

“The MSRB’s Agenda for 2015”

Remarks of Lynnette Kelly, Executive Director

at the

Bond Buyer National Municipal Bond Summit

Fort Lauderdale, FL

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INTRODUCTION

- Good afternoon and thank you for the opportunity to provide an update on the MSRB's 2015 agenda.
- I'm Lynnette Kelly, executive director of the MSRB.
- Panelists throughout the day touched on current MSRB initiatives, from our best-execution rule to municipal advisor regulation.
- The MSRB's annual agenda is informed by the dialogue, and often dissent, that we hear at events like this one.
- As a self-regulator, we listen to voices from all corners of the market as we determine the MSRB's priorities for the year.
- There is a chorus of 21 that has the privilege and responsibility of setting the tone for the MSRB, and that is our Board of Directors.
- The MSRB's Board members bring decades of diverse expertise and experience to deliberations about how the MSRB can best fulfill its mission to promote a fair and efficient market.
- You have probably heard that we tapped one of these esteemed individuals to join us in-house as our Chief Legal Officer.
- I am so pleased that the man who literally wrote the book on "The Securities Law of Public Finance," Bob Fippinger, is taking on the leadership of our market regulation team.
- Bob will oversee a talented team of staff lawyers who are carefully crafting and implementing the Board's direction on a comprehensive regulatory framework for municipal advisors.
- I'll briefly update you on that work today.
- I also want to highlight the work the MSRB is doing with respect to market structure.

- And finally, I will discuss another area of focus for the MSRB – improving the transparency of undisclosed debt such as bank loans.
- The MSRB strongly believes that we must take on a vocal leadership role to ensure that bondholders and other market participants get timely access to the information they need to fully assess the financial situation of an issuer.

MUNICIPAL ADVISOR REGULATION

- Let me highlight first our ongoing efforts to create rules and professional qualification requirements for municipal advisors.
- We are well on our way to implementing the first conduct-oriented rule to be put in place under the Securities and Exchange Commission’s final registration rule.
- This rule, Rule G-42, which remains in draft form until we submit it to the SEC for approval, seeks to ensure that municipal advisors are fulfilling their fiduciary duty to their municipal entity clients, and their duty of care toward all clients.
- This duty includes the disclosure of conflicts of interest; documentation of the municipal advisory relationship; suitability of recommendations; and specific prohibitions related to principal transactions, compensation, fees and other activities.
- We know that advisors and others are eager to see the final version of the rule.
- The MSRB is making final refinements on the rule and will submit a formal proposal to the SEC.
- The SEC will then publish our proposal in the Federal Register, giving stakeholders another opportunity to submit their feedback.
- Also moving through the rulemaking process are proposals to address the potential for conflicts of interest on the part of municipal advisors.
- The MSRB plans to file draft amendments to MSRB Rule G-37 to apply its anti-pay-to-play provisions to municipal advisors.
- This is an important step to preserve the integrity of the municipal market.

- We also plan to seek approval of draft amendments to MSRB Rule G-20 that apply the MSRB's existing gifts limitations to advisors.
- Next month, the MSRB's rule establishing supervisory and compliance obligations for municipal advisors will take effect.
- Establishing effective procedures for supervision and compliance is a critical step for municipal advisor firms that are newly subject to regulatory oversight.
- I invite you to join the MSRB for a free educational webinar on this rule on March 19.
- In addition to rulemaking, our work to develop a professional qualification program for municipal advisors continues.
- Given the significant changes that accompany a new regulatory regime, the MSRB believes it is important for all municipal advisor representatives, regardless of their years of experience or other certifications, to take the exam.
- Thanks to years of effort of our volunteer Professional Qualifications Advisory Committee, the Board has finalized the content outline for the exam.
- This outline will be filed for immediate effectiveness with the SEC in short order now that the SEC has approved a related proposal to establish the parameters for the test.
- Our target is to begin formally qualifying municipal advisors in 2016.
- The next step is to administer a pilot exam to a subset of advisors to help establish a pass rate for the test and validate our bank of test questions.
- I encourage all municipal advisors in the room to consider volunteering to take the pilot exam later this year.
- This is another opportunity for municipal advisors to actively participate in the development of a comprehensive regulatory regime for your industry.
- Pilot participants will play an important role in determining the final bank of questions for the permanent exam.

- Taking and passing the pilot exam is equivalent to taking and passing next year’s formal exam – pilot test-takers who achieve a passing score will not have to retake the exam when it is finalized.
- Sign up to receive information and special resources for pilot test-takers on the MSRB website – just click the “Email Updates” link on the homepage to subscribe.

