

# BDA ADVOCACY PRIORITIES

## First Quarter 2017

### Regulatory Issues

#### **FINRA and MSRB's Retail Confirmation Markup Disclosure Rules**

In November, the SEC approved the MSRB's and FINRA's retail confirmation disclosure proposals that will require dealers to disclose a markup for retail account trades where there is an offsetting principal trade. In early November 2016, FINRA and the MSRB submitted additional amendments to the SEC. The amendments focus on harmonization of the rules and require a confirmation web link to EMMA or TRACE, a time-of-trade disclosure, and an 18-month effective date. The MSRB's rule is effective on May 14, 2018 and FINRA has stated it will have a harmonized effective date.

#### **MSRBs Comment Request on Minimum Denominations**

BDA has submitted a second comment letter to the MSRB stating that the proposed MSRB Rule G-49 should be focused on issuances with 'minimum authorized denominations' of \$100,000 and also argues that dealers should have increased flexibility to sell a portion of a below minimum denomination position acquired from a customer in an inter-dealer transaction. BDA will monitor this rule and will comment if it is submitted to the SEC.

#### **Improving Municipal Disclosure: SEC Rule 15c2-12**

BDA continues to work with our members and industry colleagues to engage the SEC on improving the clarity of disclosures in the municipal marketplace. Specifically, the BDA submitted a comment letter to the SEC recommending several specific policy changes with respect to SEC Rule 15c2-12 including changing the timing of and eliminating the requirement for listed event notices for ratings changes, and providing obligated persons a more effective process for amending and updating financial and operating information filed pursuant to continuing disclosure agreements. More recently, the BDA signed onto an industry-wide letter to the SEC requesting many of the changes we suggested in our original comment letter.

#### **Fiduciary Duty**

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 response to the DOL's April 2015 rule proposal, BDA submitted a comment letter to the DOL and testified at a DOL public hearing where we advocated for a rules-based approach and a coordinated effort with

the SEC. BDA continues to assist our membership with their compliance efforts under the final rule.

### **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. BDA submitted comments to the SEC in November 2015 and February 2016 that highlighted concerns with the proposal. BDA also met with the SEC in January and May to discuss concerns and to advocate for changes, which we outlined in a letter submitted to the SEC in early May, followed by another letter in late May. FINRA amended the rule three times, including changes BDA recommended to increase to the allowable gross open position limit, an increased 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. The rule has a 6-month implementation timetable for making risk limit determinations (December 2016) and an 18-month implementation period for the rule's other requirements (December 2017).

### **Municipal Advisor Regulatory Regime**

The SEC's Municipal Advisor (MA) rule went into effect on July 1, 2014. The MSRB has completed the core set of regulations for the MA regime which go into effect this year, including pay to play obligations (G-37), supervisory and compliance obligations (G-44), core standards of conduct (Rule G-42) and limitations on gift-giving (Rule G-20). BDA will be working with our members to ensure disclosure updates associated with standards of conduct are streamlined and efficient.

### **Private Placement Activity of Non-Dealer Municipal Advisors**

BDA remains concerned that non-dealer municipal advisors (MAs) may be violating securities law and denying investors the protections of the broker-dealer regulatory regime. BDA has consistently encouraged the SEC and MSRB to remind non-dealer MAs that soliciting investors and acting as a placement agent are registered broker-dealer activities.

### **Legislative Advocacy Priorities**

#### **Financial Reform Legislative Priorities**

BDA will work with the new Congress and 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**

BDA wrote to the Ways & Means Committee opposing any proposal to modify or

eliminate the tax-exempt status for municipal bonds. Additionally, BDA wrote a letter to House Speaker Paul Ryan (R-WI) and Rep. Kevin Brady (R-TX), Chairman of the House Ways & Means Committee, in response to the federal tax reform plan known in Washington as the "Blueprint". Municipal bonds have worked for issuers and taxpayers as a cost efficient means to finance critical infrastructure, transportation, and other community improvement projects for over 100 years. Limiting their value would significantly increase costs to state and local governments, taxpayers, and investors. 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. Recently the MBFA Coalition held a Muni Bonds 101 Seminar in which over 35 House and Senate offices were represented for a panel discussion on the importance of preserving the present-law treatment of tax-exempt municipal bonds.

### **Bank Qualified Bonds**

The Municipal Bond Market Support Act of 2016 has been introduced in both the House and the Senate. BQ legislation would increase the annual volume limit for bank-qualified bonds from \$10 Million to \$30 Million and index for inflation. In addition, the legislation allows for the use of pooled financings and calculates the volume cap at the issuer, rather than issuance, level. BDA has lobbied Congress extensively on the bank-qualified issue over the past six years. Unfortunately, there are few opportunities left on the 2016 legislative schedule to secure action on this measure, but it is likely that the bills can be quickly re-introduced in early 2017 and acted upon by the incoming Congress.