



By Electronic Delivery

November 18, 2013

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File No. SR-MSRB-2013-04
MSRB Proposed Rule G-45

Dear Ms. Murphy:

The College Savings Plans Network ("CSPN"), on behalf of its members, is pleased to have this opportunity to comment on the Securities and Exchange Commission's ("Commission") Order Instituting Proceedings to Determine Whether to Disapprove Rule G-45 proposed by the Municipal Securities Rulemaking Board ("MSRB"). We appreciate the Commission's interest in ensuring that the disclosure obligations of proposed MSRB Rule G-45 "are sufficiently balanced to support the MSRB's statutory obligation to protect both investors and municipal entities without being overly burdensome."¹

Established to make higher education more financially attainable, CSPN is a national non-profit association and the leading objective source of information about 529 college savings plans ("529 Plans"). An affiliate of the National Association of State Treasurers ("NAST"), CSPN works with its members to enhance 529 Plans and assist American families in planning and saving for higher education. CSPN members include state officials and state-sponsored 529 Plans, as well as program managers, investment managers, and many organizations providing services to 529 Plans, including legal, accounting and general consulting services.

¹ *Securities and Exchange Commission Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Instituting Proceedings to Determine Whether to Disapprove Proposed Rule Change Relating to a New MSRB Rule G-45, on Reporting of Information on Municipal Fund Securities*, SEC Release No. 34-70531 (Sept. 26, 2013) ("Commission Order") at page 21.

As noted in previous comment letters to the MSRB and the Commission², CSPN has long been supportive of the MSRB's need to collect available 529 Plan data necessary to "better position the MSRB to protect investors and the public interest."³ However, we are concerned with certain aspects of proposed Rule G-45 that we believe will cause confusion and undue and unnecessary burdens on the underwriters (as currently defined by proposed Rule G-45) required to provide 529 Plan data. To that end and for the reasons discussed below, we believe the Commission should disapprove proposed Rule G-45.

Endorsement of Investment Company Institute Comment Letter

CSPN is supportive of the comments relating to the Commission Order submitted by the Investment Company Institute ("ICI") and endorses its comment letter dated November 8, 2013 on File No. SR-MSRB-2013-04.

Additional Comments

In addition to the points raised by ICI in the above-referenced letter, CSPN wishes to present the following information:

Previous CSPN Comments Regard SR-2013-04

In the July 2013 Comment Letter, we noted agreement with the comments presented and issues addressed by ICI and provided additional comments regarding (i) the definition of the term "underwriter" as defined in proposed Rule G-45, (ii) the scope of the underwriter's duty proposed under Rule G-45, (iii) confidential and proprietary information, and (iv) the cost-benefit of data to be collected. Until the MSRB addresses each of the issues presented in the July 2013 Comment Letter (including those comments raised by ICI and adopted by CSPN) CSPN cannot be supportive of the adoption of Rule G-45.

² CSPN Letter to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board regarding MSRB Notice 2011-33, dated August 31, 2011 ("2011 Comment Letter"); CSPN joint comment letter with the College Savings Foundation ("CSF") to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board regarding MSRB Notice 2012-40, dated September 14, 2012 ("Joint Comment Letter"); CSPN comment letter to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board regarding MSRB Notice 2012-59, dated December 21, 2012 ("December 2012 Comment Letter"); CSPN comment letter to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission regarding File No. SR-2013-04, dated July 19, 2013 ("July 2013 Comment Letter"). Each such comment letter is hereby incorporated by reference and attached hereto for ease of reference.

³ See Order at page 20.

Earlier Considerations

CSPN has raised many of these same concerns to the MSRB in each of the 2011 Comment Letter, the Joint Comment Letter and the December 2012 Comment Letter.

In CSPN's 2011 Comment Letter, we noted the comprehensive comparative tool available on the CSPN website that "allows investors to compare 529 Plans by State and/or compare 529 Plans by feature."⁶ In that letter, CSPN noted that self-managed 529 Plans would not be required to submit data to the MSRB and that CSPN would, therefore, be the only available complete repository of information regarding 529 Plans.⁷ We also expressed concern regarding release of certain proprietary and confidential information to the public and the increased workload for 529 Plans, reflective of the potential need to restructure recordkeeping systems to comply with an MSRB data collection rule.

In the Joint Comment Letter, both CSPN and CSF addressed many issues regarding proposed Rule G-45 including, among others, (i) defined terms, (ii) whether the information proposed to be collected is in the underwriter's possession, custody or control, and (iii) the cost/benefit of providing certain data points under the proposed rule. With regard to information regarding investments underlying 529 Plan investment options, the Joint Comment Letter stated, in part:

Some commenters remarked that this information is not in their possession, custody, or control. As is common in the industry, the program manager and primary distributor are not the same entity as the issuer of the underlying investment. Therefore, to require reporting at the underlying investment level would require most reporting entities to provide another entity's data. In particular, we cannot say that every issuer of an underlying investment in a 529 Plan would agree to or approve an affiliated or unaffiliated third party disseminating its information to the MSRB and/or the public. In some cases, the issuer of an underlying investment may not be required itself to disclose any of the requested information to a regulator and/or the public.

As with the other subsections, there continues to be concern that, when combined, all of this information may provide a competitive advantage to other market participants if it is made publicly available.⁸

Finally, in the December 2012 Comment Letter, among other things, CSPN re-emphasized the issues surrounding whether some of the information proposed to be collected under Rule G-45 would be in the possession, custody and control of a 529 Plan underwriter (as defined in proposed Rule G-45).

⁶ See 2011 Comment Letter at page 2.

⁷ See 2011 Comment letter at footnote 2.

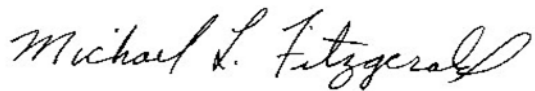
⁸ See Joint Letter at page 9.

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CSPN looks forward to the opportunity to work with the Commission and the MSRB to further refine and clarify the provisions of proposed Rule G-45 and the G-45 Manual to ensure that (i) the MSRB obtains the data necessary to carry out its obligation to protect investors and municipal entities, (ii) the data is made available to the MSRB in a manner that would protect proprietary information, and (iii) 529 Plan underwriters (as defined in proposed Rule G-45), state administrators, program managers and investment managers do not incur an excessive cost and workload burden to produce the data requested.

Thank you again for providing an opportunity to comment on the Order. We believe that disapproving proposed Rule G-45 will allow the MSRB to revise the proposed rule correct the issues discussed above. Please do not hesitate to contact us with any questions or for more information. You may reach CSPN by calling Chris Hunter at (859) 244-8177.

Sincerely,

A handwritten signature in black ink that reads "Michael L. Fitzgerald". The signature is written in a cursive, flowing style.

Hon. Michael L. Fitzgerald
Treasurer of Iowa and
Chairman, College Savings Plans Network

Cc: Investment Company Institute



August 31, 2011

Ronald W. Smith, Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

Re: Comments Concerning MSRB Notice 2011-33
Request for Comment on Plan to Collect Information on 529 College Savings
Plans

Dear Mr. Smith:

The College Savings Plans Network (CSPN), on behalf of its members, is pleased to have this opportunity to comment on MSRB Notice 2011-33, Request for Comment on Plan to Collect Information on 529 College Savings Plans issued July 19, 2011 (the "Notice"). CSPN appreciates the Municipal Securities Rulemaking Board's (the "MSRB") continuing guidance to assist investors seeking to purchase 529 College Savings Plans ("529 Plans" or "Plans") and its interest in centralizing the collection and dissemination of market information regarding 529 Plans. As demonstrated by the issuance of four updates to its Disclosure Principles, CSPN is very committed to assuring that investors have appropriate, consistent information to assist in their investment decisions regarding 529 Plans and would like to offer the following comments on the Notice.

