MSRB
Municipal Securities Rulemaking Board

Regulatory Notice

2013-22

Publication Date
December 13, 2013

Stakeholders
Municipal Securities Dealers

Notice Type
Request for Comment

Comment Deadline
January 13, 2014

Category
Professional Qualification

Affected Rules
Rule G-3; Rule G-7; Rule G-27

MSRB Proposes Changes to Continuing Education Program

Developments include request for comment on proposed changes to Firm Element requirements and notice of proposed change regarding Financial and Operations Principal and Limited Representative – Investment Company and Variable Contracts Products

Overview

The Municipal Securities Rulemaking Board (MSRB) is seeking comments on proposed amendments to Rule G-3 to require all associated persons primarily engaged in municipal securities activities to participate in a minimum of one hour of Firm Element continuing education on municipal securities topics annually. While the MSRB understands that brokers, dealers and municipal securities dealers (dealers) generally deliver continuing education on a variety of topics, this change would ensure that associated persons primarily engaged in municipal securities activities receive a minimum threshold of training annually.

The MSRB has completed a comprehensive review of its testing and qualifications programs and is proposing several changes. The MSRB is (a) eliminating the requirement of MSRB Rule G-3(d) for certain firms to appoint at least one Financial and Operations Principal, and (b) modifying the scope of permissible activities for a Limited Representative – Investment Company and Variable Contracts Products (Limited Representative) in MSRB Rule G-3(a)(ii)(C). The MSRB is providing notice of these proposed changes to MSRB Rule G-3, which will be filed with the Securities and Exchange Commission (SEC) shortly.

Comments should be submitted no later than January 13, 2014, and may be submitted in electronic or paper form. Comments may be submitted electronically by clicking here. Comments submitted in paper form should be sent to Ronald W. Smith, Corporate Secretary, Municipal Securities

Rulemaking Board, 1900 Duke Street, Suite 600, Alexandria, VA 22314. All comments will be available for public inspection on the MSRB's website.[1]

Questions about this notice should be directed to Lawrence P. Sandor, Deputy General Counsel, at 703-797-6600.

Background

Over the course of a number of years, the MSRB has established and periodically revised a professional qualifications program that establishes competency standards for dealers and their associated persons. Section 15B(b)(2)(A) of the Securities Exchange Act of 1934 (the Act) requires associated persons of dealers to meet such standards of training, experience, competence, and such other qualifications as the MSRB finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons. In connection with such standards, the statute provides that the MSRB may require dealers' associated persons to pass tests to demonstrate competence regarding a particular subject matter prior to engaging in municipal securities activities. These examinations are intended to safeguard the investing public by helping to ensure that certain persons associated with dealers meet minimum qualifications to perform their job. Consistent with this purpose, the examinations seek to measure accurately and reliably the degree to which each candidate possesses the knowledge, skills and abilities necessary to perform his or her job. Certain qualification examinations recognized by the MSRB are focused exclusively on municipal securities, while other examinations are of a more general nature.

In addition to qualification examinations, the MSRB also sets forth continuing education requirements in MSRB Rule G-3(h). The purpose of continuing education is to keep associated persons of dealers abreast of issues that affect their job responsibilities and informed about product and regulatory developments. The two-part continuing education program consists of a Regulatory Element and a Firm Element and requires certain associated persons of dealers to participate in continuing professional education on a periodic basis.[2]

[1] Comments are posted on the MSRB website without change. Personal identifying information such as name, address, telephone number, or email address, will not be edited from submissions. Therefore, commenters should submit only information that they wish to make available publicly.

[2] MSRB Rule G-3(h).

The Regulatory Element requires all registered individuals to complete a computer-based training program within 120 days of the second anniversary of their registration approval dates and every three years thereafter. The Regulatory Element program focuses on compliance, regulatory, ethical and sales practice standards. Its content is derived from industry rules and regulations, as well as widely accepted standards and practices within the industry.

The Firm Element requires dealers to establish a formal training program to keep certain registered persons up to date on job and product-related subjects. In planning, developing and implementing the Firm Element program, each MSRB registrant must consider its size, structure, scope of business and regulatory concerns. Further, each registrant must administer its Firm Element program in accordance with its annual needs analysis and written training plan, and must maintain records documenting the content of the program and completion of the program by certain registered persons.

