

A photograph of the United States Capitol building in Washington, D.C., featuring its iconic white dome and neoclassical architecture. The building is framed by trees with vibrant autumn foliage in shades of yellow, orange, and red. A street lamp is visible in the foreground on the right. The image is partially obscured by a dark green diagonal overlay at the bottom.

BDA Bond
Dealers of
America

Advocacy / Representation

1Q 2019 Fiscal Year



5/13/19

The BDA's fiscal year is March to February so as conclude our first quarter in 2019 the BDA is leading the advocacy charge on a number of issues, both municipal and taxable. From FINRA's 4210 and FIMSAC's TRACE Pilot Program, to Pre-Trade Transparency, Infrastructure, GSE Reform, and a review of G23 – the BDA has become thought leader and is at the table representing the interests of member firms.

Our overarching focus in 2019 is fixed income market structure. On June 17, a subset of the BDA's Fixed Income Market Structure Working Group will be in DC meeting with the most senior leadership at the SEC, FINRA, MSRB and Federal Reserve about fixed income business conditions, federal regulation and the impact on liquidity and overall market structure.

We've recently hosted our annual Fixed Income Sales Managers Roundtable and our Retail Fixed Income Roundtable – both attended by industry leadership at firms headquartered nationwide. BDA staff is at work now structuring our upcoming Institutional Fixed Income Roundtable and our National Fixed Income Conference – not to mention our Fixed Income Legal & Compliance Roundtable and Public Finance Leadership Roundtable.

The BDA is working hard to continue adding value to all member firms. We need your engagement to ensure the BDA is impactful.

Thank you as always and if you need more information please contact me directly at mnicholas@bdamerica.org or 202-204-7901.

Sincerely,

Mike Nicholas
Chief Executive Officer
Bond Dealers of America



BDA Mission

The Bond Dealers of America is the Washington, DC-based trade association that exclusively represents securities dealers and banks whose primary focus is the U.S. fixed income markets. BDA works aggressively to promote public policies and market practices that improve the market environment while also providing a forum for its members to debate and discuss issues of common interest.

The BDA acts as a clearinghouse for industry information and issues and provides educational opportunities for industry professionals through conferences, seminars and roundtables.

By supporting the interests and prosperity of our members, we help to strengthen the companies, municipalities and investors who depend on them to raise the capital they need to grow and prosper.

Regulatory and Legislative Update

1st Quarter 2019

Regulatory Advocacy Issues

MSRB Rule on Activities of Financial Advisors

MSRB Rule G-23 establishes requirements applicable to a broker, dealer, or municipal securities dealer acting as a financial advisor with respect to the issuance of municipal securities. Rule G-23 prohibits a broker-dealer firm that also provides financial advisory services from serving as a financial advisor to the issuer and an underwriter on the same transaction.

Recently, the BDA and the MSRB discussed the modernization of Rule G-23 and the upcoming retrospective review of the Rule. The MSRB believes the restrictions and requirements imposed upon dealers acting in a financial capacity remain appropriate in light of the municipal advisor regulatory regime and remain clearly delineated.

The BDA believes that the rule is negative towards issuers and investors and the BDA has drafted an op-ed to be placed in the BondBuyer and is collecting data to present to the MSRB laying out this position.

FINRA 4210 Amendments

FINRA Rule 4210 (margin requirements) describes the margin requirements that determine the amount of collateral customers are expected to maintain in their margin accounts, including both strategy-based margin accounts and portfolio margin accounts. The BDA believes that the amendments are anti-competitive to smaller and mid-size broker-dealers and believe that FINRA should revise the amendments to allow dealers to either charge margin or to take a “capital charge in lieu of margin” on certain transactions.

BDA members proposed the “capital charge” in a meeting with FINRA CEO Robert Cook in December 2017 and continued to advocate for the idea with comment letters and member fly-ins throughout 2018. The BDA partnered with senior leaders on the House Financial Services Committee and Senate Banking Committee to pressure the SEC and FINRA to rethink the rule, **both advocating for the “capital charge” proposal as well for outright termination of the amendments.**

As a result of BDA member outreach and advocacy efforts, FINRA and the SEC have delayed the implementation date of amendments to Rule 4210 to March 25, 2020 and are working to implement BDA’s recommended “capital charge in lieu of margin” proposal.

Fixed Income Market Structure

Several of BDA's members sit on the SEC's Fixed Income Market Structure Advisory Committee (FIMSAC), including Horace Carter (Raymond James), Brad Wings (Hilltop Securities), Amar Kuchinad (Trumid Financial), and Richard McVey (MarketAxess).

