

February 3, 2012

IDEA OF THE WEEK

NABL ANNOUNCES SCHOLARSHIP PROGRAM FOR LAW STUDENTS TO ATTEND FUNDAMENTALS SEMINAR

The National Association of Bond Lawyers (NABL) is pleased to announce that it is offering up to five scholarships to law school students to attend the 2012 Fundamentals of Municipal Bond Law Seminar.

The 2012 Fundamentals of Municipal Bond Law Seminar is designed for attorneys, paralegals, government officials and employees, financial consultants and other municipal finance professionals and market participants seeking a basic knowledge of municipal bond law and related municipal finance issues, it is open to both NABL members and non-members. The seminar is being held April 18-20, 2012 at the Hyatt Regency Grand Cypress in Orlando, Florida. Additional information regarding this seminar may be found [here](#).

Interested applicants must be currently enrolled in the Doctor of Jurisprudence Program at an accredited law school located within the United States of America. Each scholarship will include (a) waiver of the enrollment fee to the seminar, (b) complimentary hotel lodging at the Hyatt Regency Grand Cypress in Orlando, Florida, (c) reimbursement of roundtrip airfare and ground transportation. Specific requirements and reimbursement details are set forth in the [application](#). Completed applications are due no later than February 29, 2012. Please contact [Linda Wyman](#), (202) 503-3300 with any questions regarding the scholarship program.

LEGISLATIVE

Senate Democrats Introduce Bill on 'Buffett Rule'

On Wednesday, February 1, 2012, Senator Sheldon Whitehouse (D-RI) introduced legislation that would impose a minimum tax rate of 30% on individuals whose gross income exceeds \$1 million, including capital gains and dividends. The bill, called the *Paying a Fair Share Act*, mirrors the President's call for a so-called 'Buffett Rule' in his recent State of the Union address. The legislation is currently awaiting an official budget score by the Joint Committee on Taxation; however, lawmakers supporting the bill estimate a deficit reduction of tens of billions of dollars. The bill also includes a provision encouraging Congress to enact tax reform and eliminate some loopholes and expenditures.

Republicans in the House and Senate oppose the bill and have countered with legislation that would instead allow taxpayers to donate money to the Treasury Department if they feel they are not paying enough in taxes.

The *Paying a Fair Share Act* can be found here:
<http://www.nabl.org/uploads/cms/documents/FairShareAct.pdf>

REGULATORY

MSRB Outlines 2012 Agenda

On January 28, 2012, the Municipal Securities Rulemaking Board (MSRB) released an account of its first quarterly board meeting of the year, which charted an ambitious agenda for the regulator for 2012. Among the initiatives outlined, the MSRB board announced it will soon publish a notice encouraging issuers to disclose on EMMA information about their bank loans or direct placements of bonds. MSRB staff has spoke on about increasing concern that issuers are obtaining bank loans which, unlike bonds, are not subject to primary and secondary market disclosure requirements. MSRB Deputy General Counsel Peg Henry spoke about this on a panel at NABL's Bond Attorneys Workshop in October 2011. NABL's Committee on Securities Law and Disclosure is also examining this question.

A number of new rulemakings are planned for this year including: 1) a new rule that would prohibit underwriters from designating new bonds as NRO, or not reoffered; 2) a rule to ensure that dealers follow issuers' instructions with regard to designated retail order periods; 3) changes to Rule G-11 on primary offering practices that would require dealers submitting orders for the bonds to certify, electronically or otherwise, to the lead underwriter that they are carrying out the issuer's instructions and adhering to the issuer's definition of retail investor; and 4) a rule prohibiting underwriters from making certain changes to bond documents after they buy bonds from an issuer prior to sale or distribution

Three initiatives requiring SEC approval were highlighted. These include the final version of new Rule G-43, which regulates brokers' brokers, proposed changes to its Rule G-17 on fair-dealing, and a revised definition of a "sophisticated municipal market professional" tracking new Financial Industry Regulatory Authority rules on suitability for institutional accounts.

Finally, the MSRB will publish a concept release to determine whether it should broaden public access to the disclosure documents of so-called Section 529 college savings plans.

The MSRB's published report on its January 25-27 quarterly meeting can be found [here](#).

MSRB Writers Letter Regarding Proposed Rules to Implement the Volcker Rule

On February 1, 2012, the Municipal Securities Rulemaking Board (MSRB) wrote a letter to the Federal Reserve, the Securities and Exchange Commission, the Federal Deposit Insurance Company, and the Office of the Comptroller of the Currency regarding the proposed rules to implement the Volcker Rule, or the ban on commercial banks and other financial institutions from proprietary trading. In the letter, the MSRB urges the exemption of all municipal securities from the Volker Rule as not to bifurcate and damage the municipal market.

The proposed rules exempt municipal securities issued by state, counties, and cities, but would not exempt conduit issuers such as water and sewer districts, housing authorities, or school districts. In the letter, the MSRB urges regulators to adopt the broader definition of municipal securities that appears in the *Securities Exchange Act of 1934*.

Comments on the Volcker Rule are due February 13, 2012. Other municipal market participants will submit comments, including NABL. Citigroup Inc. has already released a report that states that

implementation of the Volcker Rule, as proposed, would raise borrowing costs for state and local issuers.

The MSRB letter is available here. <http://www.msrb.org/msrb1/Industry-Letters/MSRB-Comment-Letter-on-Volcker-Rule.pdf>

ADMINISTRATION

White House Delays Release of FY 2013 Federal Budget and May Include 28 Percent Cap on Value of Tax-Exemption for Municipal Bond Interest

The White House announced that it would delay the release of the FY 2013 budget until February 13, 2012. The budget was due to be released on February 6, 2012.

According to reporting in the *Bond Buyer*, the President now plans to include the 28% cap on the value of tax exemptions, including the interest on municipal bonds. The inclusion of the 28% cap, first proposed in the *American Jobs Act of 2012*, has sparked alarm and dismay among municipal market participants who feel blindsided by the proposals reemergence. During consideration of the *American Jobs Act* in the Senate in late 2011, the 28% cap was dropped from the bill in favor of the 'Buffet Rule,' or a surtax on millionaires. Furthermore, it was earlier reported that senior White House officials had indicated that they were dropping the idea after state and local governments expressed their opposition to the measure because it would increase borrowing costs for issuers and disrupt the municipal market. Lastly, the cap was also not included in the *Blueprint for an America Built to Last*, released by the White House following the State of the Union Address.