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September 9, 2015

VIA Electronic Mail
Rule-comments@sec.gov

Securities and Exchange Commission
Washington, D.C. 20549

Exchange Act Section 15B(b)(2)(L)(iv)
Re: SR MSRB-2015-03

Ladies and Gentlemen:

This is in reference to your Notice in the Federal Register for comments on the MSRB's proposed Rule G-42.

As a sole practitioner municipal-specific financial advisory firm since 1989, I am concerned with the impact the draft Rule will have on our practice and similarly situated firms, in complying with the proposed Rule. I am also concerned that the Municipal Standards Rulemaking Board ("MSRB") in ignoring or rejecting many specific requests of commentators for more comprehensive guidance on compliance, will result in additional burdens on small municipal financial advisor ("M.A.") firms regarding regulatory and legal compliance.

1. INADEQUATE ECONOMIC ANALYSIS OF THE RULE

A key component in Congressional consideration of regulation of M.A. regulation was concern of the impact of regulatory burdens on small firms and sole proprietors, such as myself. This resulted specifically in the statutory provision contained in Section 15B(b)(2)(L)(iv), which caveats municipal regulation by mandating the MSRB "not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud".

While I believe that the Dodd Frank requirements are beneficial to governments, investors, the public and the MA industry, I have previously voiced concerns about the expansiveness of certain of the proposed regulations, some of which were considered, and some of which were misconstrued, by the Board.

My comments today, however, dwell on a broader concern, that of the failure of the MSRB to follow its stated policy on economic analysis (see footnote 45, page 23 of 639 of their filing of April 24, 2015), which I also previously noted to them.

Paragraph 4 of the Board's economic analysis policy requires an "attempt to quantify anticipated costs and benefits, even where the available data is imperfect." To my knowledge, there has been no or little data collection or collation by the Board on the economic burdens of their regulatory scheme, nor has there been, to my knowledge as an early registrant (no. 35) under the initial interim compliance mandates, any attempt to obtain cost data from the MA registrants, particularly the sole proprietorships. They did not notate any studies or surveys in their April submission, nor did they footnote any data analysis to justify their position (see pages 21-25 of 639). Rather, they based their determination on unsubstantiated broad brush economic consequences, without data underpinnings—a violation of their own internal written policy.

The policy further states that: "If costs and benefits cannot reasonably be quantified or quantification is impracticable, an explanation of that determination should be offered." No explanation was proffered in their filing on those pages for any "impracticability", nor was any justification provided for not collecting data from the cohort of registered MA's, all of whom are known to both the Board and Commission through the collective registration requirements.

While Congress delegated the rulemaking authority by statute to the Board, it did not also abdicate total supervisory control to the MSRB, as both judge and "jury". Supervisory requirements of the Commission are still essential. The Commission must ensure that regulatory procedures of the Board are followed in any rulemaking. As this is not the case here, the Commission should refer the proposed rule back to the Board for further consideration, data collection and necessary revisions.¹

II. ECONOMIC COMPETITION

This analysis also suffers from little data, but with unsubstantiated macro-economic theories cited in the analysis.

As the Board is no doubt aware, the MA field is very broad, covering multiple facets of municipal obligations. Any analysis of competition should **begin** with determining the scope and breadth of the field and then determining how it is populated and by whom, and how they will be impacted by the rulemaking—this is not apparent from the Board's filing. The Board should undertake more detailed analysis of the total field before

¹ The Board also may have misconstrued the statute in its principal argument that the proposed rule does not burden small MA's as it applies to all MA's,. The statute was intended as a protective mechanism for smaller firms, not larger ones—while rules could apply to all firms and be principles-based or use other methodologies, they just could not unduly burden smaller ones. By restating the statute in the manner it did, the Board might have eviscerated the protective language of Congress, See middle page 21 of 639.

providing a required regulatory analysis that is a necessary and substantial prerequisite to rulemaking. (Note: They have enlisted widespread MA surveys previously when the Board was seeking to determine the scope of its proposed MA exam, so this and other venues are available to obtain the necessary data on the total registrant cohort.)

III. DIMINISHING THE BURDEN ON SMALLER MA FIRMS

Suggestions were made by several commentators, including myself, that the Board ease the burden on smaller firms by streamlining the process through better and more detailed guidance in its rules as to scope of specific requirements and restrictions, examples of specific offensive conduct, model procedures to consider and other more detailed model language, much like the Practising Law Institute has done for model statutes and regulations. This was rejected by the Board. This rejection particularly burdens smaller firms by forcing them to have or outsource full-blown compliance departments, etc., when the Board could alleviate this with more concrete analysis and documentation.²

The Commission should consider this remedial approach in its final determinations and order.

CONCLUSION:

NON-COMPLIANCE WITH SEC. 15B(b)(2)(L)(iv); MSRB POLICY

For failure to comply with Exchange Act Section 15B(b)(2)(L)(iv), as well as Administrative Law and specific internal MSRB Policy requirements, the Commission should remand the proposed rule to the Board for further review and more substantial factual justifications of conclusions provided by the Board.

I will be in Washington on **September 28 and 29** and can meet with Commission staff to discuss my concerns in more detail. Please email me as to staff availability. Thank you.

Respectfully submitted,

Joshua Cooperman

² OMB estimates 38 hours (almost one full week) of burden from this filing, which very well may be on the LOW side, given the number of hours I have expended thus far to maneuver the EDGAR registration gauntlet, SEC MA registration forms and submittal portal, and MSRB registration, account maintenance and rule review, etc.

The Board could work with independent MA groups or associations on model documents or model procedures, highlighting their vision of best practices that could be adopted, or utilized in some form, by smaller firms, to promote compliance with requirements, vs. every firm (including one person shops) having to draft a volume of materials, applicable in some cases only to one.