Additionally, the BDA has formed its own Fixed Income Market Structure Working Group, which includes industry leaders at 26 BDA member firms. Brad Wings and Kevin Giddis (Raymond James) serve as co-chairs. The working group's first meeting was held on October 15, 2018, and the group expects to engage directly with federal policymakers as a "Main Street" thought leader on these important topics.

The group will begin a quarterly fly-in series in 2019 to keep senior policymakers informed on business and market conditions, as well as the impact of federal regulation on U.S. capital markets. **The first D.C. fly-in is set for June 17, 2019.**

Additionally, in coordination with other BDA committees, this group will engage on regulatory initiatives, such as:

- **FINRA's recent request for comment on potentially delaying the disclosure of corporate bond trades (TRACE pilot program)**
- **FIMSAC's consideration of a rule to amend section 206(3) of the Investment Advisers Act (allowing members of negotiated underwriting syndicates to meet the requirements of section 206(3) when acting in a principle capacity to sell new issue municipal bonds during the negotiated order period)**
- **Other issues, including new issue reference data for corporate bonds, recommendations regarding bond ETFs, investor data and education.**

Retail Confirmation Mark-up Disclosure Rules

Due to the burdensome requirements and tight timetable of the mark-up rules, at the request of SEC Chairman Clayton, BDA member firms authored a "conformance period," business plan, which was presented to the SEC, FINRA and the MSRB in the spring of 2018.

Under the BDA-authored plan, the mark-up rules 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. Despite opposition from various trade groups, including the BDA, in late April 2018, the SEC denied the "conformance period" proposal the rules became effective on May 14, 2018. BDA continues to work with the MSRB and FINRA on guidance stemming from the rules.

Primary Offering Practices

In late 2018, the BDA submitted a letter in response to an MSRB request for comment on primary offering practices. In the letter, the BDA focused on G-11

Primary Offering Practices including free-to-trade wire and alignment of the time frame for the payment of group net sales credits with the payment of net designation sales credits.

Also addressed was G-32 disclosures in connection with Primary Offerings including equal access to the disclosure of the CUSIP numbers refunded and the percentages and whether non-dealer municipal advisors should make the official statement available to the managing or sole underwriter after the issuer approves it for distribution.

The MSRB included several BDA offerings in the filed rule changes with the SEC and the BDA drafted further comments to the SEC concerning G-32 and concerns the non- auto populating fields.

Prearranged Trading

In early March 2019 the BDA submitted comments to the MSRB in response to their inquiry on the draft interpretation of application of MSRB rules to certain prearranged trading. The letter focused on opposition of issuer restrictions to non-syndicate dealers and the belief that the guidance should focus on the misrepresentation by a syndicate member as a violation of Rule G-17. The BDA also requested that the MSRB should ensure clarity about the kind of evidence that would establish a violation of G-17.

“Pennying”/Last Look

In November 2018, the BDA responded to an MSRB inquiry into the practice of pennyning and how Best-Ex affected the practice. After multiple member and committee conference calls on the subject, BDA staff drafted a response to the MSRB and continued weekly follow up with the organization, including more discussion with BDA membership. A main focus of the response was for the MSRB to further clarify the definition of pennyning and focus on guidance in lieu of rulemaking.

Recently, the FIMSAC’s Technology and Electronic Trading Subcommittee released a draft recommendation to further define the subject as “systematic pennyning,” following the guide of the BDA’s original comment letter.

It is expected in the coming months FINRA will release a request for comment on pennyning for corporate bonds, and the BDA will continue to push for a narrow definition of the practice.

FINRA Manual 11880: Settlement of Syndicate Accounts

BDA believes that FINRA should update the 90-day settlement requirement (last updated in 1988) for taxable bonds. The MSRB recently made several changes in the primary offering practices to level the playing field between syndicate members and senior managers, and it is appropriate for FINRA to consider the same on the taxable side.

MSRB Rule for Municipal Advisors/Update Dealer Standards on Advertising

In May 2018, the SEC approved the MSRB's proposed Rule G-40, on advertising by municipal advisors, and amendments to MSRB Rule G-21, on advertising by municipal securities dealers. New MSRB Rule G-40 and amended Rule G-21 are set to be effective on February 7, 2019.

Since May 2018, the MSRB has issued several requests for public comment related to the application of Rule G-40. Most recently in September 2018, the MSRB issued final guidance on its frequently asked questions (FAQs) regarding the use of municipal advisory client lists and case studies under Rule G-40. The final FAQs included clarifications requested by the BDA in our comment letter.

