



Government Finance Officers Association

1301 Pennsylvania Avenue, NW Suite 309

Washington, DC 20004

Ph: (202) 393-8020

September 14, 2015

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

RE: SR-MSRB-2015-03

Dear Secretary,

The Government Finance Officers Association (GFOA) appreciates the opportunity to provide comments to the SEC on the SEC's Order Instituting Proceedings to Determine Whether to Approve or Disapprove the MSRB Proposed Rule G-42, the MSRB's August 12, 2015 letter to the SEC in response to June comments from market participants and the MSRB's Amendment No. 1 to Proposed Rule G-42. The GFOA is the professional association of state, provincial and local finance officers in the United States and Canada. The GFOA has served the public finance profession since 1906 and continues to provide leadership to government finance professionals through research, education and the development of best practices on all areas of government finance, including disclosure related to the issuance of municipal securities. Our more than 18,000 members are dedicated to the sound management of government financial resources.

Members of GFOA's Committee on Governmental Debt Management (Debt Committee), a geographically and organizationally diverse group of 25 municipal securities issuers, were consulted in preparing this comment letter. Below are the Committee's comments, which call for greater clarity and revision before the SEC proceeds with approval of the MSRB's Proposed Rule G-42. The GFOA recognizes the considerable work that both the MSRB and SEC have put in to ensuring that the duties of municipal advisors are understood by issuers and other market participants. However, the proposal still suffers from fundamental flaws as described below, and the SEC should disapprove the proposal and direct the MSRB to address these concerns before refiling.

Prohibition on Principal Transactions Related to Investment Advice

The GFOA has been very appreciative of the MSRB's efforts over the course of this rulemaking process to better define what constitutes *engaging in a principal transaction*. And while the GFOA is aware of the conclusion reached by regulators that registered broker-dealers that provide advice to municipal entities on the investment of proceeds of municipal securities or municipal escrow investments should not be able to sell those investments as a principal, the GFOA does not agree with this position and **we maintain our concerns that this prohibition could force small governments to open a more expensive fee-based arrangement with an outside advisor in order to receive this very limited type of advice on investments that are not considered to be risky**. Further, the GFOA is puzzled by the MSRB's justification

used in its August 12, 2015 letter for this position, asserting that “*although it is possible that municipal entities may be required in some instances to hire a financial professional in addition to establishing a relationship with a broker-dealer for execution services, on balance, the MSRB believes at this time that the potential benefits outweigh the potential costs.*” This assertion is troubling because it lacks any economic analysis to support such a claim, which is contrary to MSRB’s policy on the Use of Economic Analysis in MSRB Rulemaking adopted on September 26, 2013. The GFOA has raised concerns with this prohibition on principal transactions related to investment advice in multiple comment letters, and remains interested in working with the MSRB and SEC to identify a workable solution.

Disclosure of Conflicts of Interest

A core component of GFOA’s comments on the MRSB’s G-42 rulemaking process has been the need to ensure that issuers maintain control of their engagement with municipal advisors. After reviewing the SEC’s Order Instituting Proceedings to Determine Whether to Approve or Disapproved the MSRB Proposed Rule G-42, the MSRB’s August 12, 2015 letter and the MSRB’s Amendment No. 1 to Proposed Rule G-42, the GFOA would like to reiterate this priority as it relates to the proposed conflict of interest structure. As drafted this structure removes the issuer from the conflict of interest review process. In doing so the proposed rule does not provide the issuer with an opportunity to consider how major or minor an identified conflict may be, or provide an issuer with an ability to waive or acknowledge conflicts.

Thank you again for the opportunity to comment. Please feel free to contact me at [REDACTED] or [REDACTED] if you have any questions on the information provided in this letter.

Sincerely,



Dustin McDonald
Director, Federal Liaison Center
Government Finance Officers Association