



**Wells Fargo Advisors**

Regulatory Policy  
One North Jefferson Avenue  
H0004-05C  
St. Louis, MO 63103  
314-242-3193 (t)  
314-875-7805 (f)

Member FINRA/SIPC

February 9, 2018

**Via Online Submission at: <http://www.msrb.org/CommentForm.aspx>**

Mr. Ronald W. Smith  
Corporate Secretary  
Municipal Securities Rulemaking Board  
1300 Street NW  
Washington, DC 20005

**Re: Regulatory Notice 2017-22 - MSRB Seeks Input on Compliance Support**

Dear Mr. Smith:

Wells Fargo Advisors (“WFA”)<sup>1</sup> appreciates the opportunity to comment on the Municipal Securities Rulemaking Board’s (“MSRB” or the “Board”) Regulatory Notice 2017-22 - MSRB Seeks Input on Compliance Support.<sup>2</sup>

WFA is a dually registered broker-dealer and investment adviser that administers approximately \$1.6 trillion in client assets. We employ approximately 18,890 registered representatives in branch offices in all 50 states across the country. WFA and its affiliates help millions of customers of varying means and investment needs obtain the advice and guidance they need to achieve their financial goals.

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<sup>1</sup>“Wells Fargo Advisors” is the trade name for Wells Fargo Clearing Services, LLC (“WFCS”), a dually-registered broker-dealer and investment adviser, member FINRA/SIPC, and a separate non-bank affiliate of Wells Fargo & Co. “First Clearing” is the trade name for WFCS’s clearing business, providing services to unaffiliated introducing broker-dealers. WFCS is affiliated with Wells Fargo Advisor Financial Network (“FiNet”), a broker-dealer also providing advisory and brokerage services. For the ease of this discussion, this letter will use WFA to refer to all of these brokerage operations.

<sup>2</sup>MSRB Regulatory Notice 2017-22, MSRB Seeks Input on Compliance Support (November 16, 2017); *available at*: <http://www.msrb.org/~media/Files/Regulatory-Notices/Announcements/2017-23.ashx?n=1>.

## I. DISCUSSION

WFA supports the MSRB's initiative to evaluate various aspects of its engagement programs and seek input from member firms on ways to further enhance its mission of investor protection and market integrity. We believe the MSRB has built a strong foundation over the past several years to further its mission. Notable examples include the enhancements made to the Electronic Municipal Market Access ("EMMA") website and significant improvements made to the MSRB's website overall. These efforts have increased pricing transparency to investors while simultaneously equipping firms with useful and accessible information.

However, we believe more work can be done to assist firms in their compliance efforts. As discussed in greater detail below, we encourage the MSRB to provide more timely interpretive guidance, to develop and deploy a regulatory calendar and to continue to engage in activities that promote transparency. We also recognize the MSRB's continued efforts to coordinate with other regulators such as FINRA and the SEC and recommend that in the future, this be done with even greater resolve.

### A. The MSRB Should Issue More Timely Interpretive Guidance.

New rules are frequently promulgated to further the MSRB's mission of protecting investors. Over the past few years, one of the biggest MSRB undertakings is to increase transparency into the fixed income markets. Specifically, both the MSRB<sup>3</sup> and FINRA<sup>4</sup> have issued rules ("mark up/mark down rules") mandating the disclosure of mark ups and mark downs in qualifying transactions. This effort is "no small lift" and requires significant implementation efforts that include integrating, testing and deploying the necessary systems to provide the requisite disclosure. Firms must evaluate the rule's requirements and make thoughtful decisions on how best to move these implementation efforts forward. As is often the case, legitimate questions arise from even the most well-intentioned, compliance-minded firms on the correct approach.

Against the backdrop outlined above, the MSRB could assist firms in their compliance efforts by providing more timely interpretive guidance. We recognize the MSRB did provide guidance in this space back in July, 2017<sup>5</sup> in the form of frequently asked questions. This guidance was indeed helpful but there are still open questions concerning critical issues, particularly around the methodology to calculate prevailing market price. The challenges inherent in calculating prevailing market price, along with other issues, have been voiced by many in the industry, and trade organizations such as BDA and SIFMA have sought clarifying guidance. With the mark up/mark down rules set to become effective in May, the time remaining

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<sup>3</sup> MSRB Regulatory Notice 2016-28 New Disclosure Requirements Under MSRB Rule G-15 and Prevailing Market Price Guidance Pursuant to Rule G-30 (November 29, 2016): *available at*: <http://www.msrb.org/~media/Files/Regulatory-Notices/Announcements/2016-28.ashx?n=1>.