Proposed Revisions to MSRB Rule G-3

Continuing Education

MSRB Rule G-3(h) prescribes requirements regarding the continuing professional education of certain registered persons of dealers. Because the Regulatory Element is designed to focus on topics of broad-based interest to financial professionals, it does not typically focus on narrower product segments, such as municipal securities activities. Additionally, the Regulatory Element is only completed by registered individuals once every three years, so even if a program contained a discussion of municipal securities issues, given the vast range of financial products and issues, it could be many years before municipal content was repeated.

Currently, the Firm Element requirement applies to a "covered registered person" defined as "any person registered with a broker, dealer or municipal securities dealer who has direct contact with customers in the conduct of the broker, dealer or municipal securities dealer's securities sales, trading and investment banking activities, and to the immediate supervisors of such persons."[3] Thus, representatives who do not have direct contact with customers, even if they have significant regulatory responsibilities, need not participate in the Firm Element, unless required to do so by the dealer with which they are registered.

[3] MSRB Rule G-3(h)(ii)(A).

Under Rule G-3, dealers must develop training for covered registered persons based on the firm's size, organizational structure, scope of business activities, and other factors. The Firm Element is designed to enhance the securities knowledge, skill and professionalism of each firm's covered registered persons. At least annually, each dealer must evaluate and prioritize its training needs and develop a written training plan. At a minimum, the training should cover general investment features and associated risk factors, suitability and sales practices considerations and applicable regulatory requirements for the securities products, services and strategies offered by the firm.[4]

At present, Rule G-3(h) does not require dealers to provide municipal securities education annually, even for those registered persons primarily engaged in municipal securities activities. Rather, dealers may design their program based on all of the products and services they offer to customers. As a result, individuals may receive minimal, or no training, on municipal securities, particularly for a firm that offers a broad range of financial products. However, a customer who seeks to purchase or sell a municipal security should expect that each financial professional has participated in, and the firm as a whole has conducted, training on recent developments.

Recognizing that mandating training in one area may supersede training in another area, the MSRB is targeting the new training requirement towards individuals who are primarily engaged in municipal securities activities. The MSRB believes the proposed rule change will enhance the overall securities knowledge, skill and professionalism of associated persons primarily engaged in municipal securities activities and, hence, will advance the MSRB's interest in protecting investors, municipal entities and the public interest.

To require a minimum of one hour of continuing education annually for those individuals primarily engaged in municipal securities activities, the MSRB is proposing to change the definition of "covered registered persons" to "covered persons," which would mean any associated person of a dealer, as defined in MSRB Rule D-11. This broader definition would encompass associated persons who work in a dealer's back and middle office and do not have direct contact with customers.

At the same time, however, the MSRB would require the Firm Element training only of those covered persons that are primarily engaged in municipal securities activities, as described in Rule G-3(a)(i), and would require such individuals to participate in a minimum of one hour of Firm

[4] MSRB Rule G-3(h)(ii)(B)(2)(a)-(c).

Element continuing education on municipal securities annually.[5] Thus, the net effect would be that all associated persons *who are primarily engaged* in municipal securities activities would be required to receive the minimum level of Firm Element continuing education.[6]

The MSRB does not believe that Firm Element training requirements should distinguish between associated persons who have direct contact with customers and those who do not, or whether an individual is registered in establishing training requirements. Under the proposed standard, the determining factor for participation in Firm Element education would be whether an associated person is primarily engaged in municipal securities activity.

These minimum requirements should not be seen as the sole training criteria for covered persons. The MSRB views this proposed rule change as setting forth a *minimum* standard for certain associated persons primarily engaged in municipal securities activities, and suggests that dealers consider, in their needs analysis, whether additional annual training on municipal securities or other topics is appropriate. Further, dealers should consider whether training on municipal securities topics is appropriate for associated persons who are not primarily engaged in municipal securities activities.

The MSRB understands that many dealers require substantially more than one hour of municipal securities continuing education for their employees and encourages all firms to continue providing robust training. The proposal will ensure that all firms provide minimum levels of training, consistent with the expectations of investors towards the financial professionals and firms with which they do business.

