

MEMO# 27368

July 10, 2013

ICI Draft Letter to SEC on MSRB's Proposed Amendments Regarding Retail Order Periods

[27368]

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TO: MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 15-13 RE: ICI DRAFT LETTER TO SEC ON MSRB'S PROPOSED AMENDMENTS REGARDING RETAIL ORDER PERIODS

The Municipal Securities Rulemaking Board has filed with the Securities and Exchange Commission proposed amendments that would govern the responsibilities of dealers in the conduct of retail order periods. [*](#) ICI has prepared a draft comment letter, which is attached and summarized below. Comments are due to the SEC by July 19, 2013.

The draft letter notes that although we continue to support the MSRB's efforts to address concerns regarding retail customer orders in primary offerings, we are disappointed that the MSRB through these amendments has declined to define the term "retail" for these purposes.

The draft letter states that although commenters have recommended the MSRB establish a definition of "retail" that would be used if an issuer determined to conduct a retail order period, it has declined to make this change, in part noting that it is concerned that if the MSRB defined "retail" it may unduly influence certain issuers regarding the scope of eligible customers for a retail order period. Instead, the MSRB states its belief that an issuer should designate the eligibility criteria for their retail order period on an issue-by-issue basis.

Our draft letter notes that members remain concerned that the absence of a uniform definition of "retail" and the failure to include within that definition institutions trading on behalf of retail investors would result in a disservice to many retail investors who choose to gain access to the municipal markets through funds or have limited resources to otherwise buy bonds directly. If investment vehicles, such as funds, are, with regularity, unable to acquire municipal bonds in primary offerings because the fund itself is viewed as an institutional buyer and its orders classified as "institutional" order flow, retail investors investing in those vehicles are unfairly disadvantaged. This is especially problematic in the case of single state funds because of the even more limited pool of municipal bonds available to in-state investors.

The draft letter concludes by urging the MSRB to apply a uniform definition of “retail” for purposes of “retail order periods” that recognizes that retail investors access the municipal market through a variety of ways, including indirectly through funds.

Jane G. Heinrichs
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[Attachment](#)

endnotes

[*] See SEC Release No. 34-69834 (June 24, 2013). See also Letter from Dorothy Donohue, Deputy General Counsel—Securities Regulation, Investment Company Institute, to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board (November 2, 2012) and Letter from Dorothy Donohue, Deputy General Counsel—Securities Regulation, Investment Company Institute, to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board (April 13, 2012).

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