Nature of 529 Plan Data

When making a decision to invest or continue to invest in a 529 Plan, the average investor considers many factors and data points regarding Plans as well as other market information. There is a significant amount of data regarding 529 Plans currently available in the marketplace, most notably, the free, comprehensive, reliable data available through CSPN.¹

Structures of 529 Plans are based on several different models. Some Plans are self-managed and therefore, not subject to the jurisdiction of the MSRB. While most plans offer age-based investment options, some do not. Age-based options follow several different models including the number of age-bands and conservative, moderate or aggressive investment styles. Many, but not all Plans offer fixed or static investment options comprised of one or more underlying

¹ <http://www.CollegeSavings.org>

investments or stand-alone investment options comprised of one underlying investment. With such diversity in modeling, data collection and analysis is burdensome and complex.

CSPN Website

CSPN's website, CollegeSavings.org, is the only source of complete, non-commercial information on 529 Plans. Because CSPN's membership includes all MSRB regulated as well as all non-MSRB regulated State sponsored 529 Plans, it has access to reliable and up-to-date data for the entire market. CSPN's website is frequently sourced by media outlets writing on the college savings industry and investors rely heavily on its thorough information. On average CollegeSavings.org receives more than 113,000 page views per month.

The website includes a 529 Plan Locator in which an individual selects any state name and is instantly linked to details about that state's 529 Plan(s). Once a Plan is selected, the landing page provides a direct link to the offering materials for that Plan and specific details including:

- Contact Information - This section includes the offering materials link and numerous links to other specific information, including performance data.
- Management Information - This section provides information about the program manager and the management contract.
- Plan Benefits - This section provides information about state tax deductions or credits, other tax treatment, and other incentives or benefits that may be offered by the Plan.
- Investment Options - This section lists the investment options offered by the Plan and, for each option, includes detailed information about fees, contribution minimums, and cost of investment. A link to Plan performance is also provided.
- Residency Requirements - This section includes a description of any residency requirements for participation in the Plan, if applicable.

In addition, CSPN's website offers a comprehensive comparison tool that allows investors to compare 529 Plans by State and/or compare 529 Plans by features.

CSPN Semi-Annual Report

Twice annually, CSPN publishes its 529 Report which includes the most pertinent industry-wide statistics. The 529 Report is available at CollegeSavings.org and includes nationwide information on 529 Plans, average account size, percent of accounts with activity, and total

number of accounts. Under CSPN's data collection policy, the only Plan level data that is publicly disclosed is total assets under management and total number of open accounts. CSPN has adopted this policy to ensure that the proprietary data of members is not intentionally or inadvertently disclosed by CSPN.

Plan Level and Portfolio Level Data

Relevant, meaningful Plan level data is currently publicly disseminated on 529 Plan websites, in offering materials, on the CSPN website and, to some extent, on commercially available websites. This data includes plan type, assets under management, total number of account owners, available investment options, fees, investment performance and tax considerations.

However, most portfolio level or investment option level data is not currently publicly available, particularly on a quarterly basis. Because requirements for disclosure of information to the public are generally determined by State law, each 529 Plan treats its portfolio level data differently. Some portfolio level data available to State administrators is not made publicly available because it is considered proprietary under State law and/or for competitive reasons, but remains subject to public information requests. Such requests happen rarely. In other cases, data available to State administrators is not publicly available and is not subject to public information requests. In these cases, for most 529 Plans, the information is considered confidential, proprietary and commercially sensitive.

Data Collection for MSRB Regulatory Purposes

As a general matter, CSPN is not opposed to the collection of data for MSRB regulatory purposes, as long as the data (i) are defined clearly and in a manner that does not conflict with State law and the data currently collected by CSPN and currently available commercial sites; (ii) does not require significant and costly systems modifications; and (iii) if identified by the submitter as confidential information under State law and/or for competitive reasons, remains confidential. Due to differences in Plan structure, CSPN requests a clear definition of what information is required for submission and also requests flexibility for Plans that do not have the systems in place to provide the exact data requested.²

² CSPN notes that self-managed Plans would not be required to submit information to the MSRB. Self-managed Plans may elect to voluntarily provide information to the MSRB on a case by case basis. Although, it should be noted that such Plans would not likely modify recordkeeping systems in order to provide such information.

In order for the MSRB's proposed data collection to be useful, the data collected must be comparable from Plan to Plan. Depending on the MSRB's method of collecting data, 529 Plans may have to rework the information that they already present in order to achieve this comparability. This can be costly for a Plan as it has the potential to create a significant workload and/or financial burden for some or all 529 Plans.

Currently, some of the data outlined in the Notice may not be available to the Plan for 30-60 days following a quarter. This schedule depends on when advisory boards, State Treasurers, and other State administrators meet to review quarterly Plan information. If data were required to be submitted to the MSRB on an accelerated schedule, many Plans could face a workload and/or financial burden in preparing and submitting the requested data.

CSPN is of the view that collecting data by investment category - (i.e. age-based and stand alone) may provide a better view of 529 Plan activity than portfolio level data. These data generally are not viewed as proprietary information by Plans. Because age-based portfolios are based on several different models, comparability among these portfolios would be difficult if information was collect at the portfolio level. Data by investment category for age-based and stand-alone investment options would provide the MSRB better information regarding the preferences of investors.

Finally, as noted above, CSPN currently collects 529 Plan data semi-annually. It would appear that quarterly data collection for regulatory purposes would not provide any additional trend or marketplace information. Therefore, to be consistent with industry-wide practice and to provide the MSRB with sufficient trend information, CSPN suggests that data be collected by the MSRB on a semi-annual basis using the same schedule as the CSPN 529 Report rather than on a quarterly basis.

Data Collection for Public Dissemination

CSPN is very supportive of meaningful free public access to information about 529 Plans and believes it is important to ensure information is distributed to the investing public in a user friendly fashion. CSPN believes that its website already provides such a resource and that, for the reasons outlined below, similar information offered through the MSRB would not necessarily enhance an investor's access to meaningful, free information.

Because the target market for the 529 Plan industry consists of moderate income investors, CSPN strives to offer Plan information in an innovative, easy to understand manner. Direct investors include inexperienced as well as experienced investors and they appreciate comprehensive comparative tools such as the tools available at CollegeSavings.org. In addition, since 529 Plans are retail products, many investors prefer and rely on one-on-one conversations with Plan representatives by phone or in person and live presentations made by State officials at PTA meetings and other local events.

An MSRB data source would most likely not include the entire 529 Plan marketplace which could lead to investor confusion and concern about the reliability of data. For example, in estimating total market size, the MSRB would not necessarily have access to total assets under management of those 529 Plans not subject to the jurisdiction of the MSRB. As a result, the MSRB website would report a different number for total assets held in 529 Plans nationwide than that already reported by CSPN. This will undoubtedly lead investors to question the reliability of the data provided by both CSPN and the MSRB.

CSPN also believes it is important to ensure that information provided to investors and potential investors is not presented out of context. Isolated data points can mislead investors. For this reason, CSPN is generally opposed to providing data points to the public which reflect total inflows or outflows by Plan and/or by portfolio. For example, comparisons of outflows might lead investors to believe that a particular 529 Plan is not a prudent investment simply because it has significant outflows. However, there are many reasons for outflows from a 529 Plan or individual investment portfolio. For example, rollovers are categorized as outflows from a portfolio but could be the result of several different actions. A transaction identified as a rollover could be a rollover to another investment option within the same 529 Plan. For some Plans, a transaction identified as a rollover could be a pre-scheduled, automatic liquidation of funds from one age-band to the next age-band. A rollover may also reflect an investor's decision to move money from an out-of-state Plan into a home-state Plan to take advantage of a State income tax deduction. Without a substantive context in which to analyze this data, an investor could be misled by certain portfolio level data.