Although the scope of the Firm Element component of continuing education has long been within the sole discretion of each firm, the Board believes that the unique nature of the municipal securities market and its distinct regulatory scheme support this change to the Firm Element requirement. The municipal securities market is different from other securities markets in a variety of ways, including the role of sovereign issuers, the continuing disclosure regime, effects of bankruptcies, the diversity of types of issuers,

[5] The proposed requirement to train associated persons on a particular topic is not unique. *See* anti-money laundering training requirement of the Bank Secrecy Act (12 CFR §21.21(2)(c)(4)).

[6] The phrase "primarily engaged in municipal securities activities" is similar to terminology used in MSRB rules to distinguish those individuals who are municipal finance professionals. *See* MSRB Rule G-37(g)(iv)(A).

the trading environment for municipal securities, and the federal tax law and state law requirements and restrictions that relate to the issuance and sale of municipal securities. The MSRB has a substantial body of rules governing dealer conduct, and rules that reflect the special characteristics of the municipal securities market. Even though some securities rules have been harmonized in recent years, the MSRB rules reflect the particulars of the municipal securities market, where municipal securities offerings are exempt from registration provisions of federal securities laws and issuers are not required to file a registration statement with the SEC. Moreover, Firm Element continuing education is not exclusively based on MSRB rules.

Finally, certain associated persons who are primarily engaged in municipal securities activities have been qualified to conduct such activities through general securities qualification examinations (such as the Series 7), rather than qualification examinations focused on municipal securities. By requiring these associated persons to participate in one hour of Firm Element continuing education, the MSRB is able to ensure that this class of individuals has a level of competency regarding municipal securities and is kept abreast of emerging regulatory developments and industry trends, without having to include additional municipal securities content on such general securities qualification examinations or impose a specific examination requirements for registered representatives engaged in municipal securities activities.

Financial and Operations Principal

MSRB Rule G-3(d) defines the duties of a Financial and Operations Principal and prescribes the requirements necessary to obtain such a qualification. As provided by Rule G-3(d)(ii), Financial and Operations Principals must be qualified in accordance with the rules of a registered securities association, FINRA. Hence, individuals seeking qualification as a Financial and Operations Principal must pass the Financial and Operations Principal Qualification Examination (Series 27) that is administered by FINRA.

Generally, the Series 27 examination tests a candidate's knowledge of applicable rules and statutory provisions relating to broker-dealer financial responsibilities, recordkeeping, and the Securities Investor Protection Act of 1970. The examination is focused primarily on the subjects of SEC net capital rules, reserves and custody of securities rules, and other regulations relevant to the role of a chief financial officer or similar financial officer at an investment firm. Hence, they have no specific nexus to municipal securities. Nevertheless, MSRB Rule G-3(d) requires that each dealer, excluding bank dealers or certain other dealers identified by reference to the SEC net capital rule (*e.g.*, dealers that do only mutual fund business, do no business with the public, or do not hold customer funds or securities) have at least one

Financial and Operations Principal, including its chief financial officer [7] Consequently, only a limited number of dealers are required by MSRB rules to designate a Financial and Operations Principal.

Currently, the Series 27 examination tests few concepts related to MSRB rules and municipal securities and, if the Board were to require additional questions on the examination, such a requirement would likely be at odds with other examination priorities. Moreover, the MSRB does not believe it to be necessary to include additional questions on the Series 27 examination relating to municipal securities, as dealers are required to appoint at least one Municipal Securities Principal who is responsible for overseeing the municipal securities activities of the dealer.[8]

Additionally, FINRA Rule 1022(b) provides qualification requirements for Financial and Operations Principals at FINRA-member firms, and bank dealers are subject to separate financial oversight by the appropriate regulatory agency. MSRB and FINRA rules governing Financial and Operations Principals are substantially similar and differ principally in the type of dealers covered by the rules. Although the MSRB is proposing to delete Rule G-3(d), dealers that are FINRA members would still be obligated to comply with FINRA Rule 1022(b), and bank dealers would still be obligated to comply with the financial oversight rules of the appropriate regulatory agency. Thus, the MSRB believes that elimination of MSRB Rule G-3(d) will simplify the qualification rules that dealers must follow and will avoid regulatory duplication.

