



## National Association of Municipal Advisors

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February 12, 2015

Mr. Brent J. Fields  
Secretary, Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: File No. SR-MSRB-2014-08: Amendment No. 1 to Proposed Rule Change Consisting of Proposed Amendments to MSRB Rules G-1, on Separately Identifiable Department or Division of a Bank; G-2, on Standards of Professional Qualification Requirements; and D-13, on Municipal Advisor Activities

Dear Mr. Fields:

The National Association of Municipal Advisors (“NAMA”) appreciates the opportunity to comment on the Municipal Securities Rulemaking Board’s (“MSRB”) filing with the Securities and Exchange Commission (the “Commission” or the “SEC”) of Amendment No. 1 (the “Amendment”) to SR-MSRB-2014-08 (“Draft Rule”) setting professional qualification standards for municipal advisor professionals and requiring municipal advisors and their associated persons engaging in municipal advisory activities to be qualified in accordance with MSRB rules.

NAMA is concerned that the provisions of Amendment No. 1 would allow municipal securities representatives to engage in municipal advisory activities without having to pass the Municipal Advisor Representative Qualification Examination. This effectively “grandfathers” in municipal securities representatives as qualified municipal advisor representatives because “financial advisory and consultant services for issuers in connection with the issuance of municipal securities” would be considered as proper activities of a municipal securities representative. The MSRB argues that the language deleted in Amendment No. 1 creates a “regulatory gap” but, in reality, deleting the clause “except to the extent a person must be qualified as a municipal advisor representative to perform such services” (the “subject clause”) creates an even bigger regulatory gap – namely the grandfathering in of municipal securities representatives as qualified municipal advisor representatives -- which the MSRB had previously indicated it would not allow. Because the subject clause was conditioned on “qualification” as a municipal advisor representative, which means passage of a test pursuant to proposed MSRB Rule G-3(d)(ii), the subject clause would not be effective until qualification was required pursuant to the proposed rule.

The MSRB has not indicated what other “foundational municipal advisor rules” are required to be implemented in order for G-3 qualification to be effective. However, none of the proposed MSRB rules with respect to municipal advisors define the scope of municipal advisory activity – that definition is encompassed solely in the adopted final municipal advisor rule of the Commission. The deletion of the subject clause in Amendment No. 1 acts to expand the



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definition of municipal advisory activity beyond the interpretation of the relevant Exchange Act provisions espoused by the Commission in the final municipal advisor rule because it appears to allow dealers and bank dealers to engage in municipal advisory activity without proper registration. The deletion of the subject clause also raises a question as to whether the MSRB is developing examinations for municipal advisors that demonstrate that individuals engaged in such activity demonstrate the standards of competence necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons. The Exchange Act explicitly calls for the development of professional standards for municipal advisors<sup>1</sup> and the MSRB itself had previously articulated that the job responsibilities of a municipal advisor professional and the regulations governing such individuals are “clearly distinct” from the responsibilities of and regulations governing municipal securities representatives. Therefore, NAMA believes that Amendment No. 1 is not consistent with the Exchange Act and should be rejected on those grounds.

In any event, it is difficult to imagine that the Commission could have good cause to approve Amendment No. 1 earlier than 30 days after the date of publication of Amendment No. 1 without inviting additional public comment on the implications of Amendment No. 1 which appears to allow “grandfathering” of municipal securities representatives as qualified municipal advisor representatives.

NAMA sincerely appreciates this opportunity to comment to the Commission on the MSRB’s filing of Amendment No. 1 to the Draft Rule. As discussed above, NAMA is opposed to Amendment No. 1 because it believes such Amendment is inconsistent with the provisions of the Exchange Act and should not be approved by the Commission, particularly without an appropriate public comment period. Please do not hesitate to contact me if you would like to discuss these comments further.

Sincerely,

A handwritten signature in black ink that reads "Terri Heaton". The signature is fluid and cursive.

Terri Heaton, CIPFA  
President, National Association of Municipal Advisors

cc:

Lynnette Kelly, Executive Director, Municipal Securities Rulemaking Board  
Lawrence P. Sandor, Deputy General Counsel, Municipal Securities Rulemaking Board

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<sup>1</sup> See Section 15B(b)(2)(L) of the Exchange Act, 15 U.S.C. 78o-4(b)(2)(L).