

Session Three

MUNICIPAL ADVISORS: NEW STANDARDS AND RESPONSIBILITIES

Moderator: Susan Gaffney, Executive Director, National Association of Municipal Advisors

Dave Sanchez, Senior Counsel, Norton Rose Fulbright US LLP
David Leifer, Senior Managing Director, KNN Public Finance
Terry L. Maas, Managing Director, HillTop Securities, Inc.

Session Overview

- Implementation MSRB Rule G-42 and Other Rules Governing Municipal Advisors
- Issuers and Municipal Advisor Regulations
- Interacting with MAs in the Current Regulatory Environment
- Impact On Other Professionals

MA Regulations and Issuers

- MAs Have a Federal Fiduciary Duty to Client
 - ▣ Duty of Care
 - ▣ Duty of Loyalty
- MAs Must Be Registered with the SEC and MSRB
- MAs Must Meet Qualification Standards by September 2017 (Series 50)
- MAs Must Document the Relationship with Client and Scope of Services
- MAs Must Disclose Conflicts of Interest to Client
- MAs Must Consider Financing Recommendations for Issuers in Light of Whether the Financing is *Suitable* for the Client
- MAs May Send Client/Issuer More “Paperwork” To Meet Their Compliance Obligations

MA Regulations and Issuers

- ❑ Client/Issuer Should Make Sure MA is Registered with SEC and MSRB
- ❑ Client/Issuer Should Make Sure (by 9/17) That MA Has Passed Series 50 Exam
- ❑ Client/Issuer Should Negotiate The Scope of Services for MA
- ❑ Client/Issuer Should Be Receptive to Receiving Information From MAs, and Review Conflict of Interest Disclosures
- ❑ Client/Issuer Has No SEC/MSRB Regulatory Obligations To Sign Any Documents From MAs or Use MAs in a Transaction
 - Practically Speaking, Issuers May Have/May Be Asked to Sign Contract with MAs Regarding Services to be Rendered In Order for MAs to be in Compliance with MSRB Rule G-42

MA Rule: Highlights

- Regulatory Framework Over Municipal Advisors
 - Fiduciary Duty
 - Other Rulemaking Similar to Broker/Dealer Rules
- Only Municipal Advisors May Give Advice to a Client/Issuer Unless Certain Exceptions Apply
 - Responding to an RFP
 - Client/Issuer Hires MA and Produces an IRMA Letter
 - Underwriter Has Been Hired (with some limitation)
- IRMA Letters: The Good, The Bad, and the Ugly
- Interacting With Other Professionals
- MA Duties
- Going Forward

Putting Policies Into Practice

- Differences Between “Independent” MAs & Broker/Dealer MAs
- Roles of MAs
- What Has Changed In Client Interactions Since the Regulations?
- What Will Change In Client Interactions Since the Regulations?
- The Development and Use of “G-42 Letters”
- The Development and Use of “IRMA Letters”
- What Are Conflicts of Interest and Why Do They Matter to Clients?
- What Does “Suitability” Mean For Actual Clients?
 - Tiered Approach Depending on Client

Putting Policies Into Practice

- MA's Role When Helping Client/Issuer Select and Work With Other Professionals
- MA's Role in Bank Loan Transactions
- Bond Ballot Initiatives and MAs

The Rules of the Rule!

- G-2: Standards of Professional Qualification
- G-3: Professional Qualification Requirements
- G-5: Disciplinary Actions
- G-8: Books and Records
- G-9: Preservation of Records
- G-17: Conduct of Municipal Securities and MA Activities
- G-23*: Activities of Financial Advisor (No Role Switching)
- G-24*: Use of Ownership Information Obtained in Fiduciary or Agency Capacity
- G-27*: Supervisory Obligations of Broker-Dealers
- G-32*: Disclosure of Primary Offering
- G-37*: Political Contributions
- G-38*: Solicitation of Municipal Securities Business
- G-42: Duties of MAs
- G-44: Supervisory and Compliance Obligations for Municipal Advisors

* Applies only to Dealer/MAs

Resources

CDIAC: MA Rule Resource Page

<http://www.treasurer.ca.gov/cdiac/mmra/ma.asp>

GFOA: Primer-Municipal Advisor Rulemaking and Issuers

<http://gfoa.org/gfoa-primer-municipal-advisor-rulemaking-and-issuers>

MSRB: Municipal Advisor Page

<http://www.msrb.org/Regulated-Entities/Municipal-Advisor-News.aspx>