Subject: File No. SR-MSRB-2015-03
From: Joy A. Howard
Principal, WM Financial Strategies
Date: September 11, 2015

In connection with the proposed revised version of MSRB Rule G-42, I am attaching the comments I previously submitted which express my continued concerns.

Subject: File No. SR-MSRB-2015-03
From: Joy A. Howard
Principal, WM Financial Strategies
Date: May 29, 2015

In my capacity as a full-time independent financial advisor, I am writing to set forth my comments relating to the proposed Municipal Securities Rulemaking Board's Rule G-42.

1. Proposed Rule G-42 Imposes Excessive Burdens on Municipal Advisors

Proposed Rule G-42 includes "Supplementary Material: .01 Duty of Care" which requires a municipal advisor to "undertake a reasonable investigation to determine that it is not basing any recommendation on materially inaccurate or incomplete information." I concur that a municipal advisor should make a reasonable investigation in order that recommendations reflect a municipal securities transaction or municipal financial product that the advisor reasonably believes is in the client's best interest. The investigation should include a review of budgets, audits, other publicly available documentation (when appropriate), and discussions with the client. However, a financial advisor should not be required to determine whether the information provided to it by the municipal entity is "materially inaccurate or incomplete." The municipal advisor should be able to rely on publicly available documents as being true and accurate and should be able to assume that any additional information provided to it by the municipal entity is also true and accurate.

2. Proposed Rule G-42 Negates Rule G-23 and the Intent of SEC's Definition of Municipal Advisor

Proposed Rule G-42 includes "Supplementary Material: .06 Inadvertent Advice" which creates a loophole that will allow broker-dealers to serve as financial advisors (without a fiduciary duty) and then switch to serving as an underwriter by claiming that such advice was inadvertent. This loophole negates the current Rule G-23 and allows broker-dealers to effectively serve as a financial advisor and then switch to serving as an underwriter. As written, the Rule G-42 permits a return to the historical bad business practice that created conflicts of interest that were not in the issuers' best interest. The proposed provision blurs the lines between the roles of financial advisors and underwriters and undermines the definition of Municipal Advisor and the exemptions provided by the SEC.

Should the SEC find it necessary to include a method to make exceptions for firms that provide "inadvertent" advice; WM Financial Strategies would suggest that in addition to filing documentation with the issuer, the broker-dealer should be required to file documentation with the MSRB, make the filing publicly available and be granted only one exception in any calendar year. Clearly any company that repeatedly provides advice is not doing so inadvertently.

3. Contingent Fees that are based on the completion of a transaction, but not on the size of a transaction, are not a conflict of interest

Just as a particular bond structure should reflect the municipal entity's best interest, so should the fee arrangement selected. Unlike underwriters that must disclose their contingent fee arrangements, a Municipal Advisor is required to act in the best interest of their clients. Accordingly good advice will prevent a fee arrangement from creating a "conflict."

Financial advisors are often engaged to structure and arrange the sale of municipal securities **after** a determination has already been made by the municipality to issue securities to finance a specific capital project (e.g. voters have approved general obligation bonds). Municipal issuers rely on the expertise of their financial advisor to develop marketable bond structures and to actively locate broker-dealers willing to underwrite the issue. A conflict of interest does not exist when payment of fees is based on the success of services to be provided (the sale of securities is completed). Consider the following: Should a financial advisor be compensated when it fails to successfully provide the services for which it was engaged?

Furthermore, many municipal entities are small with limited budgets. Costs of issuance, including financial advisory fees, are generally paid from the proceeds of the securities. If the issue is not successfully completed, payment of fees would have an adverse impact on these entity's operating budget. Contingent fee arrangements benefit Municipal Entities by insuring that their governmental funds will not be drawn upon for payment of fees if the transaction is not completed.

Based on the foregoing, the Rule should not require a "conflict of interest" disclosure of fee arrangements for contingent fees that do not inherently create conflicts of interest.