



December 12, 2016

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

RE: FILE NUMBER SR-MSRB-2016-15

Dear Mr. Fields:

The National Association of Municipal Advisors (NAMA), representing Municipal Advisory Firms and Municipal Advisors (MA) from across the country, is pleased to provide comments on the proposed regulation noted above related to the MSRB Rulemaking on Customer Complaints. NAMA, among other objectives, serves to promote and provide educational efforts and assist its members navigate through the federal regulatory and municipal marketplace landscapes.

General Comments and Suggestions

While we have many specific comments below about the proposed rulemaking, we would like to state that we do support a mechanism to ensure that clients of municipal advisors (issuers or obligated persons of municipal bonds or obligated persons) understand their rights and ability to file a complaint about their outside professionals and know that a MA is registered with the MSRB and SEC. However, unlike what is proposed in this Notice, we believe that this can be done in a more streamlined and efficient manner that will better protect issuers and obligated persons. In addition, certain provisions of the proposed rulemaking are duplicative of already existing rules.

In some ways this proposed regulation is trying to fit a square peg into a round hole. While we have stated on numerous occasions that new MA regulations should mirror current broker/dealer regulations whenever possible, this is an example where an alternative approach is warranted due to the differences between the nature of a broker/dealer “customer” and a municipal advisor “client.” The relationship between a broker/dealer and its investor customer can be very different than the relationship between a municipal advisor and its client – where generally ongoing professional services are being delivered. This is an issue we are having difficulty with respect to the proposed rulemaking – how do you compare a complaint from someone who merely executed a trade on behalf of a customer to whom they do not even provide personalized investment advice, to a complaint regarding someone who has and is providing a comprehensive ongoing professional service? Also, Rule G-10 and the proposed rulemaking refer to a “client’s account”, which is not a phrase that translates to MAs, and should not be used in describing the MA/client relationship. Furthermore, Rule G-10 calls on municipal advisors to note the availability of a “municipal advisory client brochure” on the MSRB website but the proposed rulemaking does not provide enough specific information about the contents of the brochure for fair comment. Given the issues with some of the text of the proposed rule itself and how it does not reflect

even the most common types of municipal advisory relationships, a draft of the brochure that the MSRB intends for clients of municipal advisors is key to evaluating the proposed rulemaking.

We believe that it is important for the MSRB to provide information about the municipal advisory client brochure at this time in order to fairly evaluate the proposed rulemaking because of the very different realities facing municipal advisors and their clients. Furthermore, it is important to note that an investor customer may make a complaint about a product sold to them from a broker/dealer to a person in the broker/dealer firm that is disconnected from the actual person who sold the product to the customer (this is due to the fact that most investors of municipal bonds use large broker/dealer firms). In contrast, many MA clients that may wish to complain about the professional service rendered to them by an MA may, under this proposal, be required to call the specific individual MA they worked with to make that complaint, since many MA firms are small and have very limited personnel. We believe that due to the nature of the MA business, this could deter a MA client from making a complaint directly with the MA. A more likely scenario that should be emphasized in the information provided to an MA client, would be to have the client file a complaint with the SEC and/or MSRB.

Our suggestions therefore, would be to include in the already required Rule G-42(b) disclosures (with any corresponding changes to Rules G-8 and G-9) the responsibilities that a MA has to their client, including mechanisms for complaints. This change to Rule G-42(b) would occur instead of the recommendation within the proposed rulemaking to amend Rule G-10. In lieu of providing a one-off letter or email about the MA's SEC and MSRB registrations and complaint mechanisms that could easily get lost in the barrage of paper most municipal entities receive regularly, we believe that such information should be included in the original contract and/or conflicts information that is sent to the client from the MA. These documents are more likely to be thoroughly reviewed, retained and easily accessed by a client than a completely separate email or piece of paper. Furthermore, if not within their agreement or conflict disclosures, we would suggest that the MA have the option to post their registration information and complaint information on their website, which could be accessed at any time by a client. In order to satisfy the complaint information requirement, the Firm could post on their website how to file a complaint with the MA, with the MSRB and with the SEC.