MARKET STRUCTURE/PRICE TRANSPARENCY

- Let me shift now to another one of the MSRB’s top priorities for 2015.
- And that is to enhance market structure by improving transparency.
- The rules, technology and practices that together form the structure of our market are continuing to evolve.
- The MSRB as well as our fellow regulators—the SEC and FINRA—want to improve the structure of the fixed-income markets for the benefit of investors and all market participants.
- The MSRB is intensely focused on doing so in the municipal market through both enhanced regulation and technological innovation.
- In short, we want to do more to ensure that investors receive a fair price when buying or selling a bond.
- One way we are doing this is to enhance trade price information on our EMMA website.
- The first step includes enhancements to our already-robust post-trade transparency program so that investors and regulators can better understand the costs of certain transactions.
- These additional data points include:
 - indicators for customer trades involving fee-based compensation arrangements;
 - expanded use of the indicators for certain initial offerings; and
 - indicators for transactions that occur on alternative trading systems

- The MSRB has also proposed requiring dealers to disclose pricing information for their same-day principal trades in the same security on retail customer trade confirmations.
- Our proposal was issued simultaneously with a companion proposal from FINRA for the corporate bond market to maximize efficiency for commenters active in both markets.
- Each of the five SEC commissioners has publicly voiced their support for this collaborative effort to help investors assess the costs of their transactions.
- Under the proposals, bond dealers in retail-sized fixed income transactions would be required to disclose on the customer's confirmation the price of certain same-day principal trades in the same security, as well as the difference between this reference price and the customer's price.
- This approach takes information already available to the public online but provides it directly to retail investors in connection with their transaction, enabling them to more easily evaluate their transaction costs.
- To help ensure that the proposed pricing reference disclosures are meaningful to customers, the MSRB's proposal notes that dealers may wish to provide explanations or descriptions, in plain language, to assist customers in understanding the disclosures.
- This draft rule on providing price reference information to investors will work its way through the various stages of rulemaking this year.
- The Board plans to engage in a thorough discussion of the issues raised by commenters at its meeting next month.
- The MSRB's work on market structure issues is enhanced by our team of market experts, who have enabled us to also initiate an analysis of all of the MSRB's uniform practice rules.
- The initiative is part of our ongoing review of the MSRB Rulebook to determine if any changes are needed to reflect new or different market practices and to enhance regulatory efficiency, where appropriate.
- You will be seeing the results of that analysis later in the year.

BANK LOAN DISCLOSURE

- Another theme that the MSRB continues to emphasize is timely and complete disclosure about an issuer's indebtedness.
- We are not the only regulator renewing the call for better disclosure.
- We've all been watching with interest the SEC's activity in this area, with the recently concluded MDCD initiative and a number of enforcement actions against issuer officials.
- Remember that the MSRB does not regulate issuers.
- Our regulatory role is to provide the platform, EMMA, through which issuers can meet their federal disclosure obligations as established by SEC rules.
- I can say we've seen some evidence of an "MDCD effect" on EMMA.
- We noted a 40 percent increase in financial and operating disclosure submissions to EMMA in June 2014 versus the previous June.
- To put that number in perspective, we generally see a more gradual increase year-to-year in the 7 percent range.
- The regulatory lens on disclosure has therefore had demonstrable effects on disclosure volume on EMMA.
- Where we have not seen the volume we would like is in the category of bank loan disclosure.
- The MSRB first invited issuers to submit bank loan disclosures to EMMA on a voluntary basis in 2012 and provided basic instructions for how to do so.
- In the three years since that notice, the EMMA website has received only 88 properly submitted filings.
- Given the increasing use of bank loans and the potential risks for bondholders, that number is far too low.
- The terms of the bank loan agreement could have an impact on the seniority status of existing bondholders or on the credit or liquidity profile of the issuer.

- A lack of disclosure of these factors could inadvertently distort valuation related to the buying or selling of an issuer's bonds in both the primary and secondary markets.
- Fundamentally, the current lack of bank loan disclosure undermines market transparency.
- That's why the MSRB is again calling on the market to voluntarily disclose bank loans and other debt-like obligations to bondholders
- Our recent market advisory highlights the need for bondholders and others in the market to have a full understanding of an issuer's indebtedness and provides suggested best practices to facilitate that.
- The MSRB also believes that it is time to revisit federal disclosure rules in light of the inadequate disclosure of alternative financings like bank loans.
- As you may have seen from our recent comment letter to the SEC on Rule 15c2-12, we have offered our assistance to the SEC for a wholesale re-examination of the rule and consideration of potential changes to improve its operation and reflect current market practices.

CONCLUSION

- Thank you for the opportunity to review the MSRB's ongoing initiatives.
- The MSRB's priorities stem from a variety of sources – fulfilling our Congressional mandate, improving regulatory efficiency, and listening to input from market participants, to name just a few.
- At the core, we are guided by our mission to promote a fair and efficient municipal market and to protect the interests of investors and municipal entities.
- I know all of you support that mission – it's simply a matter of how we achieve it.
- I appreciate opportunities like this to engage in constructive dialogue about our priorities.

- I know I stand between you and a cocktail reception, but I am happy to take some questions.
- Please also visit the MSRB's website at [msrb.org](https://www.msrb.org) for the most up-to-date information on our regulatory and transparency initiatives.