<sup>4</sup> FINRA Regulatory Notice 17-08 Pricing Disclosure in the Fixed Income Markets (February 2017): *available at*: [http://www.finra.org/sites/default/files/notice\\_doc\\_file\\_ref/Regulatory-Notice-17-08.pdf](http://www.finra.org/sites/default/files/notice_doc_file_ref/Regulatory-Notice-17-08.pdf).

<sup>5</sup> MSRB Regulatory Notice 2017-12 MSRB Provides Implementation Guidance on Confirmation Disclosure and Prevailing Market Price (July 12, 2017): *available at*: <http://www.msrb.org/~media/Files/Regulatory-Notices/Announcements/2017-12.ashx?n=1>.

is short and firms are currently making critical decisions, illustrating the urgency for providing additional interpretive guidance. WFA encourages action by the MSRB to equip firms to properly implement the rule requirements. We further echo similar considerations voiced by SIFMA<sup>6</sup> on this topic in their comment letter submitted in response to Regulatory Notice 2017-22.

### **B. The MSRB Should Develop a Regulatory Calendar.**

In general, the MSRB has a robust and concerted approach to rulemaking and takes several collaborative steps in the process of formulating new rules. For example, the Board leverages its website to communicate rulemaking initiatives and we find the information provided to be timely and organized in a manner that is helpful to investors and informative to members. We applaud the MSRB's current proactive efforts in cultivating feedback during the rulemaking process.

We do, however, see an opportunity for even greater transparency into the rulemaking process. To that end, we recommend the MSRB develop a regulatory calendar comprised of key rulemaking initiatives that are anticipated to be published in the coming year. Such a calendar would also permit stakeholders to provide input on individual rulemaking issues while being informed about their relation to the MSRB's strategic goals and their interaction with other regulations that may be proposed in the near to medium term. Stakeholders would be able to evaluate the cumulative costs and impacts of proposed rulemakings in the aggregate. More so than any individual rulemaking, it is the cumulative compliance costs and burdens that impede efficient market dynamics. Moreover, an understanding of what rulemaking is under consideration and when such rules may be proposed or finalized will help member firms plan and invest more strategically and efficiently.

### **C. The MSRB Should Continue Efforts Toward Increasing Transparency and Engagement.**

We recognize the MSRB has taken numerous steps to significantly increase transparency into its operations and has increased the opportunities available for industry members to enhance their engagement with the Board. This includes the numerous website enhancements that expanded the resources under the "Compliance" and the "Education" sections of the website<sup>7</sup>.

Another positive development is the MSRB's recent launch of the Compliance Workshop Series designed to supplement the webinar program in an effort to obtain feedback from stakeholders on advancing the Board's long-term strategic goals. The MSRB's scheduling of Town-Hall style meetings (scheduled to begin last month) is another positive development. Allowing these meetings to be open to the public provides an opportunity for individual investors to attend, listen and better understand the Board's operations and objectives.

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<sup>6</sup> SIFMA Comment Letter to the MSRB on Regulatory Notice 2017-22, MSRB Seeks Input on Compliance Support, November 16, 2017, available at: <http://www.msrb.org/RFC/2017-22/SIFMA.pdf>

<sup>7</sup> See MSRB Website at: <http://www.msrb.org/>

**D. The MSRB Should Continue to Coordinate Rule-Making Efforts with FINRA and the SEC.**

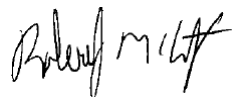
As a registered broker-dealer subject to numerous regulatory requirements, WFA values the coordination of regulatory efforts across agencies, and in many instances has requested such coordination in our comment letters. We believe an efficient, well-regulated marketplace benefits all market participants, particularly retail investors as it provides them with consistent information.

Coordination is critical for firms when implementing regulatory requirements as the difficulty involved in implementing significant changes often presents challenges when requirements from various regulators are not the same. One example of a success in the markup/mark down space is the general similarity in requirements and coordination of rule effective dates. An example where more coordination would be helpful is in the time of execution to be disclosed on the investor's confirmation. The MSRB generally requires military time be used while FINRA generally does not accept military time. Again, coordination on these types of issues is critical as even seemingly minor differences have real impacts to costs and complexity of system enhancements when firms are required to solve for both scenarios.

**II. CONCLUSION**

The MSRB is tasked with the complex mission of protecting investors and maintaining market integrity. WFA commends the MSRB's focus on promoting the use of EMMA and enhancing the opportunities for engagement and transparency with industry stakeholders and encourages the MSRB to go further with the recommendations outlined above. We appreciate the opportunity to express our views in regards to these efforts and are confident the Board will continue to evolve in ways that will leverage its unique role and the expertise of its industry stakeholders. If you would like to discuss this matter further, please feel free to contact me directly at (314) 242-3193 or robert.j.mccarthy@wellsfargoadvisors.com.

Sincerely,



Robert J. McCarthy  
Director of Regulatory Policy