

## Comments on SR-MSRB-2014-08

These comments are being submitted on behalf of a registered Investment Adviser (RIA) and Municipal Advisor (MA).

In short, we believe that individuals who are Chartered Financial Analyst (CFA) charterholders should be exempt from the proposed Municipal Advisor Qualification Examination requirements in the manner suggested by the CFA Institute in its letter to the MSRB dated April 25, 2014 (commenting on the MSRB's originally proposed amendments to Rule G-3 that were released on March 17, 2014).

It seems the MSRB did not consider the substance of the CFA Institute's letter: In the MSRB's 19(b)(2) filing dated November 18, 2014 ("Filing"), it appears that the MSRB merely catalogued the CFA Institute's letter, listed it on pages 12, 36, and 62 and reprinted the letter on page 82. There is no indication in the MSRB's commentary in the Filing that it substantively reviewed the CFA Institute's comments or proposal for a reasonable qualification and examination regime for CFA charterholders. In contrast, the MSRB gave extensive consideration to comments filed by other entities.<sup>1</sup>

Because the MSRB, without explanation, seems to have disregarded substantive comments and recommendations from the CFA Institute, we ask the Commission to give due regard to the CFA Institute's proposal either by: (1) disapproving the proposed rule change; or (2) instituting proceedings to determine whether the rule change should be disapproved.

To ensure that the Commission and the general public are familiar with what the CFA Institute proposed, the following is a relevant excerpt:

CFA Institute recommends that the proposed qualification requirement be constructed in a modular fashion with one component focusing on the knowledge of business and the second component devoted to the rules and regulations of the municipal securities market. Furthermore, we request that CFA charterholders be granted a waiver from the knowledge of business component of the qualification requirement for municipal adviser representatives.<sup>2</sup>

The MSRB has asserted that it is "not in a position to review the background and experience of each [municipal advisor] professional to determine whether such individual is qualified."<sup>3</sup> Although the MSRB may not be in such a position, the CFA Institute is in such a position with regard to CFA charterholders. Each CFA charterholder has been thoroughly vetted and examined on financial analysis of securities, including municipal securities and other fixed income securities.

Indeed, the requirements to earn a CFA charter are extremely rigorous. To earn a CFA charter, one must pass not only the CFA Level I examination, but also the progressively more complex examinations for Levels II and III; each Level examination is six hours long. It generally takes approximately six months to prepare for each examination, which often is done while working full time, given the minimum of four years' experience in investment advice or analysis required

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<sup>1</sup> See Filing at 39-48.

<sup>2</sup> Filing at 83.

<sup>3</sup> Filing at 46.

to become a CFA charterholder. This means that each CFA charterholder not only has at least four years of investment experience, but generally also at least 18 months of intensive training in complex financial analysis.<sup>4</sup>

Consequently, there is no rational basis to apply to CFA charterholders the MSRB's rigid examination proposal. CFA charterholders have through extensive examinations and training demonstrated comprehensive understanding of the business and financial aspects of securities, including municipal securities; the MSRB's proposed monolithic examination proposal would therefore subject these experienced professionals to burdensome and duplicative examinations.

Moreover, the MSRB's municipal advisor representative qualification proposal is inconsistent with the regulation of advisory services relating to other securities. The vast majority of states require Investment Advisor Representatives to take the NASAA Series 65 (or equivalent) examinations. Each such state categorically exempts from examination individuals who have earned a CFA charter.<sup>5</sup>

By refusing to apply a similar exemption to CFA charterholders, the MSRB's Filing suggests that municipal securities are entirely *sui generis*, and that one can only demonstrate the requisite knowledge of how to advise municipal issuers responsibly through a yet-to-be designed examination that tests knowledge of these fixed income securities.

We, like the CFA Institute and many others in the municipal advisory field, recognize the increased duties of public trust in advising municipal entities. However, it is fanciful to imply—as the MSRB has done by disregarding the CFA Institute's proposal—that a CFA charterholder has not demonstrated that he or she is “qualified” to advise on the financial aspects of municipal securities. Municipal securities are a subset of fixed income securities. CFA charterholders are thoroughly trained and tested on the subject of fixed income securities. Thus, CFA charterholders are necessarily equipped with appropriate knowledge to advise on the financial aspects of municipal securities.

It is important to distinguish financial knowledge from regulatory knowledge. Accordingly, although CFA charterholders are clearly qualified to advise on the financial aspects of municipal securities, we agree with the CFA Institute that charterholders should be required to demonstrate their familiarity with the evolving municipal securities regulatory scheme. Thus, as the CFA Institute recommended, we believe that any municipal advisor representative examination should have two modules: one to demonstrate competency with fixed income securities (from which CFA charterholders would be exempt); and another to demonstrate competency with MSRB rules (from which CFA charterholders would not be exempt).

However, it appears that the MSRB has determined—without any rational basis—that it is preferable to require CFA charterholders to spend, in the aggregate, hundreds or thousands of hours to demonstrate knowledge that they have already demonstrated elsewhere, rather than have several MSRB personnel expend the minimal effort required to separate into two modules components of a municipal advisor representative examination.

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<sup>4</sup> See <http://www.cfainstitute.org/programs/cfaprogram/charterholder/Pages/index.aspx> (last visited Dec. 12, 2014).

<sup>5</sup> See, e.g., 10 Cal. Code of Regs. § 260.236 (examination requirement “shall not apply to... any Chartered Financial Analyst”). See also <http://www.cfainstitute.org/ethics/recognition/regulator/Pages/unitedstates.aspx> (last visited Dec. 12, 2014) (“Every state that requires the Series 65 examination exempts CFA charterholders.”).

The MSRB's proposal would thus impose an undue burden on CFA charterholders and be detrimental to the public: Not only would CFA charterholders who currently advise municipal clients be required to divert their attention from their clients to study and sit for an examination that is unnecessary with regard to testing their financial knowledge, but the proposed unduly burdensome examination scheme could also have a deterrent effect, driving some CFA charterholders out of the municipal advisory services market altogether.

In sum, because the MSRB appears to have disregarded relevant substantive comments in the course of developing its proposed rule—and has proposed requirements that do not recognize an otherwise widely-accepted and highly-regarded certification of financial expertise—we urge the Commission to either: (1) disapprove the proposed rule change; or (2) institute proceedings to determine whether the rule change should be disapproved.