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April 24, 2009

Elizabeth M. Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, NE.  
Washington, DC 20549-1090

**RE: *File No. SR-MSRB-2009-01* – Extending EMMA Pilot; *File No. SR-MSRB-2009-02* – EMMA Primary Market Disclosure Service and Trade Price Transparency Service; *File No. SR-MSRB-2009-03* – EMMA Continuing Disclosure Pilot; *File No. SR-MSRB-2009-04* –To Allow Filings of Voluntary Continuing Disclosures to EMMA**

Dear Ms. Murphy:

The American Bankers Association ("ABA") is responding to the request of the Securities and Exchange Commission ("Commission") for comment on the above-referenced proposals of the Municipal Securities Rulemaking Board ("MSRB") to continue hosting and to expand the content of its Electronic Municipal Market Access System ("EMMA"). EMMA would provide free public access through the Internet to primary offerings of municipal securities and related secondary market disclosure documents.

This letter is written in ABA's capacity as owner of CUSIP and all intellectual property rights in and to the CUSIP database ("Database").<sup>1</sup> While ABA is supportive of initiatives to increase transparency and disclosure in securities markets, we remain concerned that the legal issues related to the protection of our intellectual property and contractual rights in the Database that were raised previously have not yet to be resolved. Recognition and protection of these rights should not interfere with those investors and academics who seek to appropriately and legally use the database for investment and research purposes. Rather, protection of our intellectual property and contractual rights is necessary to prevent those organizations and individuals that might seek to misappropriate proprietary data or otherwise use it for business purposes absent a valid license. It is critical that these legal issues be resolved before the MSRB is allowed to move forward with the proposed expansion and full implementation of EMMA.

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<sup>1</sup> ABA is the owner of CUSIP®, the CUSIP numbering system and the CUSIP database, all of which are administered by its exclusive licensee, the CUSIP Service Bureau ("CSB"). Commercial licenses are required to distribute, display and/or maintain components of the Database.

In ABA's September 22, 2008 comment letter,<sup>2</sup> we expressed our concern with the fact that the EMMA pilot had been implemented without resolution of several outstanding contractual and commercial issues between the MSRB and our exclusive licensee, the CUSIP Service Bureau ("CSB"), and that such resolution was a necessary element of the ongoing EMMA project. We further stated that, as the copyright owner, ABA was willing to work with the MSRB to ensure that the EMMA system operates in a manner that does not violate the ABA's intellectual property or contractual rights. However, these new MSRB proposals seek not only to expand and extend EMMA's coverage, but to commence full operation of the Primary Market Disclosure and the Trade Price Transparency Services as early as May 2009 without the necessary modifications to the system to ensure that third party intellectual property rights are respected.

As we've discussed with the MSRB, operation of EMMA must incorporate the requirement that any on-line public display of the Database and/or any of its components, including CUSIP numbers, shall be done solely in recognition of and in accordance with our intellectual property rights. This would include compliance with CSB's current licensing practices, permissible use guidelines, appropriate copyright notices and adequate security, including, but not limited to password protection and click through instructions. We believe this framework will protect not only CUSIP and the Database, but any other third party intellectual property involved in these initiatives from being subjected to possible abuses on the open Internet.

### **Conclusion**

ABA is committed to working with the Commission and the MSRB to ensure that our respective goals are accomplished prior to the planned expansion and full implementation of EMMA. For questions on the foregoing, the Commission should feel free to contact the undersigned or Lauren Bowers at (202) 663-5507.

Sincerely,



Douglas Adamson

CC: Ernesto A. Lanza, General Counsel, MSRB

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<sup>2</sup> See <http://www.sec.gov/comments/sr-msrb-2008-05/msrb200805-4.pdf>.