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December 13, 2016

VIA ELECTRONIC SUBMISSION

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

RE: FILE NUMBER SR-MSRB-2016-15; Proposed Rule Change to Extend the MSRB's Customer Complaint and Related Recordkeeping Rules to Municipal Advisors and to Modernize Those Rules

Dear Mr. Fields:

On behalf of Public Financial Management, Inc., and PFM Financial Advisors LLC (collectively, referred to as "PFM", "We" or "Our"), PFM appreciates and thanks the Securities and Exchange Commission (the "SEC" or "Commission") for the opportunity to comment on the filing of a proposed rule change by the Municipal Securities Rulemaking Board ("MSRB") to extend the MSRB's Customer Complaint and Related Recordkeeping Rules (hereinafter, referred to as "Rule" or "Rules") to Municipal Advisors¹. PFM is one of the nation's largest independent municipal advisors serving municipal, obligated person, non-profit entities and institutional clients for over 40 years. We are the top-ranked municipal advisor in the nation in terms of both the number of transactions and the total dollar amount according to Thomson Reuters as of December 2015. PFM seeks to support clients with comprehensive, cost-effective municipal advice coupled with exceptional service, and we steadfastly foster open communication within all client relationships.

Regrettably, the proposed Rule changes do not include needed input from municipal market participants nor do they aptly reconcile the distinctions between existing requirements for investor customers of dealers against those proposed vis-à-vis issuer clients of municipal advisors. The proposed Rules also unnecessarily impose undue encumbrances of additional brochure delivery and recordkeeping requirements.

¹ The proposed rule changes primarily consist of amendments to MSRB Rule G-10 (requiring delivery of investor brochure), MSRB Rule G-8, (mandating certain books and records to be made by brokers, dealers, and municipal securities dealers and municipal advisors), and Rule G-9, (timing required for the preservation of records). Changes also include a proposed MSRB notice regarding electronic delivery and receipt of information by municipal advisors under Rule G-32, on disclosures in connection with primary offerings.

Furthermore, specific additional practical aspects of the proposal necessary for implementation are wholly missing (most notably, complaint and product codes, and municipal advisor client brochure) that would be required to provide more eloquent feedback.

A 'true' MSRB comment period should be provided for proposed rule changes

First and foremost, we submit that the MSRB should have directly sought written comments prior to the proposed Rule changes and corresponding new requirements for municipal advisors. While we appreciate the opportunity to provide the Commission with our comments and feedback to the proposed Rule changes, we are a bit dismayed that the MSRB did not previously afford municipal advisors and other municipal market participants with the occasion to do so. Despite the intended attempt to seek efficiency and seeming expediency by blending existing Rules with updates to capture new requirements for municipal advisors, the MSRB's actions should be examined with sufficient scrutiny of the impact such changes will have on municipal advisory registrants, which is naturally more fully examined through comments provided by such registrants and other interested parties. Without adequate opportunity for review and written comment for new Rules or significant changes to existing Rules, municipal market participants who must meet the ensuing requirements cannot provide the meaningful input and collaboration representative of an effective rulemaking process. PFM and many other municipal advisors have respectfully embraced registration and regulation, and, as necessary, seek to continue actively participating in the evolution of new or amended requirements, however we merely ask to be provided with the adequate notice and opportunity to do so.

There must be a full recognition of the distinction between a broker-dealer 'customer' and municipal advisor 'client' for the proposed amendments to be effective

The proposed Rule G-8 amendments fail to adequately distinguish between the inherent differences in the transactional structure and composition that may give rise to an investor customer's complaint against a broker-dealer versus the nature of potential client grievances against a municipal advisor with respect to that municipal advisor's activities

given their fiduciary relationship before, during, and after a transaction.² Additionally, the underlying “product” being provided by broker-dealers to an investor customer, consisting of financial instruments and other securities, is fundamentally different than that provided by municipal advisors to municipal entity or obligated person clients, which are in the nature of professional services. This important distinction between the respective relationships is evidenced by the disparate treatment of municipal advisors as a fiduciary under the Dodd-Frank Act and the ensuing Municipal Advisor Rule when compared to the regulatory standard of suitability for broker dealers.³ We find that the seemingly modest additions to the existing Rule, as proposed, cannot lead to sufficient treatment of the ongoing services provided without, at a minimum, further inclusion of specific provisions within the noted “complaint product and problem codes” for the facts and circumstances that pertain to municipal advisors and their clients.⁴ Moreover, without opportunity to review such proposed revisions, we are not able to productively comment further.

