

VIA ELECTRONIC MAIL

November 11, 2016

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I St., N.W.
Suite 1000
Washington, D.C. 20005

Re: MSRB Strategic Priorities

Dear Mr. Smith:

On October 12, 2016, the Municipal Securities Rulemaking Board (MSRB) published its request for public comment on its long term priorities to help guide the strategic direction of the organization (Strategic Priorities).¹ The Financial Services Institute² (FSI) appreciates the opportunity to respond to this important request. Proactively soliciting comments on a roadmap of stated priorities and goals allows key stakeholders to 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 adjust the Strategic Priorities to allocate resources and undertake initiatives to support an efficient and transparent municipal securities marketplace.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the US, there are approximately 167,000 independent financial advisors, which account for approximately 64.5% percent of all producing registered representatives.³ These financial advisors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (IBD).

FSI's IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of

¹ MSRB Seeks Input on Strategic Priorities, Regulatory Notice 2016-25, October 12, 2016, available at <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2016-25.ashx?n=1>

² The Financial Services Institute (FSI) is an advocacy association comprised of members from the independent financial services industry, and is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has been working to create a healthier regulatory environment for these members so they can provide affordable, objective financial advice to hard-working Main Street Americans.

³ The use of the term "financial advisor" or "advisor" in this letter is a reference to an individual who is a registered representative of a broker-dealer, an investment adviser representative of a registered investment adviser firm, or a dual registrant. The use of the term "investment adviser" or "advisor" in this letter is a reference to a firm or individual registered with the SEC or state securities division as an investment adviser.

customer transactions. Independent financial advisors are small-business owners with strong ties to their communities and know their clients personally. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Main Street Americans with the financial advice, products, and services necessary to achieve their investment goals.

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate \$48.3 billion of economic activity. This activity, in turn, supports 482,100 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly \$6.8 billion annually to federal, state, and local government taxes. FSI members account for approximately 8.4% of the total financial services industry contribution to U.S. economic activity.⁴

Discussion

FSI appreciates the opportunity to comment on the MSRB's Strategic Priorities. We support MSRB initiatives that improve municipal market efficiency and protect retail investors. We further believe that the MSRB has identified the key goals relevant to the municipal market and prioritized them appropriately. FSI hopes to constructively engage with the MSRB as it implements its strategic goals. These comments are discussed in greater detail below.

I. The MSRB should consider how its strategic goals and core activities can preserve the ability of small firms to service retail bond investors.

A. Market Fairness

FSI members support initiatives to enhance the transparency and efficiency municipal market. While the MSRB provides important price support, FSI members are concerned that the electronic bond trading platform may provide a competitive advantage to major firms. Many independent advisors find it difficult to compete with big firms that advocate for all of the bond business to be done on the electronic bond platform. Many large firms have moved to a fee-based advisory model rather than the commission-based model used by many independent municipal advisors, enabling them to lower their prices. Because independent municipal advisors solicit business, which requires more time and effort, it can be challenging to keep their prices competitive. In such a situation, investors may lose the personal touch that comes from working with an advisor. One of the MSRB's statutory mandates is to promote market fairness. To this end, we believe investors are better served when smaller banks and independent broker-dealers can remain competitive and we would ask the MSRB to keep this in mind in formulating its Strategic Priorities related to promoting market fairness.

B. 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

⁴ Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2016).

structural challenges unique to the municipal securities marketplace. Our members encourage the 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 participants. With regard to market structure, 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.

C. 529 College Savings Plans and ABLÉ Savings Plans

FSI members suggest that MSRB create a separate rule series within the MSRB Rulebook that is solely applicable to certain tax-advantaged savings accounts such as 529 plans and Achieving a Better Life Experience (ABLE) accounts. 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 centralized information has led to confusion amongst FSI member firms, the majority of which participate in the municipals market solely through municipal fund securities. Therefore, we recommend that MSRB either create a separate series devoted solely to municipal fund securities or creates centralized guidance outlining the rules impacting municipal fund securities.

Should the MSRB pursue a municipal fund security rule series, FSI recommends that it 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. Failing the creation of a separate rule series, FSI asks that MSRB consider the unique application of these tax-advantaged savings programs while drafting rules in order to provide greater clarity for firms and enable compliance with the rules.

D. Industry Outreach

FSI believes communication between the MSRB and registrants is essential to a healthy regulatory environment and to ensure robust investor protections. Our experience with the MSRB is

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/srmsrb-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.").

that of an agency willing to answer questions from the industry and equally willing to reach out to the industry to obtain necessary information and insight. This dialogue is particularly productive when it takes place early in the rulemaking process. FSI encourages the MSRB to continue to maintain such constructive relationships 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 stands ready to continue to assist the MSRB in facilitating outreach efforts with FSI's members.

E. 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 Broker-dealers often need to correct trades initially reported within the window. Therefore, in determining whether a trade report is to be considered late, we recommend that MSRB exclude self-corrections of trades completed outside the 15 minute reporting window if done in good faith and in a timely manner. 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. To discourage firms from listing every trade reported late as a self-correction, the exception would only apply in cases where a trade has already been made and is being corrected after the fact. Accurate trade reporting data is essential to achieving the goals of transparency and investor protection. Therefore, trade reporting corrections made in good faith should be encouraged rather than penalized in order to ensure that trade data is as accurate as possible.

II. **EMMA can be leveraged to provide additional disclosures and to ensure that communications between a broker-dealer and customer clearly provide all material information.**

The MSRB's Electronic Municipal Market Access (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.

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) 393-0022.

⁷ See MSRB Rule G-14(b)(i).

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

Respectfully submitted,

A handwritten signature in blue ink that reads "Robin Traxler". The signature is written in a cursive style with a long horizontal flourish at the end.

Robin Traxler
Vice President, Regulatory Affairs & Associate General Counsel