COVID-19 Activity In
U.S. Public Finance

S&P Global
Ratings

Stay up-to-date on coronavirus-related activity in U.S. Public Finance. This file will be updated regularly.

Download

It's time to address dramatic funding imbalances and fix MSRB's revenue model

By Michael Nicholas

June 17, 2020, 2:10 p.m. EDT

Next month will mark the 10-year anniversary of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act. It is finally time to rationalize the MSRB's fee structure and better balance the contributions of dealers and municipal advisors.

The biggest change to financial regulation since the 1930s, the Dodd-Frank Act imposed a plethora of new financial regulations across the board, from regulating over-the-counter derivatives for the first time to instituting a mechanism to resolve huge, failed financial institutions without bailouts. For the municipal market, the most significant change arising from Dodd-Frank was the regulation of MAs.

Non-dealer municipal advisors had been wholly unregulated before Dodd-Frank, and a long string of scandals involving municipal advisors led Congress to finally and appropriately bring all MAs, including non-broker dealer MAs, under federal regulation. That was followed two years later by the Securities and Exchange Commission's definitional MA rule and then a string of MSRB rulemaking projects designed to bring all MAs under the same regulatory umbrella.

The Quest for Better Pricing: Human + Machine

Get the insider's perspective you need for today's market

SPONSOR CONTENT FROM PricingDirect

While the MSRB has successfully implemented several important MA rules, one area stands out for further action. Ten years after the enactment of Dodd-Frank, the MSRB still derives nearly 75% of its revenue from its dealer registrants, with less than five percent coming from "MA Professional Fees." Excluding revenue sources like data subscription charges and others, more than 90 percent of MSRB revenue derived from industry assessments comes from dealers. (This does not include "Annual and initial fees" because the MSRB does not break down what portions of those fees are paid respectively by dealers and MAs).

There is absolutely no good reason why, 10 years after Dodd-Frank was enacted, the MSRB has not rationalized its fee structure.

The MSRB has adopted temporary band aids to address the imbalance. They have provided fee rebates to dealers, for example. And in 2019 the MSRB temporarily reduced underwriting, transaction and technology fees on dealers. (Those fees have since returned to normal levels.) The MSRB has also raised the "head count" fee paid by MAs, but the assessment is still nominal. In 2015 the MSRB cut the underwriting fee that applies to dealers. But at the same time they made permanent the $1 per ticket "technology fee" that was sold as temporary when it was first imposed in 2011. Give with one hand and take with the other.

Temporary patches are not a substitute for a thoughtful and comprehensive review of fees and assessments and a revenue strategy and fee schedule that spread the burden of supporting the MSRB fairly across all regulated parties.

By all measures the MSRB is more than adequately funded. At the end of their last fiscal year, the MSRB had more than $62 million of liquid assets. That is an improvement relative to the $67 million the MSRB held one year before. However, for a cash reserve for an organization that has averaged $38 million of expenses annually over the last three years, it is surely too big, especially since it represents industry money. We cannot know if the reserve is in compliance with MSRB targets, because under the MSRB's new reserve policy, those targets are unknown.

The solution to this revenue mismatch problem likely will involve some kind of transaction fee for Municipal Advisors not unlike the $.0275 per bond new issue fee the MSRB imposes on dealers. A key element in evaluating the effects of a potential new issue assessment for MAs, however, is knowing how much money MAs make when advising on new issue transactions.

MSRB Rule G-32 requires municipal underwriters to disclose in Official Statements the revenue they derive from underwriting new issues. No comparable requirement exists for MAs. The MA fee is generally lumped together with other expenses and displayed as a "cost of issuance" line item. Some states require the disclosure of MA fees, but there is no federal requirement. It is, therefore, difficult to assess the proper level for a new issue transaction fee to be applied to MAs. In the interest of transparency and in order for stakeholders to evaluate the ability of MAs to support the MSRB's activities, we call on the Board to produce a rule requiring that MA fees be disclosed separately in Official Statements or otherwise disclosed publicly.

The MSRB provides services that benefit the entire market. Municipal advisors benefit from access to EMMA and other MSRB resources and from supporting an organization that works to make the market safe and sound. It is only fair that non-dealer MAs contribute to support the MSRB to the same extent they benefit.

The MSRB is the regulator for both dealers and MAs. Their revenue model should reflect that reality.

The BDA calls on the MSRB to implement a fee structure — transaction-based or otherwise — that represents a fair allocation of the MSRB's costs across all parties.

Michael Nicholas CEO, Bond Dealers of America

REPRINT

For reprint and licensing requests for this article, click here.

MSRB | MSRB rules | Bond Dealers of America

TRENDING

CLIMATE CHANGE
Florida lawmakers address climate change, an elusive concept in the past
The Sunshine State plans to build a statewide network of electric vehicle charging stations to cut down on carbon dioxide emissions from gas-fueled cars.
By Shelly Sigo 2h ago

CONNECTICUT
Connecticut says bond sale achieved record low interest rate
Its $400 million GOs attracted investors, resulting in a record low interest cost of 2.31%, according to state Treasurer Shawn Wooden.
By Paul Burton 4h ago

PRIMARY BOND MARKET
On a roll, muni market sees supply surge as NYS UDC's $1.3B deal prices for retail
Municipals finished weaker on Tuesday amid Treasury weakness and equity strength.
By Christine Albano June 16

MORE FROM BOND BUYER

CORONAVIRUS
Philadelphia confronts widening deficit as budget deadline nears
By Andrew Cohen June 16

UNIVERSITY OF PUERTO RICO
Oversight Board's University of PR plan has enough to pay no more than 10% of debt
By Robert Slovin June 16

CAREER MOVES
Hilltop Securities hires William Evans to head underwriting
By Richard Williamson June 16

MONETARY POLICY
Fed Chair Powell 'confident' of full recovery
By Aaron Weitzman June 16

CORONAVIRUS
SEC gives MAs temporary relief to engage in private placement deals
By Sarah Wynn June 16

PRIMARY BOND MARKET
Ohio refunding will scoop and toss for coronavirus budget relief
By Yvette Shields June 16

Like what you see? Make sure you're getting it all

Independent and authoritative analysis and perspective for the bond buying industry

arizent © 2020 Arizent. All rights reserved.