



VOICE OF INDEPENDENT FINANCIAL SERVICES FIRMS
AND INDEPENDENT FINANCIAL ADVISORS

VIA ELECTRONIC MAIL

Thursday, October 23, 14

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

Re: **Regulatory Notice 2014-06**

Dear Mr. Smith:

On September 8, 2014 the Municipal Securities Rulemaking Board (MSRB) published its request for public comment on its long-term strategic priorities (Request for Comment).¹ The Request for Comment specifically sought input on prioritizing MSRB's strategic goals as well as on adding additional new goals to the list. The Request for Comment also solicited response on areas such as MSRB resource allocation, proactively addressing municipal market challenges and further enhancement of the Electronic Municipal Market Access (EMMA) website.

The Financial Services Institute² (FSI) appreciates the opportunity to comment on this important request. Pro-actively soliciting comment on a roadmap of stated priorities and goals allows key stakeholders to more fully engage with MSRB and be actively involved in this important process. Below please find our comments and suggestions for ways in which MSRB can allocate resources and undertake initiatives to support an efficient municipal securities marketplace that is transparent to retail investors.

Background on FSI Members

The independent broker-dealer (IBD) community has been an important and active part of the lives of American investors for more than 30 years. The IBD business model focuses on comprehensive financial planning services and unbiased investment advice. IBD firms also share a number of other similar business characteristics. They generally clear their securities business on a fully disclosed basis; primarily engage in the sale of packaged products, such as mutual funds and variable insurance products; take a comprehensive approach to their clients' financial goals and objectives; and provide investment advisory services through either affiliated registered investment adviser firms or such firms owned by their registered representatives. Due to their unique business model, IBDs and their affiliated financial advisers are especially well positioned

¹ MSRB Seeks Input on Strategic Priorities, Regulatory Notice 2014-16 (Sept. 8, 2014), available at <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2014-16.ashx?n=1>.

² The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisers, and their independent contractor registered representatives. FSI has more than 100 Broker-Dealer member firms that have approximately 138,000 affiliated registered representatives serving more than 14 million American households. FSI also has more than 37,000 Financial Advisor members.

to provide middle-class Americans with the financial advice, products, and services necessary to achieve their financial goals and objectives.

In the U.S., approximately 201,000 independent financial advisers – or approximately 64% percent of all practicing registered representatives – operate in the IBD channel.³ These financial advisers are self-employed independent contractors, rather than employees of the IBD firms. These financial advisers provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans with financial education, planning, implementation, and investment monitoring. Clients of independent financial advisers are typically “main street America” – it is, in fact, almost part of the “charter” of the independent channel. The core market of advisers affiliated with IBDs is comprised of clients who have tens and hundreds of thousands as opposed to millions of dollars to invest. Independent financial advisers are entrepreneurial business owners who typically have strong ties, visibility, and individual name recognition within their communities and client base. Most of their new clients come through referrals from existing clients or other centers of influence.⁴ Independent financial advisers get to know their clients personally and provide them investment advice in face-to-face meetings. Due to their close ties to the communities in which they operate their small businesses, we believe these financial advisers have a strong incentive to make the achievement of their clients’ investment objectives their primary goal.

FSI is the advocacy organization for IBDs and independent financial advisers. Member firms formed FSI to improve their compliance efforts and promote the IBD business model. FSI is committed to preserving the valuable role that IBDs and independent advisers play in helping Americans plan for and achieve their financial goals. FSI’s primary goal is to ensure our members operate in a regulatory environment that is fair and balanced. FSI’s advocacy efforts on behalf of our members include industry surveys, research, and outreach to legislators, regulators, and policymakers. FSI also provides our members with an appropriate forum to share best practices in an effort to improve their compliance, operations, and marketing efforts.

Comments

FSI appreciates the opportunity to comment on MSRB’s Strategic Priorities. We support MSRB initiatives to improve municipal market efficiency and protect retail investors. We further believe that MSRB has identified the key goals relevant to the municipal market and prioritized them appropriately. FSI hopes to constructively engage with MSRB as it implements its strategic goals. To that end, FSI offers the following comments on how MSRB may consider allocating resources to carry out its stated goals.

- **Strategic Goal 3: Market Efficiency: Clarify, create and tailor rules and guidance that support a fair and efficient marketplace.**
 - Municipal Market Structure: FSI members primarily interact with the municipal securities market through trading in the secondary market on behalf of retail investors. As a result, they are well situated to recognize the structural challenges unique to the municipal securities marketplace. Our members encourage MSRB to undertake initiatives to move towards a more centralized marketplace for the trading of municipal securities. A centralized market will reduce transaction costs, improve transparency for retail investors and increase efficiency for market

³ Cerulli Associates at <http://www.cerulli.com/>.

