Ladies/Gentlemen:

In its Report on the Municipal Securities Market dated July 31, 2012, commencing on page 131 and continuing on page 132, the report addresses the requirement for best execution within the municipal market as follows:

"Best Execution

Unlike in the equities and corporate fixed income markets,[781] there is no explicit MSRB rule regarding best execution that applies to market participants in the municipal securities market.[782] Common law duties of best execution, however, apply to municipal bond dealers, whether acting in a principal or agency capacity.[783] In agreeing to execute a customer's order, the municipal bond dealer makes an implied representation that it will execute the order in a manner that maximizes the customer's economic gain in the transaction.[784] This duty requires that a municipal bond dealer seek to obtain for its customer orders the most favorable terms reasonably available under the circumstances.[785] Although specific best execution requirements will vary depending on the particular facts and circumstances, municipal bond dealers generally should execute customer orders at the best reasonably available prices.[786] This requires municipal bond dealers to exercise diligence in informing themselves of the market value of a particular security.[787]

Footnote [782] reads as follows: "The MSRB has stated that municipal bond dealers currently do not have a duty of best execution under MSRB rules. *See, e.g.,* Exchange Act Release No. 66625, "Notice of Filing of a Proposed Rule Change Consisting of Proposed Rule G-43, on Brokers G-8, on Books and Records, Rule G-9, on Record Retention, and Rule G-18, on Execution of Transactions; and a Proposed Interpretive Notice on the Duties of Dealers that Use the Services of Broker's Brokers"(SR-MSRB-2012-04) (Mar. 20, 2012), 77 FR 17548 (Mar. 26,2012), *available at* *http://www.sec.gov/rules/sro/msrb/2012/34-66625.pdf.* [For example, a commenter asked whether a broker-dealer using an electronic platform is permitted to screen competitors' bonds from the platform in an effort to have a customer purchase from the broker-dealer's inventory. In response, the MSRB stated that there currently is no best execution standard under MSRB rules similar to FINRA standards and that as long as a customer is provided a fair and reasonable price a broker-dealer is not obligated under MSRB rules to seek the most favorable price for its customer.] *Id*."

I am the commentator who the SEC referenced in footnote 782, and I am gratified to see the SEC evidently intends to require some reasonable form of best execution in the municipal market. As the MSRB crafts their rules to conform to this likely requirement, and the SEC reviews said proposals, I request the following transactions which occurred on 3/12/2012 be reviewed and their implications be examined (see the MSRB's EMMA system for details):

Cusip	Issuer	Coupon	Maturity	Activity
574193CY2	Maryland	2.375	3/15/27	One retail trade at $100.908 for a 2.25 yield; two additional retail trades at similar levels. 3 interdealer trades
574193EH7	Maryland	3.00	3/15/27	39 retail trades, most of which sold at 3.00 yield or cheaper. 22 interdealer trades

The two above bonds were part of two separate, new issues which came to market two days apart, 3/5/12 and 3/7/12. The bonds are backed by the same issuer, have the same credit ratings, mature the same day, have the same call feature, and both settled the same day. The only difference is the coupon.

I was the lucky buyer of the bond with the 2.375 coupon yielding 2.25%. I had asked my broker for gilt edged Maryland bonds maturing in approximately 15 years. I was offered the 2.375 coupon bond to yield 2.25% and since it seemed to fit the bill, I bought $50,000. Upon viewing the above information available on the EMMA System at a later date, I contacted my broker's compliance department and requested the transaction be voided (the 2.25 yield they sold me is only 75% of the return the 3% buyers will see…a back of the envelope calculation tells me I got soaked for over $5,000 on a $50,000 purchase). I pointed out that the 3.00% coupon issue, identical in every way except the coupon, had been bought by dozens of retail customers to yield 3% the same day I was sold bonds to yield 2.25, and therefore I had been grossly overcharged.

The broker-dealer declined my request to void the purchase and part of the explanation given reads as follows: "Our research has revealed that, on the day in question, the trading desk covering the [XXX] branch office did not have an inventory position in Bond #2 [the 3.00 coupon bond being sold to yield 3%]. It appears that bond had recently been offered by the State of Maryland in a competitive auction, and the winning bid was made by Bank of America Merrill Lynch, which thereby acquired the entire issue of that bond. The trades you found in Bond #2 [the 3.00% yielding bond] on the day you purchased Bond #1 [the 2.375 coupon bond sold to me to yield 2.25%] may well have been between Bank of America Merrill Lynch and its customers."

The response further stated that during the conversation I had with the stockbroker it was explained to me that "he had access to one of the largest inventories of any dealer", which matches my recollection of the tenor of the conversation. There was no mention of access to inventories of other dealers. The explanation went on to say: "Unfortunately, we did not have the bond you say you would have preferred. However, as the bond you purchased fit the criteria you specified to Mr. XXX (the stockbroker), and you found the bond's yield acceptable and placed an order for it, and in light of the above, we respectfully decline your request for rescission of this trade."

Where to start?

1) As it turns out there were over $51,000,000 of the 3% bonds which came to market on 3/7/12 to yield 3.05%. For the sake of clarity, I repeat: On 3/12/12, three business days later, on this bond dozens of retail trades occurred at 3% or cheaper; on the same day, I was sold the 2.375% coupon bond to yield 2.25%. If 3% was not fair market for 15 year gilt edge Maryland bonds on that day, I'll eat my hat. It's quite obvious to me that the broker-dealer I was working with did not price its bonds on the market.