Outflows may also include distributions. However, qualified and non-qualified distributions cannot be accurately tracked by Plans. A withdrawal that may appear to be a nonqualified withdrawal could represent funds that the account owner intends to reinvest in another 529 Plan, even another Plan offered by the same State. The Internal Revenue Service requires the account owner to classify qualified and non-qualified distributions on his or her federal tax

returns. Under federal law, 529 Plans have no clear authority or obligation to differentiate between a qualified and a non-qualified withdrawal.

Finally, CSPN notes that most Plans currently submit data through audited financial statements filed on EMMA. Because these financial statements include many of the data points suggested in the Notice, CSPN recommends use of the data in such statements.

Data Collection for the 529 Plan Industry

As industry participants, CSPN members do not view an additional source of public information as assisting them in the administration and management of 529 Plans. The combination of the Plan data available on the CSPN website, CSPN reports, including the semi-annual 529 Report and other resources supplies CSPN members with the comparative tools they require to operate their Plans effectively.

Specific MSRB Questions

1. Whether dealers who act as primary distributors of 529 plans have the ability to gather and report to the MSRB plan level contribution and withdrawal data on a quarterly basis?

Dealers who act as primary distributors of 529 Plans have the ability to gather and report to the MSRB plan level contribution and withdrawal data on a quarterly basis. As noted above, currently data may be compiled and provided to State program administrators anywhere from 30 to 60 days following each quarter.

2. Whether certain data would be difficult to produce to the MSRB on a quarterly basis or would result in an undue burden on dealers?

CSPN believes that it would not be difficult for 529 Plans to produce the five categories of data identified in the Notice. As noted above, additional data, including qualified and non-qualified withdrawals, is not easily tracked and is not universally available. Also as noted above, because each 529 Plan currently tracks Plan data in a different manner, depending on the final determination by the MSRB regarding types of data to be collected, many Plans may be

required to restructure their recordkeeping systems. Such restructurings may result in significant workload and operating expense increases for 529 Plans.

3. Whether dealers or issuers consider certain data proprietary, which should not be produced to the MSRB or displayed on EMMA?

As noted above, CSPN has been advised by its members that there is certain data that is proprietary to all 529 Plan administrators and program managers. This data includes all account level data and certain program management data. In addition, as discussed above, other data is proprietary depending on State laws regarding public information. This data includes total assets invested in each portfolio, total contributions to each Plan's portfolios and total withdrawals from each Plan's portfolios.

4. Whether there are other categories of data not described above that might be worthwhile to display on EMMA for the benefit of market participants or useful to the MSRB in its rulemaking process?

CSPN believes that it may be useful for the MSRB to receive for regulatory and marketing analysis purposes, information regarding the amount of assets by 529 Plan contributed via automatic contributions. It may also be helpful to receive data on average account size by 529 Plan. CSPN, however, does not believe that this information would be helpful for, nor should it be made available to, investors.

5. In what ways can the presentation of 529 plan documents and information on EMMA be improved to better serve investors and the general public?

CSPN respectfully submits that while EMMA is a very useful tool for municipal securities industry users, the average 529 Plan investor or prospective investor is not inclined to utilize EMMA as a research tool for their college savings needs. Because the 529 Plan marketplace is a retail market, simple to use, stylized comparative tools are available and have been shown to be the most effective.

6. While plan disclosure documents generally contain fee disclosures, should this information be presented on EMMA in a way that investors can compare the fees of different 529 plans?

Comparing fees, without context, could be misleading to investors. CSPN supports a comprehensive comparative tool, like the comparative tools currently available on the CSPN website, so that an investor can easily navigate through all of the key metrics in evaluating a possible investment. A comparison of fees alone, where, for example, fees or a range of fees are presented by 529 Plan without the additional detail, such as that included in the fee tables and other disclosures and comparisons presented in current 529 Plan disclosure materials and on the CSPN website, would greatly mislead investors and possibly place an undue emphasis on fees to the exclusion of other important investment metrics.

7. Finally, whether the MSRB should consider a rule change to permit the dissemination of plan disclosure documents electronically, as it does for other municipal securities, so that dealers could advise customers that the plan disclosure document is available for free electronically (on EMMA, for example) and that a printed version would be provided to the customer upon request?

CSPN is very supportive of an MSRB rule change to permit the dissemination of Plan disclosure documents electronically, so that Plans and/or dealers could advise customers that the Plan disclosure document is available for free electronically and that a printed version would be provided to the customer upon request.

As CSPN noted in its comment letter on MSRB Notice 2006-19 - Access Equals Delivery³, CSPN is generally in favor of access equals delivery for the 529 Plan marketplace. CSPN would generally support permitting official statement delivery requirements to be satisfied via posting on the Plan's website and any applicable centralized electronic access portal such as the CSPN website or EMMA. Offering materials are already available in an electronic format and a growing number of investors enroll and view their account information online. Dissemination of Plan disclosure documents in electronic form can benefit investors in several ways. Electronic versions of documents are searchable, always include the most current information and are printable when needed. Electronic delivery could significantly reduce the printing and mailing costs for 529 Plans, which might otherwise ultimately be passed on to investors.

Because CSPN's website currently provides centralized access to the full text of the offering materials made available by 529 Plans on their respective websites, CSPN believes that its

³ See CSPN Letter to Mr. Ernesto Lanza, Senior Associate General Counsel, Municipal Securities Rulemaking Board dated September 22, 2006 regarding MSRB Notice 2006-19 - Access Equals Delivery.

website should satisfy any access equals delivery standard developed for 529 Plans.⁴ Utilizing the CSPN website as the centralized access point for electronic disclosure would assist in limiting investor confusion. This would also support the MSRB's interest in assuring that current and prospective account owners can readily obtain 529 Plan disclosures from a centralized website so as to facilitate the comparison of 529 Plans.

CSPN believes that since 529 Plan industry practice is to deliver offering materials to 529 Plan investors prior to or at the time of the sale with no distinction between a "preliminary" official statement delivered prior to or at the time of sale and a "final" official statement delivered subsequent to sale, it would need to be clear that the "final" official statement includes Offering Materials whether delivered prior to, at the time of, or subsequent to the sale.

It may also be necessary to modify the access equals delivery standard to accommodate the continuous offering nature of 529 Plans and the fact that, while 529 Plan offering materials are generally updated at least annually (and often more frequently), this does not take place on a predetermined schedule. As a general rule, updates to offering materials are distributed to current Plan participants, included in subsequently distributed enrollment kits and posted online. Presumably, both of the following would be required in order for an access equals delivery standard to be relied upon in connection with a particular sale (i) a statement in offering materials that revised or new offering materials will be made available on the 529 Plan website, and on any applicable centralized website; and (ii) posting a notice on the 529 Plan website, and on any applicable centralized website, that revised or new offering materials are available.

Thank you for this opportunity to comment on the Notice. CSPN would be pleased to provide additional information or to have the opportunity to discuss its comments at your convenience.

Very truly yours,

A handwritten signature in cursive script, reading "Joan Marshall".

Joan Marshall
Chair
College Savings Plans Network

⁴ This would also provide a centralized access point for the offering materials of self-managed Plans that are not required to submit such documents to the MSRB.



