



May 8, 2009

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

***Re: File No. SR-MSRB-2009-01***

Dear Ms. Murphy:

On March 18, 2009, the Municipal Securities Rulemaking Board (the “MSRB”) filed with the Securities and Exchange Commission (the “Commission”) a proposed rule change to extend the MSRB’s existing pilot of its Electronic Municipal Market Access system (“EMMA”) to the earlier of July 1, 2009 or the date on which the MSRB places into operation, among other things, EMMA’s permanent primary market disclosure service.<sup>1</sup> The Commission published the proposed rule change for comment in the Federal Register (the “Federal Register Notice”).<sup>2</sup> The Commission received one comment letter,<sup>3</sup> and the Commission has requested that the MSRB respond.

The American Bankers Association (“ABA”) expresses concern regarding certain legal issues relating to its intellectual property and contractual rights in the CUSIP database (the “Database”) that it states have not yet been resolved. The ABA notes that it is the owner of the

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<sup>1</sup> File No. SR-MSRB-2009-01. The MSRB’s proposal to establish EMMA’s permanent primary market disclosure service is included in File No. SR-MSRB-2009-02.

<sup>2</sup> Exchange Act Release No. 59602 (March 19, 2009), 74 FR 13289 (March 26, 2009).

<sup>3</sup> Letter from Douglas Adamson, Executive Vice President, Technical Services Division, American Bankers Association, to Elizabeth M. Murphy, Commission Secretary, dated April 24, 2009.

Database, which is administered by the CUSIP Service Bureau (“CSB”), as its exclusive licensee. The ABA states that “[i]t 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.” The ABA further states that the operation of the EMMA web site must incorporate a variety of protections with respect to its intellectual property rights.

As an initial matter, the MSRB notes that, although the ABA’s letter cites File No. SR-MSRB-2009-01 (Extending EMMA Pilot) in its subject line, the ABA does not appear to object to the extension of the EMMA pilot, since it is only the “expansion and full implementation of EMMA” that it notes should not be allowed to move forward without resolution of such legal issues. Nonetheless, this letter provides the MSRB’s response to the ABA’s expressed concerns.

The MSRB, ABA and CSB have engaged in a number of discussions to establish a new contractual arrangement that would provide the appropriate protections for the intellectual property and other rights with respect to the use of the Database. Such new arrangement would reflect the change in use of such Database since our organizations came to agreement in connection with the initial adoption by the MSRB of its Rule G-34, which has effectively required, since 1983, that virtually all new issue municipal securities be assigned CUSIP numbers. The use of CUSIP numbers in the municipal securities market has greatly assisted in meeting industry goals with respect to the efficient and automated processing of securities transactions.

The parties have exchanged various proposals with regard to the protection of the Database and the ABA on May 1, 2009 indicated that, based upon the MSRB’s comprehensive proposal of April 22, 2009, it felt that an agreement had been reached, subject to finalization of the specific terms of the new licensing agreement. This pending agreement would expand and reposition existing language on the EMMA web site to ensure that users of the EMMA web site have a fuller understanding of the sources of information displayed on the EMMA web site and of the proprietary rights of third parties (including but not limited to the proprietary rights of the ABA in the Database) in certain displayed data elements. Such language would advise users of the limitations on their use or re-use of any proprietary information accessed on the EMMA web site, and users would be required to acknowledge such limitations before being provided access to any portion of the Database. Additional systemic and reporting mechanisms would be implemented to further protect against inappropriate use of the Database. The MSRB is confident that the changes contemplated under the pending agreement would permit the EMMA web site to be implemented and operated in an effective manner as contemplated in the various pending filings with the Commission while providing the ABA with strong safeguards against the misuse of its intellectual property by users of the EMMA web site. The MSRB expects to reach final agreement in advance of any expansion and full implementation of EMMA.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Lanza', written over a horizontal line.

Ernesto A. Lanza  
General Counsel

cc: Martha Mahan Haines, Chief,  
Office of Municipal Securities,  
Securities and Exchange Commission