

Comment on Notice 2016-11

from Tom Lawrence, Lawrence Financial Consulting LLC

on Wednesday, March 30, 2016

Comment:

Recognizing the importance of timely information about an issuer's private bank loan transactions, I have been filing voluntary Event Notices for my clients for the past couple of years. It has not been unduly burdensome, and I would have no problem if such disclosure became mandatory.

My only concern is with prior discussions of treating the municipal advisor (MA) as a broker in such bank loan transactions. If that became a formal determination by the SEC or MSRB, it would simply end up increasing financing costs for state and local governments. The only time we pursue private bank loan transactions instead of a public offering is when it lowers overall financing costs and/or it offers more flexible prepayment/refinancing terms the client. If the MA is deemed by law to constitute a broker in such transactions, it will result in the hiring of a separate broker to do exactly what the MA would otherwise do, but with an additional fee to be paid and absolutely no additional benefit to the governmental entity. This could push the private bank loan costs over public offering costs, thereby eliminating a cost effective borrowing alternative.