

RECOMMENDATION OF MARKET STRUCTURE SUBCOMMITTEE OF IAC

SELECT ENHANCEMENTS TO PROTECT RETAIL INVESTORS IN MUNICIPAL AND CORPORATE BONDS

Introduction:

Individual investors not only own over 40% of the outstanding principal amount of municipal bond issuances and a significant percentage of corporate bond issuances, they also participate meaningfully in these markets through funds and other pooled vehicles. In many cases, these investments represent a substantial portion of an individual investor’s retirement savings. In light of this, the Investor Advisory Committee convened a panel to discuss retail investor protections in this area and to consider potential enhancements.¹ The Commission has also similarly acknowledged the importance of retail investors to these markets and the value of robust protections.²

The Investor Advisory Committee endorses the Commission’s efforts in recent years to focus on retail investors and makes the following recommendations. These recommendations are not intended to represent all potential enhancements to retail protections in this area, but rather are meant to reflect several discrete areas the Committee believes the Commission should consider further.

Recommendations:

1. The Committee encourages the Commission to work toward passage of its proposed amendments to Rule 15c2-12 after taking into account key feedback from various stakeholders, as the amendments would improve disclosure regarding financial obligations incurred by issuers of municipal securities. Although the Commission does not have direct authority to regulate disclosure by municipal obligors, Rule 15c2-12 provides for continuing disclosure obligations in relation to municipal securities. Specifically, Rule 15c2-12 requires dealers, when underwriting certain types of municipal securities, to ensure that the entity issuing the bonds enters into an agreement to provide certain information to the Municipal Securities Rulemaking Board (“MSRB”) about the securities on an ongoing basis. The proposed amendments are intended to improve ongoing disclosure of the incurrence of bank debt and other obligations in situations that are material to the holders of municipal securities. The Committee

¹ Meeting of the Investor Advisory Committee (December 7, 2017), available at https://www.sec.gov/video/webcast-archive-player.shtml?document_id=120717iac.

² See, e.g., Commission Chairman Jay Clayton, “Opening Remarks at the Inaugural Meeting of the Fixed Income Market Structure Advisory Committee” (January 11, 2018), available at <https://www.sec.gov/news/public-statement/opening-remarks-inaugural-meeting-fixed-income-market-structure-advisory>.

endorses the goals of improving the quality, comprehensiveness and timeliness of municipal securities disclosures.

2. The Committee recommends that, following the amendments to Rule 15c2-12 described above, the Commission update its interpretive guidance regarding disclosure obligations under Rule 15c2-12 to provide obligors, brokers and dealers with a comprehensive understanding of the Commission's position in this area. Disclosure remains a critical protection for investors in this area, no less than for other securities. The Commission's existing interpretive guidance with respect to Rule 15c2-12, however, has not been updated since 1994 and, as discussed below, does not take into account more recent changes to the rule, market practice or enforcement actions.³

3. The Committee commends the MSRB for continually enhancing its Electronic Municipal Market Access ("EMMA") website, including its most recent update. The EMMA product, which is akin to the Commission's EDGAR system, is a valuable asset for the municipal market in that it is accessible at no cost to all participants. The EMMA system provides for a level playing field whereby all participants in the municipal market have equal access to financial and operational data of bond obligors. While we have found the EMMA product to be quite user friendly, an area where the Committee believes an enhancement to EMMA would be important is highlighting to investors, when they reach an obligor's landing page, if the obligor is out of compliance with its continuing disclosure requirements as it relates to financial reporting. Under the current system, it is difficult to determine if an obligor is in compliance with its continuing disclosure requirements. An obligor who is late with its financial reporting requirements may be (although will not always be) facing financial difficulties, and in any event by definition has not provided all required and current information to investors. If EMMA is to enhance transparency, it is important that this information is prominently displayed on the EMMA website. The Committee also encourages the Commission to continue to work with the MSRB and market participants to obtain and assess other feedback regarding the current and future upgrades to the EMMA system and periodically assess what other cost-effective

³ See 1994 Interpretive Release (the "1994 Release") (Mar. 9, 1994), available at <https://www.sec.gov/rules/interp/1994/33-7049.pdf>; Final SEC Rule Amendments Relating to the Establishment of a Continuing Disclosure Service of the Electronic Municipal Market Access System (EMMA) SEC Release No. 34-59062 (Dec. 5, 2008) (S7-21-08) and SEC Release No. 34-59061 (Dec. 5 2008) (SR-MSRB-2008-05).

