



March 12, 2014

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-0609

Re: Release No. 34-71598; SR-MSRB-2014 (January 29, 2014) Proposed Rule Change Consisting of Proposed Revisions to MSRB Rule G-30, on Prices and Commissions and the deletion of Rule G-18, on Execution of Transactions

Dear Secretary Murphy:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to comment to the Securities and Exchange Commission (“SEC”) on proposed rule changes consisting of proposed changes to MSRB Rule G-30, on Prices and Commissions, and the deletion of Rule G-18, on Execution of Transactions. These changes would consolidate MSRB Rule G-18 and Rule G-30, and streamline and codify existing guidance regarding fair pricing currently set forth in interpretive guidance to MSRB Rules G-17 and G-30. The proposed changes would create a single general rule, G-30, on prices and remuneration. SIFMA continues to support the MSRB’s efforts to promote regulatory efficiency, and accordingly, is generally supportive of this rule consolidation which preserves the substance of existing fair pricing requirements.

However, in light of the MSRB’s proposed best execution rule for municipal securities² and the nexus between execution and pricing, SIFMA believes that these two proposals must be viewed together – the interplay and practical effects between best execution and fair pricing – and therefore requests that the SEC not move forward at this time to allow the MSRB to submit, and allow market participants to comment on, a single filing with the SEC on dealer execution and pricing obligations.

¹ SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA’s mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

² MSRB Notice 2014-02 (February 19, 2014), available at <http://msrb.org/~media/Files/Regulatory-Notices/RFCs/2014-02.ashx?n=1>.

I. Dealers' Existing Fair-Pricing Requirement

For over thirty years, municipal securities dealers have followed the guidance published by the MSRB in its 1980 *Report on Pricing*³ to provide direction in determining the fairness of prices that customers receive. The substance of this report has been reaffirmed⁴ and built upon since then⁵. SIFMA concurs with the views repeated by the MSRB in the Proposal that Rule G-30's standards for fair and reasonable pricing should be preserved as the rule appropriately balances investor-protection interests with the need for efficient municipal markets. This standard reflects the current market structure and unique attributes of the municipal securities market. Rule G-30's substantive pricing standards complement a dealer's order-handling and transaction-execution responsibilities. While they are separate obligations, they are necessarily linked.

II. Relevant Fair and Reasonable Pricing "Factors"

The Report on Pricing, and subsequent MSRB guidance, highlighted various factors which may be relevant in making pricing determinations. Many of the factors, but not all, are specifically listed in Section .02 of the Proposal's Supplementary Material. While the MSRB acknowledges in its Rule filing with the SEC that the factors listed in the proposed rule are not exhaustive, our members' experience with enforcement regulators is that a factor listed in the rule is given more weight than an equally relevant, or arguably more relevant factor that is not contained in the rule. Accordingly, SIFMA again requests that all factors discussed in existing MSRB guidance be detailed in Section .02 - including improved market conditions⁶ and trading history, which "could encompass such matters as the degree of market activity for the securities and the

³ MSRB *Report on Pricing* (September 26, 1980, republished on October 3, 1984) available at http://msrb.org/Rules-and-Interpretations/MSRB-Rules/General/Rule-G-30.aspx?tab=2#_F9EBEC49-FAD0-4200-B016-A7002071FDF3 (the "Report on Pricing").

⁴ *Id.*

⁵ Republication of the Report on Pricing (October 3, 1984), *supra* Note 3; Rule G-30 Interpretive Notice, *Review of Dealer Pricing Responsibilities* (January 26, 2004) (the "2004 Notice") available at http://msrb.org/Rules-and-Interpretations/MSRB-Rules/General/Rule-G-30.aspx?tab=2#_A5756731-6EF3-45A9-BB32-0EACF2074FD8; , *Guidance on Disclosure and Other Sales Practice Obligations to Individual and Other Retail Investors in Municipal Securities* (July 14 2009) (the "2009 Notice"), available at <http://www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2009/2009-42.aspx?n=1>; Restated Interpretive Notice Regarding the Application of MSRB Rules to Transactions with Sophisticated Municipal Market Professionals (July 9, 2012), available at http://www.msrb.org/Rules-and-Interpretations/MSRB-Rules/General/Rule-G-17.aspx?tab=2#_D37D3EF9-F642-4A63-A40D-3A6B33B5260A; Interpretive Notice Concerning the Application of MSRB Rule G-17 to underwriters of Municipal Securities (August 2, 2012), available at <http://msrb.org/Rules-and-Interpretations/Regulatory-Notices/2012/2012-25.aspx>; see also MSRB Interpretation of November 29, 1993, *Factors in Pricing* (the "1993 Interpretation"), available at http://msrb.org/Rules-and-Interpretations/MSRB-Rules/General/Rule-G-30.aspx?tab=3#_2499EFE4-BC98-490D-A145-70C9D62B91A6

⁶ See the 1993 Interpretation, *supra* Note 5.

existence or non-existence of market-makers in the securities”⁷. We also request that Section .02(b) be amended as follows: “Other factors include (but are not limited to)” (proposed additional language underlined).

III. Scope of Proposed Rule Making

While SIFMA continues to support the MSRB’s initiatives to provide clarity to regulated entities by reorganizing or eliminating certain interpretive guidance associated with MSRB Rule G-17 into new or revised rules that highlight core principles⁸ (as well as the G-18/G-30 “clean up”), SIFMA believes that *improvements* should be considered whenever rules are being reviewed, amended, or created. This is especially true in view of the extensive process required in rule-making. However, in response to a number of comments made by SIFMA, the MSRB dismissed them. The MSRB refused to consider the comments on the merits, and stated “this request goes beyond the scope of this rule making, and the MSRB can consider this request as part of any substantive changes at a later date.” Because rules are amended so infrequently, this is a lost opportunity especially in light of the MSRB’s recent practice of including, within a rule itself, supplemental material that was historically issued in the form of interpretive guidance.

IV. Conclusion

SIFMA sincerely appreciates this opportunity to comment upon these proposals. Subject to the proposed refinements suggested above, SIFMA supports the proposed rules and rule changes to the extent they provide clarity to regulated entities. However, in light of the MSRB’s proposed best execution rule for municipal securities and the nexus between execution and pricing, SIFMA believes that these two proposals must be viewed together – the interplay and practical effects between best execution and fair pricing – and therefore requests that the SEC not move forward at this time to allow the MSRB to submit, and allow market participants to comment on, a single filing with the SEC on dealers execution and pricing obligations.

Please do not hesitate to contact me with any questions at (212) 313-1265.

Sincerely yours,



David L. Cohen
Managing Director
Associate General Counsel

⁷ See Report on Pricing, *supra* Note 3.

⁸ See letter from David L. Cohen, SIFMA, to Elizabeth M. Murphy, SEC, dated November 12, 2013, available at <http://www.sifma.org/issues/item.aspx?id=8589946138>.

Ms. Elizabeth M. Murphy
Securities and Exchange Commission
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cc:

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