By Electronic Delivery

September 14, 2012

Ronald W. Smith, Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

Re: Comments Concerning MSRB Notice 2012-40
Request for Comment on Draft Proposal to Collect 529 College Savings Plan
Data

Dear Mr. Smith:

The College Savings Plans Network (CSPN) and the College Savings Foundation (CSF) are national not-for-profit organizations which work with their members to enhance 529 plans and assist American families to plan and save for higher education. CSPN and CSF members include state officials and state-sponsored 529 plans, as well as program managers, investment managers, and many organizations providing services to 529 plans, including legal, accounting and general consulting.

As the two national associations representing the 529 industry, we appreciate the opportunity to comment on MSRB Notice 2012-40, Request for Comment on Draft Proposal to Collect 529 College Savings Plan Data issued August 6, 2012 (the "Notice" or "Notice 2012-40"). We appreciate the Municipal Securities Rulemaking Board's (the "MSRB") continuing commitment to assist investors seeking to purchase 529 College Savings Plans ("529 Plans" or "Plans") and its interest in the collection of market information regarding 529 Plans. We are dedicated to working with the MSRB in its efforts to gain a better understanding of the industry, its participants, and its customers and want to ensure that it receives appropriate, consistent information to assist in its regulatory oversight of 529 Plan dealers. In addition, as noted in our responses to both MSRB Notice 2011-33 and MSRB Notice 2012-10, we fully support a transparent 529 marketplace and broad dissemination of relevant information.

CSPN remains very supportive and committed to provide meaningful free public access to information about 529 Plans and continues to believe that its website already provides such a resource. CSPN continues to enhance the information available to the public regarding 529 Plans as evidenced by the recent addition of Plan performance information. CSPN continues to believe that an MSRB data source may not necessarily be the best resource for those planning to save for college and appreciates the MSRB's commitment to keep the data proposed to be collected confidential unless and until a new Request for Comment is issued.

Similarly, CSF understands and applauds the MSRB's goal of having a centralized system for data collection and dissemination for the 529 industry's market participants. As stated in its response to MSRB Notice 2011-33, CSF believes that, once collected, the key to effectively sharing this data is to first and foremost consider the audience who will be using it. Given that there are already established and authoritative 529 industry sites which collect data and distribute it to these audiences including those produced by CSPN and FRC, it will be useful to continue discussing whether certain existing sites could be selected by the MSRB to more efficiently meet its goals in this matter.

To provide the MSRB with the most relevant data in the time period allotted, we submitted a survey to our members on the material issues presented in the Notice. While we have received a number of responses to the survey, our members are still evaluating how the Notice impacts them and their operations. As such, we would ask that the MSRB be willing to further discuss these issues and their impact on our industry in the near future.

A common theme in initial survey responses, a summary of which is found immediately below, is that while much of the data the Notice requests is already being collected, the methodology under which that information is assembled does not always match with what the Notice requires. For example, while all plans collect data on contributions, some plans include investment changes in their contribution calculations. This is in contrast with the Notice's requirement that investment changes not be included in quarterly contribution data. The industry is working toward greater consistency in the methodology for collecting and reporting data.

MSRB Notice 2012-40 Survey Results

I. Rule G-45 – Defined Terms

We respectfully request clarification of several defined terms presented in Rule G-45 as follows¹:

¹ Many of our views with regard to defined terms under proposed Rule G-45 are consistent with and, in some cases, identical to those views expressed by the Investment Company Institute in their comment letter to be submitted regarding the Notice.

A. “Asset Class”

It is unclear to us whether the proposed definition of “asset class” is intended to refer to (i) the types of investments held in a 529 plan, (ii) the types of mutual funds held in a 529 plan, and/or (iii) the types of securities or other assets held by an underlying mutual fund. To avoid confusion and capture useful information in a manner that is consistent across the industry, we recommend that the MSRB define this term as follows:

“Asset class” shall mean: Domestic Equity; International Equity; Fixed Income; Cash or Cash Equivalents; or Other (please specify).

Should the MSRB disagree with this recommendation, we recommend that at the very least it define this term with greater specificity to avoid confusion among filers and ensure the comparability of information reported on Form G-45.

B. “Benchmark”

As discussed below, we recommend that Form G-45 not include performance information (including benchmark information and performance). If the MSRB adopts this recommendation, the term “benchmark” will no longer be needed and should be deleted.

C. “Contributions”

The MSRB proposes to define contributions in a way that would exclude from this term “withdrawal of funds from one strategy or portfolio and deposit of the same funds into another strategy or portfolio, such as where an account owner selects a different investment option or funds are moved from one age-band to another as beneficiaries approach college age.” We recommend eliminating this exclusion for two reasons.

First, a primary distributor often will not know which portions of a 529 plan’s total contributions represent either rollovers or a reallocation of assets in different investment options. The primary distributor’s role in the 529 plan is either to sell plans to investors, to execute sales agreements with retail broker-dealers selling 529 plans, or both. While the plan’s investment manager or recordkeeper may be aware of the amount of plan assets involved in these rollovers or reallocations because they may be involved in processing those transactions, it is not likely that the primary distributor would possess this information. The records for individual plan participants, and the allocation of their accounts among investment alternatives, would be maintained by the plan’s recordkeeper – which is not necessarily the primary distributor. Without knowing the amount of assets that represent rollovers or reallocations, a primary distributor would be unable to compute “contributions” as required by Form G-45. Further, because the Form only requires primary distributors to report information within their possession, custody, or control, it is likely that many Form G-45 filings would contain no information on contributions, which is obviously not what the MSRB intends.

In addition to eliminating the exclusion for rollovers or reallocations from the proposed definition of “contributions,” we recommend deleting the phrase “whether by existing account owners or new account owners.” Not all deposits come from an “account owner.” Instead, contributions to an account could come from relatives or friends of the account owner who want to contribute to the beneficiary’s 529 plan account. Also, the source of funds deposited into an account is likely not information recorded or tracked by the 529 Plan. Requiring the reporting of “all deposits” without regard to source would appear to provide the information of interest to the MSRB, thereby obviating the need to include this clause.

Based on all of our comments, we recommend that the term “contributions” be defined to mean “all deposits into a 529 plan account.” If the MSRB disagrees with this approach, we suggest that the term “contributions” be defined to allow an underwriter to submit contribution data in either format (i.e. – excluding withdrawals from one investment option to another *or* including all deposits).

D. “Distribution”

Like the definition of “contributions,” the MSRB has proposed to carve out from the definition of “distribution” those assets that are moved among investments or strategies. We oppose this carve out for the same reason we oppose it in connection with contributions. Accordingly, we recommend that the term “distribution” be defined to mean “the withdrawal of funds from a 529 plan account.”

E. “Manner of Distribution”

To prevent confusion, a term other than “Manner of Distribution” could perhaps be used to describe how 529s are sold to the public. The Notice correctly defines the term “Distribution” as the process of withdrawing money from an account. Using “Distribution” as part of a term that describes 529 marketing may lead to confusion.

F. “Performance”

We suggest that the definition of performance be expanded to define performance as that information described in CSPN’s Disclosure Principles Statement No. 5, adopted May 3, 2011, (“Disclosure Principles”). The industry uses the narrative and tables included in the Disclosure Principles as the guide for presenting performance information. Performance information is also presented in this format on the CSPN website. Revising the definition of “performance” to reflect the Disclosure Principles will also decrease the administrative burden for those underwriters required to submit data.

We also recommend that the MSRB revise the frequency of reporting this information. We note that SEC rules require mutual funds to provide performance information in their prospectuses and in annual reports to shareholders. There is no quarterly or even semi-annual performance reporting requirement and, therefore, it is unclear why the MSRB would require

more frequent reporting of 529 plan performance. We believe that, if the MSRB retains the requirement for performance reporting on Form G-45, any such requirement should apply on an annual basis to be consistent with SEC rules.