For example, the 1994 guidance, of course, does not reflect subsequent developments, such as changes in market practice in disclosure in light of EMMA, nor does the guidance take into account the 2010 amendment to Rule 15c2-12 that added a number of events to ongoing disclosure requirements. The guidance also does not take into account recent SEC enforcement actions in this space, as discussed below.

enhancements would result in greater transparency and better sharing of information among market participants.

4. The Committee recommends that the Commission undertake a comprehensive study of the corporate bond market, similar to its review of the municipal bond market, to consider whether the current structure of the corporate bond market effectively serves the needs of retail investors. The Commission's 2012 Report on the Municipal Securities Market ("2012 Muni Report") identified concrete steps to address issues ranging from disclosure and transparency, financial reporting and investor protection to education within the municipal bond market. As a result, the 2012 Muni Report provided a basis for a number of enhancements that have furthered investor protection. The Committee believes that, similarly, the corporate bond market would benefit from the same diligent inquiry that the Commission provided with respect to the municipal bond market. This study should supplement and build on, rather than duplicate, work that may be done in the future by the Fixed Income Market Structure Advisory Committee. In addition, the Committee recommends that the Commission produce a follow-up report to the 2012 Muni Report that would assess the status of recommendations from the 2012 Muni Report and would recommend additional steps with respect to recommendations that have not yet been implemented.

Background

The size of the U.S. fixed income market rivals that of the equity market, with nearly \$28 trillion outstanding at the end of 2017.⁴ In 2017, U.S. long-term municipal bond issuances totaled \$448.1 billion, a 10.8 percent increase from \$405 billion in 2015.⁵ Even greater still, U.S. corporate debt issuances totaled \$1.6 trillion in 2017, representing nearly four times the volume of municipal bond issuances.⁶ The magnitude of these markets is beneficial for obligors and investors alike: municipal bonds allow state and local governments and certain other entities to finance important infrastructure projects while serving as a lower risk investment option for individuals; similarly, corporate bonds enable investors to receive more stable returns than equity while providing cash for companies' everyday operations and capital investment. At the same time, these markets are diverse and complex; for example, within the municipal securities market, there are over 50,000 individual municipal issuers and other obligated persons

⁴ See SIFMA "Outstanding U.S. Bond Market Debt," (Feb. 6, 2018), available at <http://www.sifma.org/research/statistics.aspx>.

⁵ See *id.*

⁶ See *id.*

(“obligors”), and municipal bonds fulfill a wide range of purposes and utilize a wide range of structures.⁷ The multitude of potential issuers of municipal securities, which range from states to small school districts and water authorities to hospitals and universities, and the variety of types of municipal bonds (e.g., general obligation bonds, revenue bonds and tax-backed bonds), adds another layer of complexity for investors assessing such investments. Individual corporate and municipal bond obligors often have many, sometimes hundreds, of different bonds outstanding, with varying maturities, rates, and terms.

Individual investors are active in these markets, both directly as retail investors and indirectly through mutual, money market, closed-end and exchange-traded funds. As of the third quarter of 2017, individuals directly held over 40% of the total outstanding principal value of municipal securities, while funds held an additional 25% on their behalf.⁸ With respect to corporate and foreign bonds, individuals held approximately 5% of the total outstanding principal value of corporate and foreign bonds, while funds held another 20% on their behalf.⁹ The Investment Company Institute’s annual mutual-fund shareholder survey indicates that the median age for investors with fixed-income holdings ranging from mutual funds to individual bonds has risen to 53, up from 49 in 2007.¹⁰ Accordingly, the characteristics of investors in the fixed income market suggest that a deeper examination of the market is warranted.

Recent Commission developments focusing on retail investor protections in the fixed income market have been in the form of establishing oversight bodies and proposed rule-making. In 2012, for example, the Office of Municipal Securities (“OMS”) was established, as a successor to prior Commission activities in this area, to coordinate the Commission’s municipal securities activities and to administer its rules pertaining to municipal securities brokers and dealers, investors and obligors. The OMS is also responsible for policy development and coordination to improve the municipal securities market, as exemplified by the OMS’ work on and recommendation of the recent proposed amendments to Rule 15c2-12. The Committee commends the Commission on its efforts to focus on retail investor protections through the OMS.

