

VIA E-MAIL to: pubcom@finra.org

May 14, 2021

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Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506

On March 15, 2021, the Financial Industry Regulatory Authority (FINRA) published Regulatory Notice 21-11 (the Notice) , a request for comment on proposed amendments to the FINRA 4120 (Margin Requirements) regarding when issued and other extended settlement transactions (Proposed Amendments). We welcome the opportunity to comment on the Proposed Amendments.

While we agree with and reiterate all of the comments to the Proposed Amendments outlined in the Bond Dealers of America comment letter on the Notice dated May 14, 2021 (the "BDA Comment Letter"), we would like to specifically comment on the adverse effects the Proposed Amendments would have on Oklahoma municipal securities issuers, bondholders, and on our firm and other broker-dealers dealing in Oklahoma new issue municipal securities.

We appreciate that the Proposed Amendment would exempt certain when-issued, extended settlement transactions in municipal securities from margin requirements. However, the condition that the bonds must be scheduled to be delivered by the issuer by the 42nd calendar day after the trade date would render the 42-day exception unavailable for a vast majority of Oklahoma issuances, negatively impacting Oklahoma municipal securities issuers and, importantly, potentially having the unintended consequence of harming bondholders. Thus, we request that FINRA extend that period to one year.

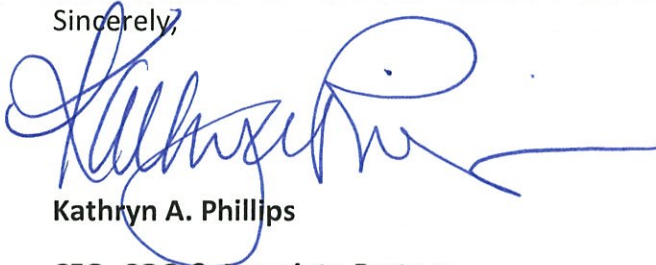
An analysis of 1063 Oklahoma municipal securities issuances from 4/30/2018 to 4/30/2021, revealed that an overwhelming majority (over 75%) of the issuances during that three-year period had delivery times in excess of 42 days. The average time to delivery for the entire sample was just over 46 days. Of those transactions with delivery times greater than 42 days, the average was just over 54 days. We are happy to share the data and analysis with FINRA staff upon request.

There are important, investor protection-related reasons for extended delivery dates in excess of 42 days with respect to Oklahoma general obligation bonds, which the Proposed Amendments would serve to undermine. In Oklahoma, the Oklahoma Attorney General serves as the Bond Commissioner. See 62 O.S. § 11. Oklahoma law provides that “[i]t shall be the duty of the Bond Commissioner to prepare uniform forms and prescribe a method of procedure under the laws of the state in all cases where it is desired to issue public securities or bonds, in any county, township, municipality or political or other subdivisions thereof of the State of Oklahoma; and it shall be the further duty of said Bond Commissioner to examine into and pass upon any security so issued, and such security, when declared by the certificate of said Bond Commissioner to be issued in accordance with the forms of procedure so provided **shall be incontestable in any court in the State of Oklahoma unless suit thereon shall be brought in a court having jurisdiction of the same within thirty (30) days from the date of the approval thereof by the Bond Commissioner (emphasis added).**” See 62 O.S. § 13. Thus, in connection with a municipal securities issuance, following the transaction date, the financial advisor or bond counsel must prepare a transcript of the proceedings to submit for review and approval by the Oklahoma Attorney General. Once the Attorney General review process is completed and preliminary approval is granted, a 30-day waiting period begins, after which the bonds become incontestable. Following the 30-day waiting period, a litigation check is conducted and the closing typically occurs within a couple of days thereafter, on the settlement date. The Attorney General review and approval process and the rendering of the municipal securities as incontestable following a 30-day waiting period are important procedural and substantive safeguards for bondholders. Because large volumes of Oklahoma municipal securities issuance transactions often occur on certain same dates, the Attorney general review and approval process may be further delayed such that 42 days is often not sufficient time to complete the processes outlined above with respect to Oklahoma municipal securities issuances. Absent a longer exception period, the Proposed Amendments would not only put Oklahoma municipal issuers at a competitive disadvantage, as not as many dealers would want to bid deals that would subject them to the Margin Requirements, but could also adversely impact bondholders if issuances are settled prior to date when Oklahoma municipal securities are statutorily deemed incontestable.

Furthermore, in addition to all of the competitive disadvantages and additional costs that the Proposed Amendments would create for smaller broker-dealer firms, as outlined in the BDA Comment Letter, because a majority of our clients are banks and credit unions, who frequently purchase local Oklahoma municipal securities that are not settled within 42 days, the proposed amendments would put our firm and other member firms serving our same markets and client base, at a severe competitive disadvantage when competing Dealer Banks, which are not subject to SEC and FINRA regulation as broker-dealers and would, therefore, not be subject to the Margin Requirements, as many of our bank and credit union clients would likely migrate to Dealer Banks to avoid compliance with margin-posting requirements with respect to these issuances.

Finally, we also agree with the comments in the BDA Comment Letter regarding the limitations on the capital charge provision, and specifically reinforce the point that the Proposed Amendments would cause severe competitive disadvantages for smaller broker-dealers due to the fact that larger broker-dealers possess vastly larger amounts of excess net capital. For the reasons outlined above, we kindly request FINRA to revisit the necessity of the Proposed Amendments altogether, but, if they are to be adopted, we urge FINRA to, at a minimum, extend the 42-day exception for municipal securities to 365 days.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kathryn A. Phillips', with a long horizontal flourish extending to the right.

Kathryn A. Phillips

CFO, COO & Associate Partner