The BDA will continue to respond to all of the MSRB's requests for comment concerning interpretative guidance and compliance resources related to Rule G-40 and Rule G-21.

SEC's Amendments to Rule 15c2-12

The BDA continues to advocate on Rule 15c2-12 to the SEC Office of Municipal Securities. Working with our Legal and Compliance Committee, the BDA continues to encourage commissioners to update the SEC's interpretative guidance (which was last updated in 1994). Earlier this year, the SEC adopted the rule amendments and the BDA drafted Q&As for OMS to consider. The BDA continues to follow up with the Office for further clarification of next steps.

Legislative Advocacy Issues

Promoting Tax Exempt Municipal Bonds and Private-Activity Bonds and Municipal Advance Refundings Through Infrastructure

In early 2018, the Trump Administration released an infrastructure guideline that would eliminate the AMT provision, provide change-of-use provisions to preserve the tax-exempt status and allow for the advance refunding of PABs. The BDA continues to work with its partners on Capitol Hill to promote these fundamental pillars in any infrastructure package.

The BDA is leading the advocacy push for 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 to find a market-based, regulatory no cost solution for municipal bond issuers

In March 2019, the BDA submitted testimony to the House Committee on Ways and Means for the hearing titled, "The 2017 Tax Law and Who it Left Behind." The testimony focused on BDA priorities: protection of the tax-exemption of municipal bonds, expansion of PABs and the reinstatement of municipal advance refundings. In April 2019, the BDA developed an advertisement campaign promoting usage of

municipal bond financing for a broad range of infrastructure. The advertisement was both emailed to key contacts on Capitol Hill and hand delivered in order to continue the growth of BDA presence on the Hill.

PCAOB Exemption Legislation

The BDA is working with other industry participants and trade groups on legislation that would exempt privately-held, non-custodial brokers and dealers from the requirement to have a Public Company Accounting Oversight Board (PCAOB)-registered audit. The one-size-fits-all PCAOB audit standards were designed for public companies, and are priced accordingly, have inflicted substantial harm on small broker-dealers.

In 2018, Senators Tom Cotton (R-AR) and Doug Jones (D-AL) and Representatives French Hill (R-AR) and Vicente Gonzalez (D-TX) formally introduced *The Small Business Audit Correction Act*. BDA is continuing to advocate for the reintroduction of these bills in 2019.

Bank Qualified Bonds

BDA continues to support the introduction of 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.

GSE Reform

The BDA is actively engaging with membership and policymakers as the Trump Administration and Congress look at reforming Fannie Mae and Freddie Mac. The Senate Banking Committee, led by Chairman Mike Crapo (R-ID), has examined GSE reform in hearings in March 2019, and President Trump, with the support of new FHFA Director Mark Calabria, has directed federal agencies to report to him on how to end the conservatorship the GSEs are currently under. BDA's Taxable Committee has begun meetings on GSE reform.

Upcoming Events

Fixed Income Legal and Compliance Roundtable

June 6
Nixon Peabody Office
Washington, DC

Public Finance Leadership Roundtable

June 20
Quarles and Brady Office
Chicago, IL

2Q Board Meeting (Board Members Only)

August 22
Dallas, TX

Institutional Fixed Income Roundtable and Reception

August 22
Dallas, TX

Fixed Income Legal & Compliance Roundtable

October 23
Quarles & Brady LLP
Chicago, IL

3Q Board Meeting (Board Members Only)

October 23
BC Ziegler
Chicago, IL

Public Finance Leadership Roundtable

October 24
Sofitel Hotel
Chicago, IL

National Fixed Income Conference

October 24 – 25
Sofitel Hotel
Chicago, IL

4Q Board Meeting (Board Members Only)

February 3, 2020
Royal Palms Resort
Scottsdale, AZ

Fixed Income Strategy Session

February 3 - 4, 2020
Royal Palms Resort
Scottsdale, AZ

Past Events

4Q Board Meeting (Board Members Only)

February 13
Four Seasons Hotel
Austin, TX

Fixed Income Strategy Session

February 13 - 14
Four Seasons Hotel
Austin, TX

National Municipal Bond Summit (In Partnership with The Bond Buyer)

March 27 - 29
Nashville, TN

1Q Board Meeting (Board Members Only)

April 18
Conference Call

Fixed Income Sales Manager Roundtable

April 25
FTN Financial
Memphis, TN

Retail Fixed Income Roundtable and Dinner

May 8 - 9
Wells Fargo Advisors
St. Louis, MO

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Quarles & Brady LLP
Washington, DC

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New York, NY

Tradeweb Retail
Jersey City, NJ

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