokers in commodities. The rules contain explicit customer due diligence requirements and include a new requirement to identify and verify the identity of beneficial owners of legal entity customers, subject to certain exclusions and exemptions.

With the continued possibility of hearings on beneficial ownership this year, the BDA continues to engage Congress offering assistance. The BDA will continue to monitor the possibilities as the legislative year progresses.

Michigan Legislation on Competitive vs. Negotiated Bond Sales

A bill was recently introduced in the Michigan State Legislature that would require municipal issuers to issue all outstanding debt through competitive bid, unless the issue is no more than \$500,000, at which point negotiated is an option. The BDA's Fixed-Income Municipal Bond Committee has developed a strategy to fight against the anti-competitive nature of this bill and will engage in a grass-roots effort to stop the legislation from moving forward before other states follow suit.

The BDA has been working with other groups represented in Washington, as well as Michigan-state associations that have vested interest in the issue to begin a campaign against the bill. This is an issue that has negative implications for underwriters and issuers across the country.

Currently, the BDA is in the process of drafting an op-ed for placement in the Detroit Free Press and the *BondBuyer* in opposition of the legislation. The piece will layout the BDA's argument in favor of allowing issuers the discretion of choice in what works best for them.

The BDA will continue to update the membership through regular communications of our activities.

Upcoming BDA Events

Institutional Fixed Income Roundtable

August 16
Four Seasons Hotel
Chicago, IL

2Q Board of Directors Meeting

August 16
Four Seasons Hotel
Chicago, IL

Fixed Income Legal & Compliance Roundtable

October 24
Location TBD
Washington, DC

3Q Board of Directors Meeting

October 24
Nixon Peabody
Washington, DC

Heads of Public Finance Roundtable

October 25
The Four Seasons Hotel
Washington, DC

National Fixed Income Conference

October 25 - 26
The Four Seasons Hotel
Washington, DC

4Q Board of Directors Meeting

February 7, 2019
Location TBD

Fixed Income Strategy Session

February 7 - 8, 2019
Location TBD