The proposed MSRB Rule G-9 amendment lacks a statutory basis for extending the municipal advisors recordkeeping requirements an additional year

Updating MSRB Rule G-9 to coordinate timing of recordkeeping requirements related to client complaints does not reconcile with existing requirements in the Securities and Exchange Act of 1934 (the “Exchange Act”) requirements and should not be amended beyond five years for municipal advisors currently provided pursuant to the Exchange Act.⁵

It is unnecessary to retread this area for municipal advisor registrants as Section 15Ba1-8(b)(1) of the Exchange Act has already been promulgated based upon thorough analysis of the books and records requirements for broker-dealers and investment advisors. The Commission has previously contemplated and provided municipal advisors with direct guidance regarding recording and document retention such as requirements for obtaining and maintaining the originals or copies of communications sent or received relating to our municipal activities. We do not find either the statutory authority or a meaningful

² Public Law 111-203 § 975, 124 Stat. 1376 § 975 (2010); Securities and Exchange Act of 1934 § 15B(c)(1); MSRB Rule G-42(a) (providing that municipal advisors owe a fiduciary duty to municipal entity clients and a duty of care to obligated person clients).

³ Compare FINRA Rule 2111 with Public Law 111-203 § 975.

⁴ 17 CFR 240.15Ba1-1.

⁵ 17 CFR 240.15Ba1-8.

purpose expressed to extend recordkeeping necessities, and have genuine concern regarding the misalignment of the proposed MSRB Rule changes and current Exchange Act requirements.

The use of existing municipal advisor client interactions and documentation to provide client education and complaint process information is more efficient

While we strongly believe in providing consistent and concise documentation and disclosures to municipal advisory clients, there is a more effective and efficient solution that already exists for the distribution of such important educational and complaint process information. PFM recommends that a municipal client receive the proposed notification about a municipal advisor's registration, the MSRB website address and the existence of a brochure on the website that describes protections available under the MSRB rules and complaint procedures when the client receives the Conflicts of Interest and Legal and Disciplinary Events written disclosure documentation (the "Conflicts and Legal Events Disclosure") required under MSRB Rule G-42.⁶ Municipal advisors are required to provide clients with the Conflicts and Legal Events Disclosure at the beginning of the client relationship, updated disclosures whenever a material change occurs, and notice of the respective municipal advisor's registration with the SEC and MSRB. It would be immensely more effective and less burdensome to supplement the required disclosure document with additional information that informs municipal clients about the MSRB's web address and the availability of a brochure discussing the protections afforded municipal clients under MSRB rules, as well as appropriate complaint procedures with regulatory authorities. Further, we believe the timing of such notifications (that is, along with the required disclosures) would be more appropriate considering the client would receive such information prior to, or at the beginning of the municipal advisory relationship. Said concurrent notification and disclosure would further benefit actual and potential clients by equipping them with additional data to consider in determining whether or not to engage or continue the services of a municipal advisor, in addition to educating actual or potential clients about the process to report a grievance that may arise from the municipal advisory relationship, as applicable. Moreover, if the Conflicts and Legal Disclosure is provided at the beginning of engagements, and updated at least whenever a material change occurs, we believe that a municipal advisory client would

⁶ MSRB Rule G-42(b).

receive more regular notification from its municipal advisor sufficient to satisfy the MSRB's intention under the proposed Rule. Accordingly, PFM believes that providing the additional information in this manner, would be a more effective, cost-conscious means of disseminating such information for small and large municipal advisory firms alike, and would certainly achieve the modernization of the current Rule G-10 that the MSRB wishes to implement. We leave it to others for respective comment on prevailing broker-dealer practices, but do believe similar results can be achieved for dealers by instituting comparable requirements within existing customer account and disclosure requirements.

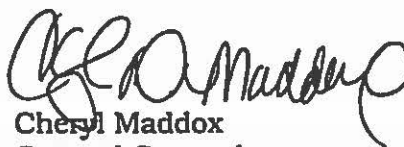
The proposed rule changes require reversion for additional review and precision to effectively and efficiently meet the underpinning intentions

The current proposal is unfortunately a mismatch of good intention and effective execution. In general, we are supportive of municipal advisor clients' expression of material complaints surrounding the provision of services (not products) by their chosen municipal advisor. In many instances of municipal regulation, there exists inherent differences between broker-dealers and municipal advisors sufficient to agree to market participants' feedback to best solicit meaningful measurable results to find a solution - this is such an occasion. Therefore, PFM respectfully requests that the current proposal not be approved by the Commission, but rather that the SEC remit these proposed amendments back to the MSRB for additional analysis, including the MSRB providing adequate notice of proposed rulemaking to fully solicit comment from market participants or other interested persons, and to prepare an updated proposal in accordance with feedback received to this current proposed Rule change.

Sincerely,



Leo Karweina
Chief Compliance Officer



Cheryl Maddox
General Counsel

cc: Lynnette Kelly, Executive Director, MSRB