The newly created Fixed Income Market Structure Advisory Committee is poised to be a valuable tool for providing the Commission with advice and recommendations on matters related to the fixed

⁷ MSRB, EMMA, Issuers by State data. See also, former Commissioner Elisse B. Walter, Speech, “Regulation of the Municipal Securities Market: Investors Are Not Second-Class Citizens” (October 28, 2009) available at https://www.sec.gov/news/speech/2009/spch102809ebw.htm#P51_14357.

⁸ See Federal Reserve Board, “Financial Accounts of the U.S., Flow of Funds, Balance Sheets and Integrated Macroeconomic Accounts,” at Table L.212 (Third Quarter 2017), available at <http://www.federalreserve.gov/releases/z1/current/z1.pdf>.

⁹ See *id.* at Table L.213.

¹⁰ See Daniel Kruger, “Who Are the Big Players in the Bond Market? Small Investors”, *Wall Street Journal* (Jan. 2, 2018), available at <https://www.wsj.com/articles/who-are-the-big-players-in-the-bond-market-small-investors-1514808002>.

income market structure. The FIMSAC has met twice earlier this year and has discussed topics such as improving bond market liquidity, a commendable topic which no doubt benefits from new and diverse perspectives.

In 2012, the Commission undertook a significant effort to understand the landscape of the municipal securities market, which culminated in the production of its 2012 Report on the Municipal Securities Market. This work involved an examination of a wide range of issues facing the municipal securities market, including disclosure and transparency, financial reporting and accounting, investor protection and education. The result was a comprehensive roadmap with specific recommendations to enable the Commission to continue its important work in this space, some of which have already been implemented.

While strides have been made in identifying and addressing some of the structural issues of the fixed income market, there is still work that can be done in light of the importance of this market and the participation of retail investors. Specifically, improvements can be made in the areas of disclosure and transparency, particularly given the substantial disparity between the disclosure regulation regime imposed on the equity markets in comparison to the bond market, especially with respect to municipal bonds. Moreover, the need for rigorous investor protections is heightened when considering investors who favor stable instruments such as municipal bonds are often saving for retirement.¹¹

The SEC's proposing release regarding Rule 15c2-12 amendments has indicated a number of examples where the lack of municipal disclosure has been problematic for investors. For example, in some cases, municipalities have borrowed significantly from banks to meet operating expenses and other needs due to the absence of state appropriated funds, adversely impacting their credit condition but without disclosure to investors in public municipal securities.¹²

1. Work toward passage of the proposed amendments to Rule 15c2-12 after taking into account feedback from stakeholders.

As the Commission has recognized, disclosure is a critical protection for individual investors. Disclosure in municipal markets, however, has often been incomplete and problematic.¹³ For example, in

¹¹ This concern was raised in particular by former Commissioner Luis A. Aguilar in his remarks to The American Retirement Initiative's Winter 2015 Summit. See Former Commissioner Luis A. Aguilar, Speech, "Advocating for Investors Saving for Retirement" (Feb. 5, 2015), available at <https://www.sec.gov/news/speech/advocating-for-investors-saving-for-retirement.html>.

¹² See 2012 Muni Report at 66.

¹³ See, e.g., Statement of Gerald McBride, Chairman, Municipal Securities Division, Public Securities Association, Before the House Committee on Energy and Commerce, Telecommunications and Finance Subcommittee, 5 (October 7, 1993) (testifying that "secondary market information is difficult to come by even for professional municipal credit

the 2012 Muni Report, market participants indicated that access to current financial information about obligated persons may be “limited, difficult to find, or unavailable.”¹⁴ Furthermore, in letters to the Commission regarding proposed amendments to Rule 15c2-12, market participants pointed out numerous cases of incomplete or problematic disclosures, including material municipal debt exposures that were not disclosed to the investment public.¹⁵ These failures to disclose undermine investors’ ability to make fully informed investment decisions and create market inefficiencies.