⁴ These “centers of influence” may include lawyers, accountants, human resources managers, or other trusted advisers.

participants. FSI is concerned that concepts commonly associated with equity and corporate debt securities markets that are not relevant to the retail municipal markets may be applied to MSRB rules and initiatives. FSI has previously noted these concerns in our comments on the proposed Best Execution Rule.⁵ FSI therefore encourages MSRB to undertake research that will support the proposal of market structure improvements that are tailored to the municipal market and could provide greater transparency and efficiency for retail investors while also reducing transaction costs.

- 529 College Savings Plans: FSI members suggest that MSRB create a separate rule series within the MSRB Rulebook that is solely applicable to 529 plans. Currently, certain MSRB rules contain specific sections describing the application of the rule to 529 plans. In other cases, MSRB has provided interpretive guidance explaining the application of the rule to 529 plans. However, in numerous instances there is no specific mention of 529 plans, but the rule is nevertheless applicable to municipal fund securities as they are, by definition, a type of municipal security.⁶ This lack of uniformity has led to confusion amongst FSI member firms. Therefore, we recommend that MSRB create a separate series devoted solely to municipal fund securities.

FSI further recommends that a municipal fund security rule series reflect the prevalence of directly sold 529 plans. Investors often purchase 529 plans directly from a fund company contracted by the sponsoring state. While a financial advisor may advise a client to directly purchase a 529 plan, often times the advisor is not aware of the client's ongoing 529 plan investments. Furthermore, 529 plans sold directly by state personnel are not subject to MSRB rules governing municipal fund securities. While FSI recognizes that MSRB cannot impose obligations on state sponsors or program managers contracted by the state, we request that in creating separate and distinct rules dedicated to municipal fund securities, MSRB consider ways to reduce the asymmetry in 529 plan oversight.

- Industry Outreach: FSI believes communication between MSRB and registrants is essential to a healthy regulatory environment as well as to ensure robust investor protections. For example, FSI has been encouraged by recent outreach by MSRB staff to discuss solutions for issues involved in providing time of trade disclosures pursuant to Rule G-47 for certain account types and products. The communications have been very productive and FSI suggests entering into these dialogues early in the rulemaking process. FSI encourages MSRB to continue to work with industry trade associations to facilitate such communications and to learn about the various types of retail municipal securities businesses conducted by various firms. As the trade association for independent broker-dealers and financial advisors, FSI

⁵ See Letter from David T. Bellaire, Esq., Executive Vice President & General Counsel, FSI, to Ronald W. Smith, Corporate Secretary, MSRB (October 7, 2013), available at <http://www.msrb.org/RFC/2013-16/FinancialServicesInstitute.pdf>; Letter from David T. Bellaire, Esq., Executive Vice President & General Counsel, FSI, to Kevin M. O'Neill, Deputy Secretary, SEC (September 29, 2014), available at <http://www.sec.gov/comments/sr-msrb-2014-07/msrb201407-1.pdf>.

⁶ See MSRB Rule D-12 ("The term 'municipal fund security' shall mean a municipal security issued by an issuer that, but for the application of Section 2(b) of the Investment Company Act of 1940, would constitute an investment company within the meaning of Section 3 of the Investment Company Act of 1940.").

stands ready to continue to assist MSRB in facilitating outreach efforts with FSI's members.

- **Strategic Goal 4: Price Transparency: Improve price transparency for investors and issuers.**

- Enhancing EMMA Functionality: FSI members support initiatives to enhance transparency in the municipal market. The advent of the EMMA website has significantly improved investor access to market information. FSI believes that EMMA can be a source of additional pricing-related market data as well as execution venue designation data. As such, FSI recommends further improvements that enhance retail investor access to pricing and execution information, and that establish EMMA as the key source of such transparency for retail investors. Furthermore, leveraging EMMA to serve as an additional source of disclosure to investors could help ensure that communications between a broker-dealer and a customer remain clear and useful with all material information receiving necessary prominence.
- Transaction Reporting: MSRB Rule G-14 mandates the use of MSRB's Real-time Transaction Reporting System (RTRS) for trade reporting of each purchase and sale transaction effected in municipal securities.⁷ Trades are required to be reported within 15 minutes of the time of trade.⁸ In determining whether a trade report is to be considered late, we recommend that MSRB exclude trade corrections completed outside the 15 minute reporting window. Broker-dealers often need to correct trades initially reported within the window and should not be penalized for doing so. Self-correction of reported errors in a timely fashion illustrates intent to ensure that customers have access to accurate trade reporting information. Self-correction also demonstrates a desire to promote price transparency for retail investors. Accurate trade reporting data should be welcomed and encouraged as it furthers the goal of transparency and investor protection.

Conclusion

We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with the MSRB on this and other important regulatory efforts

Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 803-6061.

Respectfully submitted,



David T. Bellaire, Esq.

⁷ See MSRB Rule G-14(b)(i).

⁸ See Rule G-14 RTRS Procedures (a)(ii).

Executive Vice President & General Counsel