Limited Representative - Investment Company and Variable Contracts Products

The MSRB is proposing a rule change that would limit the activities of a Limited Representative exclusively to sales to and purchases from customers of municipal fund securities. Under MSRB Rule G-3(a)(ii)(C), an individual must pass the Investment Company Products/Variable Contracts Limited Representative Qualifications Examination (Series 6) to act as a municipal securities representative with respect to municipal fund securities. The rule permits an associated person of a dealer who has successfully completed the Series 6 examination and has complied with all other applicable qualification

[7] MSRB Rule G-3(d)(i) excludes from the Financial and Operations principal requirement, any "bank dealer or a broker, dealer or municipal securities dealer meeting the requirements of subparagraph (a)(2)(iv), (v) or (vi) of rule 15c3-1 under the Act or exempted from the requirements of rule 15c3-1 in accordance with paragraph (b)(3) thereof."

[8] MSRB Rule G-3(b)(iii) sets forth the numerical requirements for Municipal Securities Principals.

requirements to perform activities such as underwriting, sales, research or any other activities which involve communication, directly or indirectly, with public investors in municipal fund securities.[9] By contrast, FINRA limits a Limited Representative to investment company and variable contracts product sales activity.[10] As amended, Rule G-3(a)(ii)(C) would be analogous to FINRA Rule 1032(b), in that a Limited Representative would be precluded from engaging in activities other than sales. Moreover, such sales would be limited to municipal fund securities. The MSRB's proposed rule change also would be consistent with the approach taken by FINRA regarding the Series 6 examination, which is focused on the sales-related job responsibilities of a Limited Representative.

Request for Comment

The MSRB is requesting comment from dealers and other market participants regarding the proposed change to Rule G-3(h)(ii)(C) regarding the Firm Element of continuing education. In addition to the substance of the proposed changes, the MSRB requests that commenters' address the following questions, and include relevant data wherever possible:

- Would the proposed training requirements have the anticipated benefits of protecting investors, municipal entities and the public interest? What are the potential benefits, if any, of the changes to the continuing education requirements? To the extent the proposed change would impose new burdens on dealers, please describe those burdens in detail and quantify them, to the extent possible.
- How much would it cost your firm to develop and deliver one hour of Firm Element continuing education annually for associated persons primarily engaged in municipal securities activities? Does your firm develop its own continuing education or does your firm hire outside consultants or vendors to develop such training? What is the total cost of development and delivery of Firm Element continuing education for covered registered persons?
- How many hours of Firm Element continuing education does each associated person receive annually at your firm? Does your firm provide associated persons with Firm Element continuing education regarding municipal securities? If so, how many hours of training are provided annually?
- Does your firm provide Firm Element continuing education for associated persons who are not covered registered persons under Rule G-3(h)(ii)(A)? If so, how much training is provided annually?

[9] *See* MSRB Rule G-3(a)(i)(A)(1)-(4).

[10] NASD Rule 1032(b).

- What percentage of your firm's employees would be impacted by the proposed rule change on continuing education?
- If your firm offers products other than municipal securities, how do you determine whether to provide training regarding municipal securities? What other factors are considered and how are they weighed when the firm determines whether to provide training regarding municipal securities?
- If your annual training typically does not include municipal securities, please describe why municipal securities are excluded. Are new and revised MSRB rules and interpretive guidance considered when you develop the annual training plan?
- What type of supervisory continuing education does your firm offer regarding municipal securities?
- Is the Municipal Securities Principal(s) at your firm involved in the development of the annual training plan?
- Does your firm consider the Securities Industry/Regulatory Council on Continuing Education's Firm Element CE when conducting its annual needs analysis and developing the written training plan?
- Has technology made it easier and less costly to develop and deliver Firm Element training? What types of technology are utilized by your firm to deliver Firm Element training?
- Does your firm combine the annual compliance training required by MSRB Rule G-27(b)(vii) with the Firm Element continuing education?
- Are there any alternatives to the proposed changes to continuing education requirements?