G. “Portfolio”

The MSRB proposes to define “portfolio” to mean “the most basic legal entity into which account owner funds are deposited, such as a registered investment company.” We believe that the proposed definition may not be reflective of the manner in which 529 Plans typically use this term and therefore may be confusing. Based on the inclusion of the term “registered investment company”, we presume that the MSRB is seeking to collect data regarding the investments that underlie a 529 Plan investment (i.e. – an investment option may consist of three mutual funds from one or more registered investment companies).

If this is correct, we suggest that the term “portfolio” be replaced with the term “underlying investment”² in order to be consistent with industry guidance included in the Disclosure Principles. CSPN also believes that the term “underlying investment” is more commonly used in the industry and more descriptive. If the MSRB intends for “portfolio” to have another meaning, we recommend a definition with greater specificity.

H. “Program Manager”

Under the MSRB’s proposed definition, a “program manager” would have to provide “investment advisory and management services, administrative and accounting functions, *and* marketing and other services related to the day-to-day operation of the plan.” We understand that not all program managers provide all of these services. Accordingly, we recommend replacing the italicized “and” in the first sentence of this paragraph with “or.” This change will ensure that each plan has at least one entity that would qualify as a “program manager.”

I. “Strategy”

“Strategy” would be defined to mean “a combination of more than one portfolio through which funds of account owners are allocated to achieve a particular investment outcome.” As with other proposed definitions, we are uncertain as to its intended meaning. We believe that the MSRB intends to capture the actual investment options offered by a Plan (i.e. – age-based options and fixed investment options, and stand-alone investment options, each of which may be comprised of one or more underlying investments). We, therefore, recommend that the MSRB replace the term “strategy” with the term “investment option” in order to be consistent with industry guidance included in the Disclosure Principles. CSPN also believes that the term “investment option”³ is more commonly used in the industry and more descriptive. If the MSRB

² For purposes of this letter, we will continue to refer to the term “portfolio” as “underlying investment”.

³ For purposes of this letter, we will continue to refer to the term “strategy” as “investment option”.

intends for “strategy” to have another meaning, we recommend a definition with greater specificity.

II. Form G-45 Survey Results

A. Section (i)(A-F) Plan Descriptive Information

As perhaps would be expected, none of the respondents to our survey reported any concerns with the collection and submission of the basic Plan descriptive information listed in the Notice.

B. Section (ii) Aggregate Plan Information

Comments on Particular Subsections:

a. Subsection (ii)(B) Total Contributions for the most recent quarter, and the percentage of those contributions derived from automatic contributions:

Some respondents stated that while they do gather information on data points like contributions, they arrive at their contributions totals in a manner different from the one described in Notice 2012-40. As currently written, Form G-45 requires the total number of contributions in a quarter. The draft of Rule G-45 defines both “Contributions” and “Distributions” as not including account activity caused as a result of investment direction changes. However, some Plans include their customers’ investment changes in their contribution/distribution tallies.

In addition, some Plans regard contribution information as proprietary stating that the data, if made public, could provide a competitive advantage to other market participants. Still others do not collect this information on a quarterly basis.

Others expressed concern about obtaining and providing information on automatic contributions. As currently written, Form G-45 appears to require that all automatic contributions be reported for a given quarter. However, some Plans do not track this activity or only track ACH transfers from particular financial institutions and do not have the ability to tabulate the number of direct deposits from other sources.

b. Subsection (ii)(C) Total distributions for the most recent quarter:

As stated immediately above, Plans have different ways of calculating distribution levels which, in some cases, includes counting investment direction changes. In addition, like contribution levels, some respondents view this information as proprietary.

c. Subsection (ii)(D) Fee and Expense structure for fees and expenses directly and indirectly paid by account owners as of the end of each quarter:

Several respondents noted that reporting fees quarterly would require some changes to their existing reporting structure. In addition, some stated that providing quarterly fee and expense information on underlying fees could prove difficult as it is outside their normal processes.

In addition, we note that the MSRB has indicated that “[t]o avoid additional expense, primary distributors would submit information in the format suggested in Exhibit A to CSPN’s Disclosure Principles Statement No. 5 (May 3, 2011)”. We appreciate the MSRB’s desire to minimize the burden of reporting for each 529 Plan. However, because of unusual fee structures of some Plans, the Disclosure Principles specifically states:

Suggested fee and cost tables are attached as Exhibit A. If a Savings Plan includes fees and costs in categories that differ from the categories included in Exhibit A, then a different tabular presentation that is at least as specific as the tables attached as Exhibit A should be used.

Several Plans rely on the guidance in the Disclosure Principles to present an alternative fee table. We propose that the MSRB adopt a similar approach with regard to presentation of fees under Rule G-45 to ensure that all Plans are able to comply with the Rule.

C. Section (iii) Information Regarding Each Investment Strategy (investment option):

General Comments: Several respondents noted that they would have difficulty reporting available data regarding investment options 30 days after quarter end and suggested a number of different time frames ranging from 45 to 90 days as more realistic. Others reserved estimating a response time until they could obtain further clarification on the type of information requested in this section. Also, several noted that the term “Strategy” needed clarification with some asking whether it was solely referring to age-based strategies (*See Section I.I above*). In addition, there continued to be concern that, when combined, all of this information may provide a competitive advantage to other market participants if it is made publicly available. Comment was also received questioning the materiality of this information to the regulatory process asserting that it was the sponsoring state’s responsibility to ensure that the investment options are appropriate.

Comments on Particular Subsections:

a. **Subsection (iii)(E) Asset class allocation as of the end of the most recent quarter:**

One respondent asked who would determine the type of asset class – the Primary Distributor or the MSRB.

b. **Subsection (iii)(F) Name of each portfolio in each strategy and percentage allocation of each portfolio in each strategy:**

A respondent questioned whether the MSRB was seeking actual asset class allocation and underlying investment allocation or targeted allocations. Some commented that targeted allocations are more easily reportable while actual allocations are not currently calculated quarterly or easily reportable in that time frame.

c. **Subsection (iii)(H) Name of benchmark, if any:**

A respondent noted that these are customized to each investment option and are not easily reportable and another stated that the information may be proprietary.

d. **Subsection (iii)(I) Benchmark performance for the most recent quarter:**

The same comments made on Subsection (iii)(H) immediately above were also made for this information.

e. **Subsection (iii)(J) Total contributions for the most recent quarter and Subsection (iii)(K) Total distributions for the most recent quarter:**

As was pointed out above, some Plans do not calculate their contributions and distributions in the manner proscribed under the current draft of Rule G-45 or collect it on a quarterly basis. In addition, some Plans' systems are currently designed to aggregate this information not to break it down so that it could be reported as envisioned. Other respondents stated that, currently, their systems do not track contributions and distributions at the investment option level.

A respondent also stated that they do not believe that knowing actual contributions and distributions of an investment option is of significance to a 529 investor. They noted that there are many reasons why a customer selects an investment option and it should not be based on contribution and distribution figures. Sales and redemption figures are not reported by Fund families for mutual funds and there is no clear reason why the 529 industry should be subject to such a requirement.

D. Subsection (iv) Information regarding each individual portfolio (underlying investment):

General Comments: Some commenters remarked that this information is not in their possession, custody, or control. As is common in the industry, the program manager and primary distributor are not the same entity as the issuer of the underlying investment. Therefore, to require reporting at the underlying investment level would require most reporting entities to provide another entity's data. In particular, we cannot say that every issuer of an underlying investment in a 529 Plan would agree to or approve an affiliated or unaffiliated third party disseminating its information to the MSRB and/or the public. In some cases, the issuer of an underlying investment may not be required itself to disclose any of the requested information to a regulator and/or the public.