2) I "found the bond's yield acceptable." Good grief. If I'd known a 3% return was available in the market would I have found 2.25% acceptable? Would anyone reading this? Obviously the offering should have been adjusted to the 3% range.

3) That the trading desk my stockbroker was dependent on did not have the 3% bonds in inventory is certainly understandable, but the obvious and most far-reaching question is this: Why didn't the stockbroker have access to these competing bonds? To reiterate, the broker-dealer who sold me the bonds stated, "The trades you found in Bond #2 [3.00 yielding bond] on the day you purchased Bond #1 [2.25% yielding bond] may well have been between Bank of America Merrill Lynch and its customers". Yeah, they may well have been, but all of them? Color me skeptical. On the day before, of, and after my purchase, specifically 3/9/12, 3/12/12 and 3/13/13, there were a total of 61 interdealer trades totaling $16,090,000, ranging in value from $10,000 to $1,600,000. I will wager dollars to donuts a peek at the actual trades would reveal numerous trades from Bank of America Merrill Lynch to competitors either directly or via electronic platforms. Yet I'm told, "Unfortunately, we did not have the bond you say you would have preferred." I presume wall street has an obligation to offer securities to the public which are fairly priced. Question: how can this obligation possibly be met if reasonably available competing merchandise is routinely screened from the client? Since "house" bonds cannot possibly be the most attractive in every instance, how about making competitors bonds available?

Given the above, I'd like to make several comments and observations:

1) Under the general discussion of Recommendations, the SEC states on page 144, "Enhancing the transparency on these platforms [ATS], and assuring that market participants have fair access to them, could facilitate best execution, improve market efficiency, and promote price competition in municipal securities".

This makes sense, but it seems to me it's imperative to have the market participant with the greatest incentive to fill an inquiry with the most attractive bond, the stockbroker, have access to what is on the ATS. Simple question: What's the likelihood the salesman who sold me the Maryland bond would have shown me the one yielding 2.25% if he had had access to the one yielding 3%? Simple: less than nil. Beyond this, I'd think a significant impediment to traders potentially mispricing bonds would be created by giving their audience, the sales force, access to competitors' offerings. What is the likelihood the trader who priced the bonds I was sold would have priced them to yield

2.25% if he knew he was in competition with the issue yielding 3%? Simple: less than nil. Doesn’t common sense dictate that if an army of stockbrokers routinely viewed competing offerings on a given ATS, this alone would keep trading desks on their toes?

2) Apparently, selective screening for some functions available on some ATSs is part of the market's mechanics. On page 120 it is noted, "...even the participants in an ATS or broker's broker system may not have access to information about the trading interest of all other participants in that system". I can envision some circumstances where this could make sense, but how does wholesale screening of some competitors’ bonds from their sales force on simple bond offerings make any sense? Does this not inhibit transparency/best execution?

3) The SEC correctly, in my view, implicitly acknowledges there can be understandable logistical limitations which broker-dealers can encounter in trying to achieve best execution by employing the phrases (on pages 131 and 132), “…reasonably available under the circumstances” and “…at the best reasonably available prices". However, when numerous Wall Street firms have an ATS integrated onto the stockbroker's workstations, and thereby manage to display competitors' offerings to their clients, should not the regulators require the rest of Wall Street to flip the switch? Isn't this a "reasonably available under the circumstances" solution which "could facilitate best execution, improve market efficiency, and promote price competition in municipal securities"?

4) In its response to my query on best execution, see http://www.sec.gov/rules/sro/msrb/2012/34-66625.pdf on page 29, the MSRB stated in part, "The MSRB is concerned that certain dealers may be refusing to show their customers municipal securities offered by their competitors at more favorable prices than those dealers place on the same securities in their inventory". It seems to me the MSRB should address the matter beyond "the same securities" if by that it is referring to only the identical bond. To wit:

   On page 114 of its report, the SEC describes the normal process leading to a retail transaction as follows: "An investor who wishes to buy municipal securities typically would request that its municipal dealer identify bonds with credit, payment, tax, maturity, and/or other characteristics that meet the customer's investment needs." I presume any number of bonds come to the market with relatively few bonds issued per cusip, and thus finding offerings or recent activity on a particular bond may prove difficult, diminishing the value of the EMMA system in these instances. However, my experience perfectly illustrates the flaw in limiting the MSRB's concern on potential screening to only those bonds of the same security (again, if the MSRB was referring to only the identical cusip). When my stockbroker searched for bonds, I most certainly would have wanted him to see if the specific bond I bought yielding 2.25% was offered cheaper elsewhere. However, I cannot think of a single reason why I wouldn't want him to see the competitors' bond yielding 3.00%. As a matter of fact, for all I know some broker-dealer was offering another gilt edge Maryland bond...not necessarily the State of Maryland... that came to market 3 years ago as an 18 year bond, now fits my parameters, and was offered cheaper still. Wouldn't the interests of transparency/best execution have been best served if all bonds on a given ATS which fit my parameters had been available to my stockbroker?

The SEC's efforts to increase transparency and expand competition should help lift the fog covering the vast majority of transactions and level the playing field for all investors.

Sincerely,

Tom Dolan
[redacted]