

BDA Bond Dealers of America

500 New Jersey Avenue, N.W.
Sixth Floor
Washington, DC 20001
202.509.9515

November 9, 2010

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

RE: File Number SR-MSRB-2010-10
Increase in MSRB Assessments

Dear Ms. Murphy:

Thank you for the opportunity to comment on the proposed increases in the Municipal Securities Rulemaking Board (MSRB) assessments on broker-dealers.

The Bond Dealers of America ("the BDA") is the only trade association exclusively focused on U.S. fixed income markets and represents bond dealers who are headquartered in cities all over the country and who do business coast to coast. BDA members are very active participants in the municipal market.

The MSRB proposes to double the transaction assessment it levies on broker-dealers, raising an additional estimated \$7 million annually. It also proposes to establish a new technology fee of \$1 per transaction, raising an estimated \$10 million annually. As noted in the SEC's request for comments, in 2009 the MSRB total revenue was \$19.6 million. Taken together, the proposed assessments would nearly double the MSRB's revenue, increasing it by more than eighty-six percent over the 2009 levels.

While the request for comment noted that the MSRB did have a shortfall of \$1.7 million in 2009, no justification is given for an increase in assessments of this magnitude. In fact, the request for comment notes that the MSRB's revenues have increased in 2010. On that basis alone, the BDA urges the SEC to return this request to the MSRB and to ask the MSRB for further information about its projected budgets over the next several years. Neither the public nor the SEC can judge the merits of this request to nearly double the MSRB's revenue without knowing what the projected budgets are and why they need this specific level of increase.

However, the BDA also objects to the structure of the fees. One of the major reasons given for the MSRB's need for additional revenue is that they have additional responsibilities under the Dodd-Frank Wall Street Reform and Consumer Protection Act. The additional

responsibility most often cited is that the MSRB must now regulate municipal advisors. Yet these increased fees fall exclusively on broker-dealers. Although the request for comments includes general language that the MSRB may review its assessments in the future, this is not, in our view, sufficient. The BDA believes the MSRB should require all portions of the industry that it regulates to support the MSRB and not require one section alone to fund all of the MSRB's activities.

We note that one month after submitting this request to increase fees on broker-dealers, the MSRB transmitted to the SEC revisions to its rules (SR-MSRB-2010-13) implementing an amendment to Section 15B(b)(2)(J) of the Securities Exchange Act of 1934¹ which allows the MSRB to impose assessments on municipal advisors.² In our view, the MSRB has put the cart before the horse. The amendment to its rules implementing its ability to assess municipal advisors should be approved first and then the MRSB should review its fee and assessment structure.

Just as the MSRB has not even attempted to make a case for the magnitude of the increase, it has also not made a case for why it must be implemented immediately. As noted above, the request for comment acknowledges that the MSRB's revenue under the existing structure has increased in 2010, though no figures are given.

We are also concerned that the flat \$1 per transaction technology fee will disproportionately and unfairly affect broker-dealers engaged in a retail business, since the fee is the same regardless of the size of the transaction. Ultimately, such a fee structure will increase the transaction costs for retail clients to a much greater degree than for institutional clients.

We believe that the SEC should not approve these increased assessments, but should request the MSRB to provide a justification and require all sectors of the industry to bear a fair share of the cost of supporting the MSRB. If the SEC nevertheless decides that the MSRB absolutely must have an immediate increase in its revenue, despite no showing having been made, and chooses to approve these dramatic increases, we urge the Commission to sunset them after 3 months, during which time the MSRB can propose a fairer structure to support its activities.

Sincerely,



Michael Nicholas
Chief Executive Office

¹ On the day that the MSRB transmitted this request for an increase in assessments to the SEC, it correctly quoted section 15B(b)(2)(J), which on that day (September 30, 2010) did not allow the MSRB to impose assessments on municipal advisors. The next day, October 1, 2010, however, section 975(b)(2)(H)(i) of the Dodd-Frank Act went into effect, which allows the MSRB to assess municipal advisors. The version of section 15B(b)(2)(J) quoted in the SEC's request for comment issued on October 13, 2010 is the earlier, now outdated, version.

² On November 1, 2010, the MSRB also transmitted SR-MSRB-2010-14 proposing that municipal advisors be subject to the \$100 initial and \$500 annual registration fees imposed on broker-dealers. Registration fees represent much less than 10 percent of the MSRB's revenue currently and would be an even lower percentage after the assessments proposed in SR-MSRB-2010-10. Less than 800 municipal advisors have registered, so the total of their registration fees would be less than \$500,000 per year, about 3 percent of the increase proposed here and barely more than 1 percent of the MSRB's revenue if these increases are approved.