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September 11, 2015

Secretary
United States Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Via Email to rule-comments@sec.gov

Re: File No. SR-MSRB-2015-03

Dear Secretary:

Millar Jiles, LLP submits these comments in response to Amendment No. 1 of Proposed Rule G-42 ("Proposed Rule.") We remain concerned that several elements of the Proposed Rule unnecessarily burden competition and, as applied in certain circumstances, result in unintended consequences that will ultimately harm the municipal entities, obligated persons, investors and the public interest that Rule G-42 is intended to protect. As such, we appreciate your willingness to extend the comment period so that the Proposed Rule may be examined in more depth.

Of most concern to our firm is the prohibition of principal transactions as set forth in section (e)(ii) of the Proposed Rule. Although the prohibition has been the subject of numerous comments throughout the rule-making process, in light of the SEC's charge to consider whether the Proposed Rule "will promote efficiency, competition and capital formation,"[1] we appreciate your further review of the practical effects of that prohibition.

[1] Section 3(f) of the Exchange Act.

In our view, an outright prohibition is unnecessary in light of the fiduciary relationship that exists between the municipal advisor and a municipal entity client, as a municipal advisor cannot meet its fiduciary obligations and engage in self-dealing. The MSRB's suggestion that the prohibition should remain because of the potential for a municipal advisor to inappropriately influence the client to a select a certain financing structure, RFP process or terms that will favor the advisor's affiliate ignores the fiduciary obligations that already prohibit this type of conduct, as well as the principles of fair dealing set forth in MSRB Rule G-17.[2] Additionally, the prohibition set forth in Proposed Rule (e)(ii) is inconsistent with the overall client-driven approach of the municipal advisory rules,[3] and fails "to adequately account for the diversity of municipal advisors, the municipal advisory activities in which they engage and the varying needs of clients."[4]

Further, Proposed Rule (e)(ii) does not withstand SEC considerations of promoting "efficiency, competition and capital formation,[5]"particularly when applied to smaller municipal securities issues in small-to-mid-sized markets. Rather, section (e)(ii) seems to result in just the opposite, particularly in Arkansas, as it eliminates potential bidders from an already limited market. For instance, just last week, a $69 million issue in our market drew only one bid at TIC 3.39%. Two days later, an additional issue of $55 million of those bonds also received only one bid, but from a different bidder and at TIC 3.79%, which would have resulted in an additional cost of $1.9 million to the issuer. The issuer was forced to decline the bid, and because of time and filing requirements, will not be able to bring those bonds back to market for at least 21 days. Prohibiting an underwriting firm from submitting a bid because of its affiliation with the municipal advisor could in some circumstances eliminate the best, or only, bid, which creates a potential violation of fiduciary obligations for the municipal advisor, as well as a potential violation of the best execution rule for dealers.[6]

We respectfully submit that the overall intent of the Proposed Rule can still be achieved by adopting the disclosure and consent approach set forth by the Investment Advisers Act ("IAA"). The MSRB, in Regulatory Notice 2014-12, released July 23, 2014, indicated its reliance on statutory language in the Investment Advisers Act for the definition of "engaging in a principal transaction,"[7] its reliance on statutory language definitions of terms previously defined by federal statute or SEC rules,[8] and its intent that the conflicts of interest disclosure be analogous to the requirement of Form ADV (17

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[2] MSRB Letter to SEC dated August 12, 2015, at page 17.

[3] MSRB Regulatory Notice 2014-12, at page 7 ("…the client should be empowered to determine the scope of services and control the engagement with the municipal advisor."); *See also,* page 12 ("…the client (with the agreement of the municipal advisor) will control the scope of the engagement"). *See also,* Paragraph .03 of the Supplementary Material that permits a client to elect a course of action that is independent of or contrary to the advice of its municipal advisor.

[4] In declining to adopt "a more prescriptive or descriptive approach to determining suitability," the MSRB recognized the risk of "creating inflexible requirements that would fail to adequately account for the diversity of municipal advisors, the municipal advisory activities in which they engage and the varying needs of clients." MSRB Letter to SEC dated August 12, 2015, at page 8.

[5] Section 3(f) of the Exchange Act.

[6] Under separate cover, we are submitting data demonstrating that this prohibition could eliminate the best bid in 1 out of 3 issuances in our market.

[7] MSRB Regulatory Notice 2014-12, at page 14.

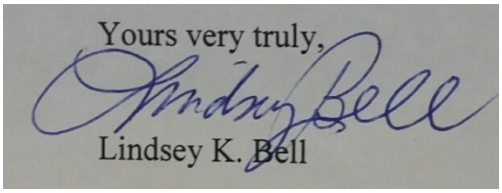
[8] Federal Register, May 8, 2015, at page 26757.

CFR 279.1) under the IAA.[9] SEC Release No. IA-1732, an interpretation of Section 206(3) of the IAA, acknowledged Congress' recognition of the potential for self-dealing that existed for both principal and agency transactions, but stated that Congress "did not prohibit advisers entirely from engaging in all principal and agency transaction with clients. Rather, Congress chose to address these particular conflicts of interest by imposing a disclosure and client consent requirement."[10]

Despite its admitted reliance on the language cited in the IAA regarding principal transactions, the MSRB stopped short of adopting the disclosure and consent process therein, citing "particularly acute conflicts of interest" that could potentially arise between a municipal advisor and a municipal entity.[11] The MSRB did not, however, identify any risk to a municipal entity client that does not also potentially exist for a client of an investment adviser, who would have the option of consenting after disclosure of the conflict of interest.

Thank you for your attention to this matter. Please feel free to contact me if you have further questions or would like additional information.

Yours very truly,



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[9] SEC Release No. 34-75628; File No. SR-MSRB-2015-3 at page 8.
[10] 17 CFR Part 276.
[11] Federal Register, May 8, 2015, at page 26780.