Municipal securities are exempted from the registration requirements of the Securities Act of 1933 (the “Securities Act”), as well as from the periodic reporting regime of the Securities Exchange Act of 1934 (the “Exchange Act”). Accordingly, the Commission cannot establish mandatory disclosure requirements for municipal offerings or require municipal obligors to follow a uniform accounting standard. While its statutory authority is constrained, the Commission may use its existing regulatory authority to update Rule 15c2-12. The Committee urges the Commission to continue its work with respect to the passage of the proposed amendments to Rule 15c2-12, which would require notice to the MSRB in the event of the incurrence of bank loans and similar obligations, as well as events of default, termination events or other similar events. Specifically, the proposed amendments would amend the Rule to add two new event disclosures that obligated persons must file on the EMMA system in a timely manner, not in excess of ten business days after the occurrence of the event:

1. The incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation, any of which affect security holders, if material; and
2. The occurrence of a default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person any of which reflect financial difficulties.

analysts, to say nothing of retail investors.”); Municipal Securities Disclosure, SEC Release No. 34961 (Nov. 10, 1994) (S7-5-94) (“Information about the issuer and other obligated persons is as critical to the secondary [municipal securities] market, where little information about municipal issuers and obligated persons is regularly disseminated.”), available at <http://www.sec.gov/rules/final/adpt6.txt>; U.S. Securities Exchange Commission, Report on the Municipal Securities Market (the “2012 Muni Report”), at 65-66 (July 31, 2012), available at <http://www.sec.gov/news/studies/2012/munireport073112.pdf>; MSRB Letter to SEC Investor Advocate Rick Fleming (Oct. 17, 2017) (indicating that municipal market disclosure practices are a topic of ongoing concern for the MSRB).

¹⁴ See 2012 Muni Report at 105.

¹⁵ See, e.g., Christopher Alwine, Head of Municipal Money Market and Bond Groups, The Vanguard Group, Inc. Letter to SEC dated May 15, 2017 regarding proposed amendments to 15c2-12, available at <https://www.sec.gov/comments/s7-01-17/s70117-1752541-151898.pdf>; Dennis M. Kelleher, President & CEO, Better Markets, Inc. Letter to SEC dated May 15, 2017 regarding proposed amendments to 15c2-12, available at <https://www.sec.gov/comments/s7-01-17/s70117-1751567-151817.pdf>; Dorothy Donohue, Deputy General Counsel, Securities Regulation, Investment Company Institute Letter to SEC dated May 15, 2017 regarding proposed amendments to 15c2-12, available at <https://www.sec.gov/comments/s7-01-17/s70117-1751450-151844.pdf>.

While the MSRB has encouraged issuers and other obligated persons to voluntarily disclose similar information about financial obligations, the MSRB has acknowledged that the number of actual disclosures is limited.¹⁶ Furthermore, the 2012 Muni Report notes that market participants have expressed concerns that issuers and other obligated persons may not properly disclose the existence or the terms of bank loans, particularly when the terms of those bank loans may affect payment priority from revenues in a way that adversely affects bondholders.¹⁷ Because the proposed amendments limit required event notices to financial obligations that are material, the Committee believes that such rulemaking would balance the goal of providing important disclosure to investors with a limited informational burden to issuers and other obligated persons.

While the Committee believes that, in adopting a final rule, the Commission should take into account feedback it has received, the Committee supports the central purpose of the proposal. The Committee further suggests that the proposed rules would be improved by clarifying that required disclosure should include information not only about the incurrence and amount of indebtedness but also information about financial covenants in that indebtedness. Disclosure of comprehensive information about the overall amount and terms of indebtedness of an obligor in a timely fashion would better equip investors (including their advisers) to make informed decisions when buying or selling municipal securities, and the Committee believes that such amendments would enhance investor protection and reduce information asymmetries while further potentially reducing borrowing costs for obligors.¹⁸

A number of comments to the proposed amendments express concern that the triggers for current disclosure are not sufficiently clear and that this will lead to undue burden on market participants and over-disclosure. The Committee supports adding clarity in the final rule, where appropriate. For example, this could include better defining certain terms used in the proposal or clarifying even further that disclosure is not required of immaterial obligations or events that do not adversely impact the total mix of information about relevant public securities. One term that could be better defined is “financial obligation”, which should pick up indebtedness and similar obligations but should not be so broad as to pick up items such as ordinary course leases.¹⁹ In any event, notwithstanding the need for some

¹⁶ See MSRB Letter to Investor Advocate Rick Fleming (Oct. 17, 2017) at 3, available at <http://www.msrb.org/Market-Topics/~media/0E3E9F81C7BA4EB38EE80857FE378F18.ashx>.

¹⁷ See 2012 Muni Report at 66.