As with the other subsections, there continues to be concern that, when combined, all of this information may provide a competitive advantage to other market participants if it is made publicly available. In addition, a respondent stated that while the information requested in Subsections (iv)(D-J) could be obtained from its system, it was currently not in a reportable format thus necessitating that a new report be created, tested, and implemented in order to deliver the data requested.

Comment was also received questioning the materiality of this information to the regulatory process and its usefulness given that the performance figures will be provided at investment option level. For any data on individual underlying investments that is readily available, Plans report that they would need anywhere from one to six months to develop and produce the required reports. As some primary distributors do not normally collect the data requested in the format and/or frequency required by proposed Rule G-45, the consensus appears to be that extensive development work would be required to create the necessary reports. Opinions widely vary over how long these new reports would take to develop, test, and implement with estimated time frames ranging from two months to two years.

Comments on Particular Subsections:

a. Subsection (iv)(I) Total contributions for the most recent quarter & Subsection (iv)(J) Total distributions for the most recent quarter:

One respondent remarked that quarterly contributions and distributions at the individual underlying investment level would be more complicated to calculate for the age-based underlying investments as they consist of a variety of underlying funds. In addition, it is the practice of some to measure contributions and distributions at the Plan or underlying investment level, not the investment option level. Finally as stated repeatedly above, it is also the practice by some to include investment direction changes in the calculation of contributions and distributions which differs from proposed Rule G-45's methodology.

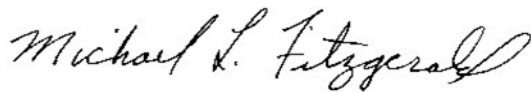
Ronald W. Smith, Corporate Secretary

September 14, 2012

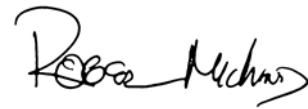
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Thank you again for providing an opportunity to comment on the Notice. We hope our comments and our actions as an industry convey our commitment to ensuring that the marketplace is equipped with meaningful, accurate information regarding 529 Plans. Please do not hesitate to contact us with any questions or for more information. You may reach CSPN by calling Chris Hunter at (859) 244-8177 and CSF by calling Kathy Hamor at (703) 351-5091.

Sincerely,

A handwritten signature in cursive script that reads "Michael L. Fitzgerald".

Hon. Michael L. Fitzgerald
Treasurer of Iowa and
Chairman, College Savings Plans Network

A handwritten signature in cursive script that reads "Roger Michaud".

Roger Michaud
Chairman,
College Savings Foundation



By Electronic Delivery

December 21, 2012

Ronald W. Smith, Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

Re: Comments Concerning MSRB Notice 2012-59
Second Request for Comment on Draft Rule Requiring Underwriters to Submit
529 College Savings Plan Information to the MSRB

Dear Mr. Smith:

The College Savings Plans Network (CSPN), on behalf of its members, is pleased to have this opportunity to comment on MSRB Notice 2012-59, *Second Request for Comment on Draft Rule Requiring Underwriters to Submit 529 College Savings Plan Information to the MSRB* issued November 23, 2012 (the "Notice" or "Notice 2012-59"). We appreciate the Municipal Securities Rulemaking Board's (the "MSRB") continuing commitment to assist consumers seeking to invest in 529 College Savings Plans ("529 Plans" or "Plans") and its interest in the collection of market information regarding 529 Plans. We are dedicated to working with the MSRB in its efforts to gain a better understanding of the industry, its participants, and its customers and want to ensure that it receives appropriate, consistent information to assist in its regulatory oversight of 529 plan dealers. In addition, as noted in our responses to both MSRB Notice 2011-33, MSRB Notice 2012-10 and MSRB Notice 2012-40, we fully support a transparent 529 marketplace and broad dissemination of relevant information.

CSPN appreciates the MSRB's efforts to limit the initial set of data to be collected as well as its efforts to work within reasonable time frames in order to provide 529 plan underwriters sufficient time to collect, organize, and deliver the requested data. We believe that most of the issues identified in our comment letter on Notice 2012-40¹ have been resolved. However, we offer a few additional observations and concerns for the MSRB's consideration.²

¹ See joint letter of the College Savings Plans Network and the College Savings Foundation to Ronald W. Smith, Corporate Secretary, MSRB, dated September 14, 2012 commenting on MSRB Notice 2012-40 (the "Joint Letter").

² In addition, as noted in the Joint Letter, CSPN appreciates the MSRB's commitment to keep the data proposed to be collected confidential unless and until a new Request for Comment is issued.

College Savings Plans Network Disclosure Principles Statement No. 5

CSPN agrees with the MSRB's approach of tying key disclosures to the format presented in our College Savings Plans Network Disclosure Principles Statement No. 5 ("Disclosure Principles"). The Disclosure Principles are the result of an extensive review and analysis of the type and format of data available under the operating structure of each separate 529 plan. Accordingly, CSPN firmly believes that the Disclosure Principles provide state-of-the-art guidance for each 529 plan in preparing Offering Materials (as defined in the Disclosure Principles) for dissemination to the public.

In order to achieve uniformity among 529 plan disclosure, the Disclosure Principles have been structured to provide consistency with regard to core plan metrics – namely fees and expenses and performance information. In each case, the Disclosure Principles offer sample tabular formats. However, recognizing the variance in the operational structure of each plan, the Disclosure Principles state:

The description of fees and costs should include a fee and cost table. Suggested fee and cost tables are attached as Exhibit A. *If a Savings Plan includes fees and costs in categories that differ from the categories included in Exhibit A, then a different tabular presentation that is at least as specific as the tables attached as Exhibit A should be used.* State Issuers are encouraged to add an introductory paragraph to such tables, explaining principles followed and assumptions made by the State Issuer in preparing the tables. State Issuers are also encouraged to add explanatory footnotes to the fee and cost tables in order to make such tables clear and understandable. [emphasis added]³

The Disclosure Principles also state that:

The description of the performance of investment options should include a performance table. A suggested performance table for Direct-Sold Savings Plans is attached as Exhibit B. A suggested performance table for Advisor-Sold Savings Plans is attached as Exhibit C. *If a Savings Plan includes performance in categories that differ from the categories included in Exhibit B or Exhibit C, as applicable, then a different tabular presentation that is at least as specific as the suggested tables attached hereto should be used.* In order to make the table clear and understandable, State Issuers are encouraged to add explanatory text or footnotes to each performance table, explaining principles followed and assumptions made by the State Issuer in preparing the table. Finally, State Issuers are encouraged to add additional information that, in their judgment, enhances a

³ College Savings Plans Network Disclosure Principles Statement No. 5 Section 3(F), paragraph 2.

user's understanding of the Direct-Sold or Advisor-Sold Savings Plan's performance, as applicable. [emphasis added]⁴

In each case, the language was carefully written to ensure that all 529 plans, regardless of marketing and distribution methods and operational structure, could provide a standardized presentation of fees and expenses and performance. To that end, CSPN believes it important to build that same flexibility into proposed Form G-45. CSPN suggests that specific language from the Disclosure Principles be added to Rule G-45, Form G-45 and/or the G-45 Manual to allow for flexibility in presenting a "different tabular presentation that is at least as specific" as the sample tables included in the Disclosure Principles. If this flexibility is not provided, CSPN believes that an undue burden will be placed on several 529 plans that generally report this information in an alternative manner.⁵

In addition, CSPN is of the view that specific instructions should be included in Form G-45 and/or the G-45 Manual allowing for each underwriter to include specific explanatory text and/or footnotes as is permitted by the Disclosure Principles. This will enable each underwriter to properly categorize its data, thereby facilitating the MSRB's interest in receiving disclosure that is clear, uniform and formatted consistently with the Disclosure Principles and the plans' Offering Materials.⁶

Rule G-45 Definitions: Marketing Channel

CSPN notes that direct sold 529 plans are distributed and marketed in a variety of ways, online, by telephone, to walk-in customers, etc. Therefore, for clarification purposes, CSPN recommends revision to the definition of "marketing channel" to allow for a broader method by which to encompass all direct sold plans in the definition as follows:

(vii) The term "marketing channel" shall mean the manner by which municipal fund securities that are not local government investment pools are sold to the public, such as through a broker, dealer or municipal securities dealer that has a selling agreement with an underwriter (commonly known as "advisor-sold") or through a website, toll-free telephone number or other direct means (commonly known as "direct-sold").⁷

⁴ Disclosure Principles Section 3(G), Paragraph 2.

