

# Opening Remarks at the Municipal Securities Conference



Chairman Jay Clayton

**Dec. 6, 2018**

Thank you, Rebecca.

Good morning and welcome. I am delighted to help kick off the inaugural Municipal Securities Conference, although I regret that because of other meetings and commitments, I am doing so from our New York office. Before going any further, I want to make it clear that my remarks are my own and do not necessarily reflect the views of the Commission or my fellow Commissioners.

I would like to thank Rebecca Olsen and the staff in our Office of Municipal Securities (“OMS”) for organizing and hosting the conference. The theme of today’s agenda—disclosure in an evolving market—is particularly appropriate. I am pleased to see the broad participation and diversity of perspectives here today, including panelists representing the views of investors, issuers,<sup>[1]</sup> broker-dealers, municipal advisors, and the MSRB, among others. I would also like to take this opportunity to congratulate Rebecca, who was named Director of OMS in September. Rebecca has a deep knowledge of this market and is an exceptional leader.

## Reflections on the Importance of the Municipal Securities Market

Today’s conference—which our staff intends to host annually—marks yet another step in our continued focus on this critical market. As I have said before, it is difficult to overstate the importance of this market to our Main Street investors and our state and local governments and national infrastructure.

First, a few statistics that illustrate the enormous size of this market.

- There is currently over \$3.853 trillion—that’s with a “T”—in principal outstanding.<sup>[2]</sup>
- In 2017 alone, there were approximately \$448.0 billion of new municipal securities issuances in the United States.<sup>[3]</sup>
- There are approximately 50,000 state and local issuers of municipal securities, including states, counties, cities, towns, villages and school districts.<sup>[4]</sup>
- It is estimated that there are over one million different municipal issuances outstanding.<sup>[5]</sup>

The municipal securities market is also a retail market. At the end of the second quarter of 2018, Main Street investors held—through professionally managed products (such as mutual funds) and direct bond holdings—over 66 percent of the market, or approximately \$2.579 trillion of outstanding municipal securities.<sup>[6]</sup>

And as I noted, the municipal securities market is essential for our national infrastructure. Municipal securities provide critical funding for public projects and day-to-day government needs. More than two-thirds of all infrastructure projects in the United States are financed by municipal bonds.<sup>[7]</sup>

## The Need for Continual and Proactive Regulatory Focus

For all of these reasons, I have long believed that there should be close regulatory focus on this market. I am pleased that the Commission, Commission staff, and the Municipal Securities Rulemaking Board (“MSRB”) have in recent years completed several meaningful regulatory initiatives in this space. Just to name a few:

- In 2012, the Commission issued a landmark report on the municipal securities market, which helped draw much-needed attention to this regulatory area and served to frame many key issues.<sup>[8]</sup>
- In 2014, the MSRB proposed and the SEC approved new MSRB Rule G-18 to require dealers to seek best execution of retail customer transactions in municipal securities.<sup>[9]</sup>
- In 2016, the MSRB proposed and the SEC approved new MSRB rules concerning the disclosure of municipal bond mark-ups and new MSRB requirements for determining the prevailing market price for a municipal security.<sup>[10]</sup>
- In August of this year, the Commission adopted amendments to Rule 15c2-12 to enhance transparency in this market.<sup>[11]</sup>

Notwithstanding these important regulatory developments, we know that, like all financial markets, the municipal securities market is ever-changing. Therefore, as regulators, we must strive to identify emerging risks and issues, including developments in *other areas* that affect the municipal securities market. This includes staying abreast of relevant macroeconomic trends and other factors, such as interest rate changes and changes in tax laws. We must also monitor the state of the issuer community and relevant risks that they are facing, including recognizing that many state and local governments are contending with budget issues stemming from pension obligations and deferred capital expenditures.

Our Office of Municipal Securities appreciates that this national, regional and local risk landscape is ever-changing. The staff works closely with the Commission and our Divisions of Risk and Economic Analysis and Trading and Markets and other colleagues across the agency—as well as our fellow regulators—to proactively monitor well known and emerging risks.

In recognition of our important market oversight function, when I became SEC Chairman last year one of the first initiatives that I pursued was the establishment of our Fixed Income Market Structure Advisory Committee—which we refer to as FIMSAC.<sup>[12]</sup> FIMSAC's initial focus included our municipal bond markets, and the FIMSAC recently created a Municipal Securities Transparency Subcommittee.

## Timeliness of Municipal Issuer Financial Reporting

Before I close, I would like to make a few comments about an aspect of the municipal securities market that I believe can and should be improved for the benefit of our Main Street investors: disclosure about the timeliness—or lack thereof—of municipal issuer financial information.

Timely and accurate financial information is essential for investors and analysts. Without that, it is challenging to accurately evaluate the current financial condition of a municipal issuer (or any issuer for that matter). However, despite the importance of timely financial information, some municipal issuers make their annual financial information available significantly *after* the end of their fiscal year or fiscal period.