¹⁸ See SEC Release No. 34-80130 (Mar. 1 2017) at 92 (S7-01-17).

¹⁹ At least one member of the Committee suggested that the term “material” may be difficult to define and should be removed; others believe that “material” is well understood and commonly applied in other securities markets and that municipal market participants should similarly be able to apply it in this context. If the Commission keeps the standard in the final rule, the Committee suggests that the Commission be even clearer, in the final rules or interpretative guidance, that materiality in this context is determined, as it is in other contexts, by reference to whether there is a

additional clarity to the amendments, the Committee believes that the fundamental purpose of the amendments is sound and does not support changes that would undermine it.

2. Clarifying interpretive guidance and rulemaking with respect to disclosure

The Committee believes that, following adoption of amendments to Rule 15c2-12 described above, it is important for the Commission to clarify its guidance with respect to secondary disclosure in municipal bond issuances in order to provide obligors, brokers and dealers with a comprehensive understanding of its position in this area. The Staff is well versed in developing interpretive guidance and has used it to supplement rule-making for the equity market, providing issuers with direction with respect to disclosure in the form of Compliance and Disclosure Interpretations for Securities Act and Exchange Act forms and rules.

The Commission's guidance with respect to municipal securities disclosure has not been updated since 1994.²⁰ The 1994 Release is outdated in that there have been numerous market developments since it was issued, such as the subsequent establishment of a continuing disclosure service, EMMA, to disseminate information to market participants.²¹ Moreover, the 1994 Release of course does not reflect subsequent regulatory developments, such as the 2010 amendments to Rule 15c2-12, which revised the list of events requiring current notice under 15c2-12.²²

Accordingly, in light of market experience and regulatory developments, the guidance could provide greater clarity, including with respect to terms contained in the proposed amendments discussed above. For example, the Committee believes that updated interpretive guidance could summarize the issues raised by the Commission's enforcement actions against municipal obligors and highlight its focus on particular enforcement themes, if any. The Committee notes that enforcement actions brought against

substantial likelihood that reasonable security holders would consider the information important in deciding whether to buy or sell a security. See, e.g., *TSC Indus., Inc. v. Northway, Inc.*, 426 U.S. 438 (1976) and *Basic, Inc. v. Levinson*, 485 U.S. 224 (1988). We also suggest that the Commission provide guidance in applying the term to specific contexts.

²⁰ See 2012 Muni Report at 139.

²¹ See 1994 Release at 12757, which states that “. . . the municipal market today lacks an effective mechanism for dissemination of material information to investors and the marketplace. . . . The common denominator for current proposals to improve secondary market disclosure for municipal securities is the establishment and designation of one or more information repositories to serve as a collection and access point for annual and current information.”

²² See 1994 Release at 12758, which addressed interpretive guidance with respect to obligations of municipal securities dealers but does not reflect SEC Release No. 34-62184A, which provided additional Commission guidance with respect to underwriters' responsibilities under the antifraud provisions of the federal securities laws. See SEC Release No. 34-62184A (May 6, 2010) at 88 (S7-15-09).

underwriters and obligors regarding compliance with continuing disclosure obligations,²³ breaches of fiduciary duty²⁴ and false or misleading disclosures²⁵ suggest that underwriters and obligors could benefit from more explicit guidance and commentary regarding their securities laws obligations. Further, Commission guidance could also present an opportunity for the Staff to signal to the market that investing in obligors with inconsistent, limited or untimely disclosure practices may pose heightened risks. Additionally, supplementing existing rule-making in this regard would allow the Commission to provide its views on which disclosure practices could generally be improved, aside from providing guidance through enforcement actions. The Committee encourages the Commission also to consider whether other means could be used to encourage obligors to voluntarily provide disclosures beyond what is required by Rule 15c2-12 when appropriate.