⁵ In many cases, 529 plan administrators and program managers have determined that the tabular presentation suggested by the Disclosure Principles requires explanation by footnote and/or additional or different columns in order to provide true comparative information.

⁶ See also comments under *Form G-45 I. Aggregate plan information: Fees and Expenses* below.

⁷ Underlined language represents proposed changes to the definition.

Rule G-45 Definitions: Reallocation

CSPN appreciates the definitional clarifications made to proposed Rule G-45. For clarity, we propose a modification to the definition of “reallocation” as follows:

(xii) The term “reallocation” shall mean the withdrawal of funds from one investment option in a plan and deposit of the same funds into one or more investment options in the same plan, such as where an account owner selects a different investment option or funds are moved from one age-band to another as beneficiaries approach college age.⁸

Rule G-45 Definitions: Underlying Investments

CSPN appreciates the improvements made to the definition of “underlying investments” (originally proposed to be defined as “portfolio”), but believes some additional clarification is needed. The MSRB proposes to define “underlying investments” to mean “a registered investment company, unit investment trust, or other investment product that is a component of an investment option.” However, 529 plans are structured so that the underlying investments are not “components of” the investment option, but separate, stand-alone investments that typically have a separate legal existence. For instance, the mutual funds into which an investment option invests are not part of the 529 plan trust. Without clarification, we believe the definition implies that the underlying investments are part of the 529 plan trust and its investment options. Accordingly, CSPN suggests the following revised definition of underlying investment:

(xiii) the term “underlying investment” shall mean a registered investment company, unit investment trust, or other investment product in which an investment option invests.⁹

Form G-45

I. General

CSPN notes the MSRB’s response to Comment 7 presented in the Notice. We believe that, for clarity, it is important for proposed Rule G-45 to specify that underwriters (as defined in proposed Rule G-45) are only obligated to provide information that is in their possession, custody or control. As currently written, Rule G-45 implies, if not provides, that an underwriter would be obligated to obtain information that is not its own, that of an affiliate, a subcontractor, program manager or state administrator. Specifically, underwriters do not always have access to data provided by a selling dealer to the 529 plan’s record-keeper. In those cases, the underwriter

⁸ Underlined language represents proposed changes to the definition.

⁹ Underlined language represents proposed changes to the definition.

may have no legal right to such information. Without clarification, Rule G-45 would place an undue burden on the underwriter to obtain information from parties with which it has no contractual or other relationships.

II. Aggregate plan information: Fees and Expenses

Most 529 plans update Offering Materials on an annual basis as well as for material disclosure and plan changes. This reflects the fact that most 529 plans do not update and/or change fees and expenses generally more often than annually. Therefore, we believe that it would be more appropriate for Section (ii) (D) of Form G-45 to read as follows:

Fee and expense structure for fees and expenses directly or indirectly paid by account owners in effect as of the end of each semi-annual reporting period.¹⁰

In this regard, it would also be helpful for Rule G-45, the Form G-45 or the G-45 Manual to clarify that a 529 plan underwriter may footnote the fee and expense table presented to indicate the effective date of such fees and expenses.

III. Information regarding each investment option: Performance Data

CSPN notes that the MSRB is proposing to collect performance data for the most recent calendar year as well as benchmark performance data for the most recent calendar year. If the MSRB is proposing to collect only annual data, CSPN suggests the Form G-45 and/or the G-45 Manual specify that such information would not be required from underwriters as part of their mid-calendar year data submission.

* * * * *

Thank you again for providing an opportunity to comment on the Notice. We believe these additional changes to the proposed rule and form will ensure that underwriters satisfy the MSRB's data collection needs without incurring an undue reporting burden. Please do not

¹⁰ Underlined language represents proposed changes to the language of Section (ii)(D) of proposed Rule G-45.

Ronald W. Smith, Corporate Secretary
December 21, 2012
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hesitate to contact us with any questions or for more information. You may reach CSPN by calling Chris Hunter at (859) 244-8177.

Sincerely,

A handwritten signature in black ink that reads "Michael L. Fitzgerald". The signature is written in a cursive style with a large, stylized "M" and "F".

Hon. Michael L. Fitzgerald
Treasurer of Iowa and
Chairman, College Savings Plans Network



By Electronic Delivery

July 19, 2013

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

Re: Comments Concerning MSRB Rule G-45
File No. SR-2013-04

Dear Ms. Murphy:

The College Savings Plans Network (CSPN), on behalf of its members, is pleased to have this opportunity to comment on the Municipal Securities Rulemaking Board's (the "MSRB") proposed Rule G-45, on reporting 529 College Savings Plan ("529 Plan" or "Plan") data and Form G-45. CSPN has provided significant input to the MSRB as it has developed proposed Rule G-45 and applauds the MSRB's continuing commitment to assist and protect consumers seeking to invest in 529 Plans, a commitment shared by CSPN.

Established to make higher education more financially attainable, CSPN is a national non-profit association and the leading objective source of information about 529 Plans. An affiliate of the National Association of State Treasurers (NAST), CSPN works with its members to enhance 529 Plans and assist American families in planning and saving for higher education. CSPN members include state officials and state-sponsored 529 Plans, as well as program managers, investment managers, and many organizations providing services to 529 Plans, including legal, accounting and general consulting services.

Endorsement of Investment Company Institute Comment Letter

CSPN is supportive of the comments relating to proposed Rule G-45 and Form G-45 submitted by the Investment Company Institute and endorses its comment letter dated July 16, 2013 on File No. SR-2013-04.

Additional Comments

In addition to the points raised by the Investment Company Institute in the above-referenced letter, CSPN wishes to present the following information:

Required Submitters and MSRB Jurisdiction

In the second paragraph on page 15 of the Form 19b-4 filed by the MSRB, File No. SR-2013-04 (the “Rule Proposal”)¹, the MSRB states in part

ICI notes that 529 plans have only one underwriter, the primary distributor, and that many other entities are involved in operating and maintaining a plan, such as the plan’s program manager, record-keeper, investment manager, custodian and state sponsor. ICI suggests that none of these entities would qualify as an underwriter under the proposed rule. MSRB disagrees. Under SEC Rule 15c2-12(f)(8), an underwriter is defined broadly and may include one or more of the entities identified by ICI.

The term “underwriter” as defined in proposed Rule G-45, means “***a broker, dealer or municipal securities dealer that is*** an underwriter, as defined in Securities Exchange Act Rule 15c2-12(f)(8)...” (emphasis added). Although the term “underwriter” as defined under Rule 15c2-12(f)(8) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”) is indeed “defined broadly”, both Rule 15c2-12 and Rule G-45 narrow that broad definition by limiting it to entities that are brokers, dealers or municipal securities dealers. By eliding that requirement from the above statement in the Rule Proposal and asserting that “one or more” of a list of entities that includes “state sponsor” may constitute an “underwriter”, the MSRB creates the implication that a state sponsor may be treated as an underwriter for purposes of Rule G-45. That is of course not the case, as a state sponsor is not a “broker, dealer or municipal securities dealer.” Section 3(d) of the Exchange Act states that

No issuer of municipal securities or officer or employee thereof acting in the course of his official duties as such shall be deemed to be a “broker”, “dealer”, or “municipal securities dealer” solely by reason of buying, selling, or effecting transactions in the issuer’s securities.

