

BDA ADVOCACY PRIORITIES

May 2016

FINRA Margin Amendments

In October 2015, FINRA filed [proposed amendments](#) with the SEC to FINRA Rule 4210 to establish margin requirements for "to be announced" (TBA) transactions, specified pool transactions, and transactions in collateralized mortgage obligations. BDA [submitted comments](#) to the SEC in November 2015 and February 2016 that highlight ongoing concerns with the impact of the proposal on small-to-medium sized dealers and [met](#) with the SEC and FINRA in January 2016 to discuss outstanding concerns and a desire for further changes before the rule becomes finalized.

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 will all go into effect this year, including pay to play obligations (G-37), supervisory and compliance obligations (MSRB Rule G-44), core standards of conduct (Rule G-42) and limitations on gift-giving (Rule G-20).

Retail Confirmation Markup Disclosure Proposals

In late 2015, [FINRA](#) and the [MSRB](#) each released a rule proposal to require dealers to disclose a markup for retail accounts. [BDA submitted a comment letter](#) in December that urged regulators to harmonize their proposals and to strive to create the lowest cost, least complicated rule for retail investors and dealers. BDA continues to advocate for a less complex, less costly rule prior to finalization.

Amendments to Provide Guidance on Prevailing Market Price

MSRB has requested comment on proposed guidance related to MSRB Rule G-30 to establish prevailing market price based on FINRA's "waterfall" approach. BDA will submit comments to the MSRB in March 2016 regarding outstanding concerns with the amendments including how taking a taxable market, FINRA approach may not be entirely appropriate for the municipal market.

FINRA Extended Settlement Initiative

In September, BDA met with FINRA to discuss their intention to update guidance or engage in a rule making related to forward settlement transactions in municipal securities. The discussion was focused on the municipal market but we learned that FINRA would like to engage in a dialogue with us about forward settlements in the

taxable market as well. A full recap of the September 2015 meeting can be read [here](#).

IRS Proposed Regulations on Issue Price

In June 2015, the IRS and U.S. Treasury issued a proposed rule to amend the definition of issue price for municipal securities. BDA submitted a comment letter in September 2015 suggesting alternative approaches for consideration. Additionally, BDA discussed the proposal with senior regulatory officials at the IRS and Treasury during an [in person meeting](#) and through [testimony](#) at an IRS public hearing about the market impact of the rule. In December 2015, BDA submitted a follow-up [comment letter](#) including additional suggested changes for inclusion prior to rule finalization.

Fiduciary Duty

In April 2015, the Department of Labor (DOL) issued a [proposed rule](#) to expand the definition of 'fiduciary' under ERISA. The proposal would apply a fiduciary duty to those providing investment advice to retirement investors. BDA submitted a [comment letter](#) to the DOL and [testified](#) at a DOL public hearing where we advocated for the DOL and the SEC to coordinate their efforts in order to harmonize the rules applicable to broker-dealers and to avoid denying customers access to advice. The SEC has [stated](#) it intends to publish a proposed rule applicable to the standards of care provided by broker-dealers and investment advisers. We expect the DOL rule to be finalized in the first half of 2016 but timing on the SEC's proposal remains unclear.

MSRB and FINRA Best Execution Standards

MSRB Rule G-18 establishing best execution standards for municipal securities went into effect on March 21, 2016. MSRB published [implementation guidance](#) for the industry to consider as they update policies and procedures and FINRA published [best execution guidance](#) for fixed-income securities under their jurisdiction.

Private Placement Activity of Non-Dealer Municipal Advisors

BDA remains concerned that non-dealer municipal advisors (MAs) may be violating securities law in certain instances and potentially 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.

MSRB Publishes Concept Proposal to Improve Disclosure for Bank Loans

The MSRB published for comment, a [concept proposal](#) to improve disclosure of direct purchases and bank loans. In the past, BDA has taken the position that greater bank loan disclosure should be required so that municipal market participants have a more complete understanding of the liabilities and creditworthiness of issuers.

Improving Municipal Disclosure: SEC Rule 15c2-12

BDA continues to engage the SEC on improving the clarity of disclosures in the

municipal marketplace. 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.

Protecting Tax-Exempt Bonds

BDA recently [wrote](#) to the Ways & Means Committee opposing any proposal to modify or eliminate the tax-exempt status for municipal bonds. 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.