- In the secondary market, for example, MSRB data shows that issuers who file either annual financial information or audited financial statements within 12 months of the end of their fiscal year do so in an average of 188 and 200 days after the end of their fiscal year, respectively.<sup>[13]</sup>
- If we take a broader view and consider *all* submissions of annual financial information and audited financial statements to the MSRB's EMMA system (regardless of when they were filed), the average time between the end of the issuer's fiscal year and the date of submission to EMMA increases to 276 and 349 days after the end of the fiscal year, respectively.<sup>[14]</sup>

Let me pause now to make an important point.

Congress intentionally chose *not* to create a federal regulatory registration regime governing municipal issuers. Statutory provisions known as the Tower Amendment expressly limit the SEC's and the MSRB's authority to require municipal issuers to file any document with the SEC or MSRB prior to any sale of municipal securities by the issuer. Therefore, the Commission's investor protection efforts in this market have focused primarily on the regulation of broker-dealers and municipal advisors, Commission interpretations, enforcement of the antifraud provisions of the federal securities laws, and oversight of the MSRB.

To be clear: I believe that there are potential steps that the SEC and the MSRB can take—that *would be wholly consistent with the words and spirit of the Tower Amendment*—to improve transparency around the age and type of financial information.

Accordingly, I have asked our Office of Municipal Securities to work with the MSRB and other stakeholders to explore potential approaches in this space. I have asked staff to explore with the MSRB ways in which broker-dealers—whether acting as an underwriter in a primary offering or recommending a transaction in the secondary market—can increase transparency concerning the timeliness and scope of issuer financial information. I have also

asked staff to work with the MSRB to examine whether there is a role for the MSRB's EMMA system in facilitating greater transparency regarding the age of issuer financial information.

To summarize, my broad view is that providing greater clarity regarding *existing* municipal issuer financial disclosure practices will provide investors and the market with better access to valuable information. This transparency, and consequent adjustments in investor preferences, may also incentivize some issuers to make financial disclosures on a more timely and consistent basis.

## Conclusion

In closing, I would like to express my appreciation to the panelists and everyone in attendance. I hope you have a productive conference.

Thank you.

[1] The term issuer, as used throughout these remarks, includes obligated persons.

[2] See Federal Reserve Board, Financial Accounts of the United States: Flow of Funds, Balance Sheets, and Integrated Macroeconomic Accounts (Second Quarter 2018) (Sept. 20, 2018), *available at* <https://www.federalreserve.gov/releases/z1/20180920/z1.pdf>.

[3] See SIFMA, SIFMA Fact Book 2018 (Sept. 6, 2018), *available at* <https://www.sifma.org/wp-content/uploads/2017/08/US-Fact-Book-2018-SIFMA.pdf>.

[4] See MSRB, Self-Regulation and the Municipal Securities Market (Jan. 2018), *available at* <http://www.msrb.org/Market-Topics/~media/8059A52F8F15407FA8A8568E3F4A10CD.ashx>

[5] See MSRB, Self-Regulation and the Municipal Securities Market (Jan. 2018), *available at* <http://www.msrb.org/MarketTopics/~media/8059A52F8F15407FA8A8568E3F4A10CD.ashx>

[6] See Federal Reserve Board, Financial Accounts of the United States: Flow of Funds, Balance Sheets, and Integrated Macroeconomic Accounts (Second Quarter 2018) (Sept. 20, 2018), *available at* <https://www.federalreserve.gov/releases/z1/20180920/z1.pdf>.

[7] See MSRB, Municipal Market by the Numbers (Mar. 2018), *available at* <http://www.msrb.org/msrb1/pdfs/MSRB-Muni-Facts.pdf>.

[8] See Securities and Exchange Commission, Report on the Municipal Securities Market (July 31, 2012), *available at* <https://www.sec.gov/news/studies/2012/munireport073112.pdf>.

[9] See Exchange Act Release No. 78777 (Sept. 7, 2016), 81 FR 62947 (Sept. 13, 2016); Exchange Act Release No. 73764 (Dec. 5, 2014), 79 FR 73658 (Dec. 11, 2014).

[10] See Exchange Act Release No. 34-78777 (Sept. 7, 2016), 81 FR 62947 (Sept. 13, 2016); Exchange Act Release No. 34-79347 (Nov. 17, 2016), 81 FR 84637 (Nov. 23, 2016).

[11] See Exchange Act Release No. 34-83885 (Aug. 20, 2018), 83 FR 44700 (Aug. 31, 2018).

[12] See "SEC Announces the Formation and First Members of Fixed Income Market Structure Advisory Committee," SEC Press Release (Nov. 9, 2017), *available at* <https://www.sec.gov/news/press-release/2017-209>.

[13] See MSRB, Timing of Annual Financial Information by Issuers of Municipal Securities (Feb. 2017), *available at* <http://www.msrb.org/msrb1/pdfs/MSRB-CD-Timing-of-Annual-Financial-Disclosures-2016.pdf>.

[14] *Id.*

