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Muni regulator puts pay to play, other proposals on hold

MSRB will wait until SEC issues definition of municipal adviser; 'hallelujah'

By Dan Jamieson

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The Municipal Securities Rulemaking Board has yanked all six of its proposed rules covering municipal advisers.

The action, which was announced today, was triggered by worries about the Securities and Exchange Commission's proposed definition of a municipal adviser.

"Given substantial concern regarding the timing of a permanent municipal adviser definition, the MSRB is delaying its proposed rules on fiduciary duty, pay to play, fair dealing, supervision, gifts and assessments until the SEC adopts a permanent definition," the MSRB said in a statement.

The Dodd-Frank financial reform legislation called for the regulation of individuals who advise municipalities in issuing bonds and investing the proceeds.

The MSRB indicated it was concerned that, because the definition has not been finalized, some firms and individuals had not had a chance to participate in the comment process on the MSRB proposals.

"Hallelujah," Lisa Roth, chief executive of Keystone Capital Corp., and past chairman of the National Association of Independent Broker/Dealers Inc., said about the announcement.

"I had suggested that before requiring licensing [of municipal advisers], they make sure we have a good definition of who these municipal advisers are," Ms. Roth said.

The Securities Industry and Financial Markets Association also supported the MSRB's action.

"SIFMA voiced the difficulty associated with commenting on a regulatory compliance regime for municipal advisers in a vacuum when the definition is not final," said Leslie Norwood, co-head of SIFMA's municipal securities division, in a statement.

An SEC-proposed definition of a municipal adviser, published for comment last December, was widely denounced. Critics claimed the SEC's proposal went far beyond Dodd-Frank. Industry groups said the SEC plan, for example, would cover anyone advising 529 plans or public pensions.

The political pressure to revamp the proposal grew this summer as a number of senators and congressional representatives urged the SEC to clarify the rule and restrict its broad impact.

The SEC would not comment on how it might revamp its proposal. "We wouldn't have details about what the final [municipal adviser] rules would entail until they're presented to the commission for adoption," SEC spokesman Kevin Callahan wrote in an e-mail.

Last fall, the SEC began a temporary registration program for municipal advisers, as defined in Dodd-Frank. That temporary program expires at the end of this

year, putting pressure on the commission to come up with a rejiggered proposal by year-end.

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