3. Continue to work with MSRB on improved functionality for EMMA website

The Committee understands that dissemination of timely and thorough information about an obligor and its securities is imperative for a fair and efficient municipal market. In this regard, the MSRB's development of the EMMA website has considerably improved access to obligor disclosures and market information for investors. The EMMA public website is a centralized venue for primary market disclosures, continuing disclosures, transaction data, variable rate security information and market statistics and provides free public access to municipal securities disclosure documents to all market participants. In 2016, the MSRB enhanced EMMA with features to facilitate the voluntary disclosure of

²³ Since June 2015, the Commission has brought enforcement actions against over 72 municipal underwriting firms under the Municipalities Continuing Disclosure Cooperation Initiative, which offers favorable settlement terms to municipal bond underwriters and obligors that self-report violations of material misstatements and omissions in municipal bond offering documents. The Commission alleged that a number of these firms violated federal securities laws by selling municipal bonds using offering documents that contained materially false statements or omissions about the obligors' compliance with continuing disclosure obligations. As part of the settlements, the firms agreed to improve their due diligence procedures, with a number of firms agreeing to retain an independent consultant to review its policies and procedures with respect to due diligence for municipal securities underwriting. See SEC Press Release "SEC Complete Muni-Underwriter Enforcement Sweep" (Feb. 2, 2016), available at <https://www.sec.gov/news/pressrelease/2016-18.html>.

²⁴ See, e.g., In the Matter of Central States Capital Markets, LLC; Mark R. Detter; David K. Malone; and John D. Stepp, AP File No. 3-17170 (Mar. 15, 2016) (Municipal securities advisor, its CEO and two employees charged with breaching their fiduciary duty to a municipal client by failing to disclose a conflict of interest); In the Matter of Municipal Finance Services, Inc.; Rick A. Smith; and Jon G. Wolff, AP File No. 3-18139 (Aug. 24, 2017) (Municipal securities advisor and two executives charged with breach of fiduciary duty for failing to ensure municipal client was in compliance with continuing disclosure agreements).

²⁵ See, e.g., In the Matter of West Clark Community Schools, AP File No. 3-15391 (Jul. 29, 2013) and In the Matter of City Securities Corporation and Randy G. Ruhl, AP File No. 3-15390 (Jul. 29, 2013) (Indiana school district and its underwriter charged with falsely stating to bond investors that the school district had been properly providing annual financial information and notices required as part of its prior bond offerings); In the Matter of Westlands Water District; Thomas W. Birmingham; and Louie David Ciapponi, AP File No. 3-17162 (Mar. 9, 2016) (California's largest agricultural water district charged with misleading investors about its financial condition in connection with a \$77 million bond offering); In the Matter of Kings Canyon Joint Unified School District, AP File No. 3-15966 (Jul. 8, 2014) (California school district charged with misleading bond investors about its failure to provide contractually required financial information and notices).

bank loans and information regarding other alternative financings so as to provide investors with a fuller understanding of an obligor's debt profile. This year, the MSRB is implementing additional enhancements to EMMA that significantly improve its functionality. The Committee applauds these efforts to continually improve EMMA's functionality.

While we have found the EMMA product to be user friendly and effective, the Committee believes that EMMA could be enhanced by highlighting to investors, when they reach an obligor's landing page, if the obligor is out of compliance with its continuing disclosure requirements as it relates to financial reporting. Under the current system, it is difficult to determine if an obligor is in compliance with its continuing disclosure requirements. An obligor who is late with its financial reporting requirements may be (although will not always be) facing financial difficulties. Thus, it is important that this information is prominently displayed on the EMMA website. The Committee also encourages the Commission to continue to work with the MSRB and with market participants to periodically assess EMMA, including feedback from its recent enhancements, and to further consider what types of information and what features could be implemented with respect to EMMA to distribute relevant information on a broad basis. The Committee also recommends that MSRB work with market participants before making additional recommendations to the Commission, or before issuing market advisories, regarding changes to municipal market regulations.

4. Further study with respect to the corporate bond market and municipal market

The Committee recommends that the Commission undertake a similar effort with respect to the corporate bond market as it did with the 2012 Muni Report in light of the size and importance of the corporate bond market. Growth in the U.S. corporate bond market has consistently outpaced growth in the U.S. equity market; between 2006 and 2016, the value of corporate bonds outstanding rose by about 76 percent, while equity market capitalization rose by 40 percent.²⁶ Furthermore, corporate bond issuances have hit record highs for five years running, with over \$1.5 trillion issued in 2016.²⁷ Even if the percentage of retail holdings remains at historical levels of 5% (and notwithstanding that many financial professionals discourage individual purchases of corporate bonds in favor of bond funds), the absolute individual exposure is very significant and growing. These statistics suggest that the retail investor's position in the corporate bond market demands additional attention. The 2012 Muni Report contains a detailed review of the state of the municipal securities market and identifies tangible steps to address

²⁶ See SIFMA Factbook 2017 (Aug. 25, 2017) at 58, available at <https://www.sifma.org/wp-content/uploads/2016/10/US-Fact-Book-2017-SIFMA.pdf>.