Specific Concerns with Proposed Amendments to Rule G-10, G-8, and G-9

Additional Description of "Complaints". The proposed regulation allows the MA Firm to determine what type of complaints made to the MA Firm satisfy the definition of "complaint." While we appreciate the flexibility to have each firm adjust procedures for their own practice, such variable definitions and practices related to what is a "grievance" involving "the activities of the municipal advisor" or a "client's account" are confusing and may cause problems during an OCIE examination. Existing Rule G-44 already requires MA Firms to investigate any indicators of irregularities or misconduct. These are more helpful standards and again, the fact that this requirement already exists raises the question of whether Rule G-10 is needed for municipal advisors, or if such responsibilities should be highlighted within Rule G-44. Through interpretative guidance and/or FAQs we would suggest the MSRB provide examples of what would be a complaint that satisfies the definition in the proposed rulemaking versus not (e.g., a typo or wrong wording on an invoice may be a common client complaint, but should not rise to the occasion of a "complaint" for G-10 purposes). It is also unclear if the information needed to comply is simply in the forthcoming "standard set of complaint product and problem codes" or if additional description and narratives will be needed. In any event, there is not currently sufficient information in the proposed rulemaking for fair comment and the Commission should delay its action until changes to rulemaking and clarifications are made regarding client complaints for Municipal Advisors.

Additional Description of "Action". The proposal also notes that the MA Firm record how it took "action" on a complaint within the log. We do not believe this is a necessary requirement for purposes of Rule G-10 because it is already incorporated into Rule G-44. This provision should be stricken from the proposed regulation and replaced with a reference to the provision of Rule G-44 that requires an MA firm to investigate any evidence of

irregularities or misconduct as part of their compliance review. To further assist MAs understanding and compliance with this matter, the MSRB would be advised to provide examples of the level of specificity needed to demonstrate proper action is taken. Again, we are concerned that the expectations for an explanation of “action” by an OCIE examiner may differ than an MAs (e.g., is it sufficient to document under “action” simply “the MA discussed this issue with the client and it has been resolved”?) and may differ from the already existing responsibilities under Rule G-44.

Recordkeeping. For Municipal Advisors, these records should only need to be kept for five (5) years and not six. Any existing recordkeeping requirement in Rule G-9 that requires records to be kept for six years should be amended to five as part of this proposed rulemaking. There are numerous areas where the recordkeeping proposals need clarification, if not changes. How an MA needs to develop the electronic log needs far greater explanation, especially for small firms that may not have systems in place outside of an excel spreadsheet. The MSRB should through guidance or FAQs provide examples of ways to create and maintain such logs. Again, a nod to what OCIE examiners may expect and how to achieve those expectations within a log would be helpful. (for instance, is an excel spreadsheet/log appropriate and what types of narratives should be considered by the MA for representing the complaint and subsequent actions?).

Complaint Product and Product Codes. As these are yet to be developed and part of “supplementary information” we strongly encourage the MSRB to solicit and accept public comments on this information, to ensure that it is clear and easy to follow and that it accurately reflects the types of municipal advisory services typically provided and does not include confusing and inapplicable language such as “client accounts.”

Impact on Small MA Firms. As we have commented in the past, the impact of this Rule, and the cumulative effect of all MSRB rulemaking on small MA firms should be taken into account. Providing additional guidance as discussed above would also help smaller firms be able to understand and comply with rulemaking with less of a burden on their time and finances.

Finally, we would be remiss if we did not note that this proposal was not submitted for public comment by the MSRB prior to being sent to the SEC. When Rule G-10 was first developed for broker/dealers, the MSRB submitted the proposal for comment. As with all rulemaking on Municipal Advisors, and especially new rulemaking, we believe the MSRB should afford the MA community the same opportunity to comment prior to a proposal being sent to the SEC. In this specific case, doing so would have flagged some of the vague and duplicative provisions of the proposed rulemaking as well as use of clearly inapplicable terminology such as “client accounts” when referring to municipal advisory services.

Thank you for the opportunity to comment on this proposed rulemaking. NAMA believes that those who receive professional services from municipal advisors should be made aware that those professionals are registered with the MSRB and SEC, and understand the guidelines for filing a complaint about the services rendered. However, we strongly suggest that the MSRB look for a simpler mechanism to achieve this goal, as discussed above, and also provide additional guidance in the areas noted in this letter.

Sincerely,



Susan Gaffney
Executive Director