¹ See also pages 36-37 of the Rule Proposal.

CSPN would not wish the approval of Rule G-45 to leave on record any suggestion that a municipal securities issuer could be considered an “underwriter” for purposes of proposed Rule G-45. While that may not have been the intent of the MSRB’s language on page 15 of the Rule Proposal, we request confirmation from the Commission that proposed Rule G-45 only is applicable to brokers, dealers and municipal dealers that are “underwriters”, and therefore is inapplicable to municipal securities issuers exempted under Section 3(d) of the Exchange Act.

Scope of Underwriter’s Duty under Rule G-45

In response to concerns that proposed Rule G-45 and Form G-45 may require underwriters to report information they do not possess, the MSRB states, at page 15 of the Rule Proposal:

The proposed rule change will only require underwriters to produce information that they possess or have a legal right to obtain, such as information in the possession of an underwriter’s subcontractor.

There is nothing in the text of Rule G-45 or Form G-45 that limits the underwriter’s duty in the manner suggested in the Rule Proposal. Rule G-45 requires underwriters to submit the information specified in Form G-45, and Form G-45 has no language limiting such information to information in the underwriter’s possession. At a minimum, the limitation stated by the MSRB on page 15 of the Rule Proposal should be reflected in the wording of Rule G-45 and/or Form G-45.

CSPN is also concerned by the MSRB’s suggestion that information “in the possession of an underwriter’s subcontractor” is information that an underwriter must obtain and disclose under proposed Rule G-45. CSPN agrees that, as to books and records an underwriter is otherwise required to maintain under Rule G-8, if the underwriter chooses to have another entity maintain such books and records on its behalf (for example, a transfer agent as permitted in the case of municipal fund securities by MSRB Rule G-8(g)(i)), the fact that such information is housed at another entity does not change its character as information that the underwriter is responsible for maintaining under Rule G-8, and accordingly information that the underwriter is responsible for providing on Form G-45. However, that is a situation where the “subcontract” exists for the precise purpose of facilitating the underwriter’s compliance with Rule G-8.

With one exception², all 529 Plans, on the other hand, involve a state sponsor that typically requires and bids out a bundle of services, including, in addition to distribution of

² The Private College 529 Plan is sponsored by an eligible educational institution pursuant to Section 529(b) of the Internal Revenue Code.

municipal fund securities (i.e. “underwriting”), record-keeping for the 529 Plan (i.e., for the state sponsor, not for the underwriter), investment management, and Plan administration. It is common for different affiliated entities within a mutual fund complex to provide some or all of the services, sometimes in combination with some unaffiliated entities. Contracting patterns vary: in some instances, a single entity, the “program manager”, may enter into a contract with a state sponsor to provide all the services, directly or through affiliates or subcontractors; in other instances, all entities involved in servicing the 529 Plan may be party to a single contract or separate contracts with the state sponsor relating to their respective services. Such affiliated entities or subcontractors or additional contractors are not retained to discharge the underwriter’s regulatory duties, but to service the common client, the Plan sponsor.

CSPN is concerned that, in the context of 529 Plans, the MSRB’s suggestion that the underwriter’s disclosure obligation under Rule G-45 extends to “information in the possession of an underwriter’s subcontractor “ will produce confusion and disparate reporting results, as, depending on factors entirely unrelated to Rule G-45 regulatory compliance, particular information specified in Form G-45 may be in the possession of an underwriter’s “subcontractor”, in the possession of an unaffiliated entity that is not a subcontractor, or in the possession of an affiliated entity that is not a subcontractor. Privacy laws and contractual requirements may or may not permit one affiliate or contractor to share information with the underwriter. CSPN does not object to Rule G-45 to the extent it requires an underwriter to make available to the MSRB information that the underwriter, an entity subject to the MSRB’s regulatory jurisdiction, acquires in the ordinary course of providing underwriting services. However, CSPN is concerned by the suggestion that, in the context of 529 Plans, contractual happenstance may result in a requirement that the underwriter provide to the MSRB Plan-related data that has nothing to do with the underwriting function, is not gathered by the underwriter in the ordinary course of its underwriting role and is not disclosed by the state sponsor in the offering materials that the underwriter uses in connection with the distribution of the municipal fund securities.

Accordingly, CSPN requests that Rule G-45 be clarified to indicate that an underwriter is required to provide the information specified on Form G-45 only to the extent such information relates to the distribution by the underwriter of municipal fund securities and is in the underwriter’s possession or maintained by another entity on the underwriter’s behalf for the purpose of complying with MSRB rules applicable to the underwriter.

Confidential or Proprietary Information

CSPN notes that proposed Rule G-45 and Form G-45 do not provide an exemption for disclosure of commercially sensitive or proprietary information (collectively, “Confidential

Information”). In addition, Form G-45 does not provide the submitter an opportunity to identify data provided as Confidential Information. In its discussions with and comment letters to the MSRB, CSPN has expressed concern over the collection of this type of information.

CSPN does not object to providing Confidential Information to the MSRB for its internal purposes. However, CSPN does not believe that such information should be made available to the general public. Without the designation of certain data as Confidential Information, in the event that a request is made to the MSRB under the Freedom of Information Act for the release of data that an underwriter and/or Plan believes is Confidential Information, the underwriter and/or Plan would have no opportunity to present arguments in support of an exemption under the Freedom of Information Act. Therefore, CSPN believes it is essential that Rule G-45 provide a mechanism whereby each submitter can indicate whether information submitted falls within these categories.

Cost/Benefit of Data Collected

CSPN supports the MSRB’s need to collect relevant data regarding the 529 Plan market. However, we are mindful of the potential costs to the underwriter of collecting the data. Because of the potential excessive cost to produce the requested data, CSPN suggests that the Commission consider the addition of a waiver and/or sunset provision designed to ease the cost burden to the affected underwriter.

As discussed above under the heading *Scope of an Underwriter’s Duty under Rule G-45*, on page 15 of the Rule Proposal, the MSRB states

The proposed rule change will only require underwriters to produce information that they possess or have a legal right to obtain, such as information in the possession of an underwriter’s subcontractor.

If Rule G-45 does not address this limitation, a waiver application process will allow an affected underwriter to request relief from providing data that is not reasonably practicable to obtain.

Similarly, a sunset provision could also ease the administrative burden to underwriters required to submit information on Form G-45. After a specified period of time³, CSPN suggests that the MSRB revisit its need to collect each data point. Following such review, in the event the MSRB determines that certain data is no longer relevant, the sunset provision would require the MSRB to revise Rule G-45 accordingly.

³ CSPN suggests three years.

Elizabeth M. Murphy, Secretary

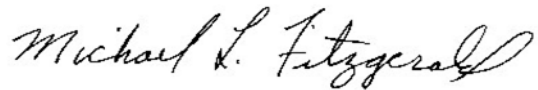
July 19, 2013

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Thank you again for providing an opportunity to comment on the Notice. Please do not hesitate to contact us with any questions or for more information. You may reach CSPN by contacting Chris Hunter at [REDACTED] or [REDACTED]

Sincerely,

A handwritten signature in cursive script that reads "Michael L. Fitzgerald". The signature is written in dark ink and is positioned above the printed name.

Hon. Michael L. Fitzgerald
Treasurer of Iowa and
Chairman, College Savings Plans Network