²⁷ See A Financial System That Creates Economic Opportunities: Capital Markets, Report to President Donald J. Trump (Oct. 2017) at 85, available at <https://www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-Capital-Markets-FINAL-FINAL.pdf>.

concerns facing market participants. Similarly, the Committee believes that the corporate bond market could benefit from further study – a sentiment at least two prior Commissions have echoed on previous occasions.²⁸

A comprehensive study of the corporate bond market would enable the Commission to consider whether the current structure of the corporate bond market effectively serves the needs of investors. For example, it has been noted that similar issues that plague the municipal bond market, such as disclosure, transparency and liquidity, are present with respect to the corporate bond market.²⁹ The Committee encourages the Commission to undertake such a study and to consider a broad market perspective that is guided by investor experience and field studies. An in-depth examination and report would also give stakeholders a better understanding of the corporate bond market, serving as a conduit for dialogue with obligors, investors and lawmakers on potential improvements to the fairness and efficiency of the market. This would supplement and add to the work of the FIMSAC and in no way replace it.

With respect to the municipal markets, the Committee recommends that the Commission issue a report that follows up on its 2012 Muni Report and that would assess how the market has changed since the 2012 Report, review the status of recommendations from the 2012 Report and recommend additional steps with respect to recommendations that have not yet been implemented.

In addition, this Committee has previously recommended that the Commission work with the MSRB and the Financial Industry Regulatory Authority (“FINRA”) to continue to improve easy access to price transparency in the bond markets for retail investors.³⁰ An additional market study, together with

²⁸ See, e.g., Commissioner Michael S. Piwowar, Speech, “Remarks at University of South Carolina and UNC-Charlotte 4th Annual Fixed Income Conference” (Apr. 21, 2015), available at <https://www.sec.gov/news/speech/remarks-usc-unc-fourth-annual-fixed-income-conference.html> (indicating that, “with respect to the municipal and corporate bond markets . . . both market participants and regulators alike have a pressing need for rigorous analysis of current market concerns, possible solutions, and the potential consequences to our financial markets”); former Commissioner Daniel M. Gallagher, Speech, “Remarks Regarding the Fixed Income Markets at the Conference on Financial Markets Quality” (Sept. 19, 2012), available at <https://www.sec.gov/news/speech/2012-spch091912dmghtm> (noting his view that the 2012 Muni Report represents “a tremendous step towards a better understanding the municipal securities market by the Commission” and that it “may be worth considering whether the Commission ought to undertake a similar effort with respect to the corporate bond market given how large and important that market has become”); and former Commissioner Daniel M. Gallagher, Speech, “Remarks at Municipal Securities Rulemaking Board’s 1st Annual Municipal Securities Regulator Summit” (May 29, 2014), available at <https://www.sec.gov/news/speech/2014-spch052914dmg> (indicating his belief that 2012 Muni Report is “excellent” and that the Commission “should consider undertaking a similar effort with respect to the corporate bond market”).

²⁹ See, e.g., former Commissioner Daniel M. Gallagher, Speech, “Remarks Regarding the Fixed Income Markets at the Conference on Financial Markets Quality” (Sept. 19, 2012), available at <https://www.sec.gov/news/speech/2012-spch091912dmghtm>; former Commissioner Michael S. Piwowar, Speech, “Remarks at FINRA’s 2016 Fixed Income Conference,” (Sept. 7, 2016), available at <https://www.sec.gov/news/speech/piwowar-remarks-finra-2016-fixed-income-conference.html>; BlackRock Viewpoint, Corporate Bond Market Structure: The Time For Reform Is Now (Sept. 2014), available at <https://www.blackrock.com/corporate/en-co/literature/whitepaper/viewpoint-corporate-bond-market-structure-september-2014.pdf>.

³⁰ Recommendation of the Investor Advisory Committee to Improve Information for Bond Market Investors (June 7, 2016), available at <https://www.sec.gov/spotlight/investor-advisory-committee-2012/recommendation-enhance-information-bond-market-investors-060716.pdf>.

input from FINRA and the Fixed Income Market Structure Advisory Committee (and for municipal securities, the MSRB), could provide additional specific steps to achieve this goal.