



August 21, 2014

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

Re: SR-MSRB-2014-06: Notice of Filing of a Proposed Rule Change Consisting of Proposed New Rule G-44, on Supervisory and Compliance Obligations of Municipal Advisors; Proposed Amendments to Rule G-8, on Books and Records to be Made by Brokers, Dealers and Municipal Securities Dealers; and Proposed Amendments to Rule G-9, on Preservation of Records

Dear Secretary Murphy:

The Securities Industry and Financial Markets Association (“SIFMA”)<sup>1</sup> appreciates the opportunity to comment on the Municipal Securities Rulemaking Board’s (“MSRB”) filing with the Securities and Exchange Commission (“SEC”) on Proposed New MSRB Rule G-44, on Supervisory and Compliance Obligations of Municipal Advisors and associated amendments to Rules G-8 (on Books and Records) and G-9 (on Preservation of Records) (collectively, the “Proposal”).

## I. Executive Summary

SIFMA continues to support the MSRB’s efforts to ensure that municipal advisors<sup>2</sup> are properly supervised and that all municipal advisors adopt a supervisory structure for engaging in municipal advisory activities<sup>3</sup>. We commend the MSRB for proposing a supervisory regime for

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<sup>1</sup> 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).

<sup>2</sup> For purposes of proposed Rule G-44, “municipal advisor” shall mean a municipal advisor required to be registered under section 15B of the Securities Exchange Act of 1934 and the rules and regulations thereunder.

<sup>3</sup> See letter to Ronald W. Smith, MSRB, from David L. Cohen, SIFMA, dated June 24, 2011, available at <http://www.sifma.org/issues/item.aspx?id=26101>

municipal advisors of similar robustness as the requirements of MSRB Rule G-27 - resulting in a level regulatory playing field for all municipal advisors<sup>4</sup>.

## II. Elements of Supervisory System

SIFMA supports the elements of the supervisory system requirements contained in the Proposal. Draft Rule G-44 follows a widely accepted model in the securities industry of a reasonable supervisory system complemented by the designation of a chief compliance officer (CCO). The draft rule draws on aspects of existing supervision and compliance regulation under other regimes, including those for broker-dealers under rules of the MSRB and the Financial Industry Regulatory Authority (FINRA) and for investment advisors under the Investment Advisers Act of 1940 (Advisers Act).

In summary, draft Rule G-44 requires:

- A supervisory system reasonably designed to achieve compliance with applicable securities laws;
- Written supervisory procedures;
- The designation of one or more municipal advisor principals<sup>5</sup> to be responsible for supervision;
- Compliance processes reasonably designed to achieve compliance with applicable securities laws;
- The designation of a CCO to administer those compliance processes; and
- At least annual reviews of compliance policies and supervisory procedures.
- Annual CEO certification that the municipal advisor has in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures reasonably designed to achieve compliance with applicable rules.

SIFMA believes that all of the elements listed above are critical to implementing a comprehensive supervisory system of controls. Municipal advisors should consider as a business practice some of the specifics contained in Rule G-27 (such as review of correspondence and conducting internal inspections ) that are not prescribed in the Proposal. Additionally, the

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<sup>4</sup> This is in contrast to MSRB Notice 2011-28 (May 25, 2011), which proposed Rule G-44 require all non-dealer municipal advisors to adopt a “basic” supervisory system, while dealers subject to Rule G-27 would be required to maintain a “detailed” supervisory system. We do note, however, that the Proposal is less prescriptive than Rule G-27’s requirements.

<sup>5</sup> See MSRB Notice 2014-04 at Note 2 (“The MSRB intends to propose amendments to MSRB Rules G-2 and G-3 to create the “municipal advisor principal” classification, define the term and require qualification in accordance with the rules of the MSRB.”), available at <http://www.sec.gov/rules/sro/msrb/2014/34-72706-ex2.pdf> .

Proposal contains an exemption for federally registered banks conducting certain activities from G-44 and certain books and records requirements in MSRB Rule G-8.

### III. Record Keeping and Preservation of Records

SIFMA supports the proposed amendments in the Proposal to Rule G-8 and Rule G-9.

The draft amendments to Rules G-8 and G-9, in summary, require each municipal advisor to make and keep records of:

- Written supervisory procedures;
- Designations of persons as responsible for supervision;
- Written compliance policies;
- Designations of persons as CCO; and
- Reviews of compliance policies and supervisory procedures.

SIFMA believes these record keeping and retention requirements are reasonable and are in line with existing MSRB record keeping and record retention requirements.

Rule G-44(e) Exemption for Federally Regulated Banks, exempts such banks from certain books and records requirements of Rule G-8. SIFMA understands that the intent of the drafters was to exempt such banks from Rule G-8(v) (A)-(D). We respectfully request clarification on this aspect of the Proposal.

### IV. Implementation Period

Any regulatory scheme takes time to implement properly. Therefore, SIFMA requests that when Rule G-44 is adopted, the MSRB provides for a reasonable implementation period to develop and implement supervisory policies and procedures, as well as systems and controls, which would be no less than six months, before the Proposal becomes effective.

### V. Conclusion

SIFMA sincerely appreciates this opportunity to comment upon the Proposal. SIFMA supports the MSRB's efforts to ensure that all municipal advisors are properly supervised and that municipal advisors adopt a supervisory structure for municipal activities. Additionally, we would appreciate clarification on the books and records exemption for federally registered banks.

Please do not hesitate to contact me with any questions at [REDACTED]

Sincerely yours,

A handwritten signature in blue ink, reading "D.L. Cohen". The signature is fluid and cursive, with the first name "D.L." and the last name "Cohen" clearly distinguishable.

David L. Cohen  
Managing Director  
Associate General Counsel

cc:

*Municipal Securities Rulemaking Board*  
Lynnette Kelly, Executive Director  
Michael L. Post, Deputy General Counsel  
Darlene Brown, Assistant General Counsel