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Text of Proposed Rule Change[11]

Rule G-3: Professional Qualifications ~~Classification of Principals and Representatives; Numerical Requirements; Testing; Continuing Education Requirements~~

No broker, dealer or municipal securities dealer or person who is a municipal securities representative, municipal securities principal, or municipal securities sales principal ~~or financial and operations principal~~ (as hereafter defined) shall be qualified for purposes of Rule G-2 unless such broker, dealer or municipal securities dealer or person meets the requirements of this rule.

(a) *Municipal Securities Representative and Municipal Securities Sales Limited Representative.*

(i) No change.

[11] Underlining indicates new language; strikethrough denotes deletions.

(ii) Qualification Requirements.

(A) – (B) No change.

(C) The requirements of subparagraph (a)(ii)(A) of this rule shall not apply to any person who is duly qualified as a limited representative - investment company and variable contracts products by reason of having taken and passed the Limited Representative - Investment Company and Variable Contracts Products Examination, but only if such person's activities with respect to municipal securities are limited exclusively to sales to and purchases from customers of municipal fund securities. ~~described in paragraph (a)(i) of this rule are limited solely to municipal fund securities.~~

(D) No change.

(iii) No change.

(b) - (c) No change.

~~(d) *Financial and Operations Principal.*~~

~~(i) Definition. The term "financial and operations principal" means a natural person associated with a broker, dealer or municipal securities dealer (other than a bank dealer or a broker, dealer or municipal securities dealer meeting the requirements of subparagraph (a)(2)(iv), (v) or (vi) of rule 15c3-1 under the Act or exempted from the requirements of rule 15c3-1 in accordance with paragraph (b)(3) thereof), whose duties include:~~

~~(A) approval of and responsibility for financial reports required to be filed with the Commission or any self-regulatory organization;~~

~~(B) final preparation of such reports;~~

~~(C) overall supervision of individuals who assist in the preparation of such reports;~~

~~(D) overall supervision of and responsibility for individuals who are involved in the maintenance of the books and records from which such reports are derived;~~

~~(E) overall supervision and/or performance of the responsibilities of the broker, dealer or municipal securities dealer pursuant to the financial responsibility rules under the Act;~~

~~(F) overall supervision of and responsibility for all individuals who are involved in the administration and maintenance of the processing and clearance functions of such broker, dealer or municipal securities dealer; and~~

~~(G) overall supervision of and responsibility for all individuals who are involved in the administration and maintenance of the safekeeping functions of such broker, dealer or municipal securities dealer.~~

~~(ii) Qualification Requirements.~~

~~(A) Every financial and operations principal shall be qualified in such capacity in accordance with the rules of a registered securities association.~~

~~(B) Any person who ceases to be associated with a broker, dealer or municipal securities dealer as a financial and operations principal for two or more years at any time after having qualified as such in accordance with this paragraph (d)(ii) shall qualify in such capacity in accordance with the rules of a registered securities association prior to being qualified as a financial and operations principal.~~

~~(iii) Numerical Requirements. Every broker, dealer and municipal securities dealer (other than a bank dealer and a broker, dealer or municipal securities dealer meeting the requirements of subparagraph (a)(2)(iv), (v) or (vi) of rule 15c3-1 under the Act or exempted from the requirements of rule 15c3-1 in accordance with paragraph (b)(3) thereof) shall have at least one financial and operations principal, including its chief financial officer, qualified in accordance with paragraph (d)(ii) of this rule.~~

(e) - (f) No change.

(g) *Waiver of Qualification Requirements.*

(i) No change.

~~(ii) The requirements of paragraph (d)(ii) may be waived for any associated person of a broker, dealer or municipal securities dealer in circumstances sufficient to justify the granting of a waiver if such person were seeking to register and qualify with a member of a registered securities association as a financial and operations principal. Such waiver may be granted by a registered securities association with respect to a person associated with a member of such association.~~

(h) *Continuing Education Requirements.*

(i) *Regulatory Element.*

(A) – (E) No change.

(F) Definition of registered person—For purposes of this section, the term "registered person" means any person registered with the appropriate enforcement authority as a municipal securities representative, municipal securities principal, or municipal securities sales principal ~~or financial and operations principal~~ pursuant to this rule.

(G) No change.

(ii) *Firm Element.*

(A) Persons Subject to the Firm Element—The requirements of this section shall apply to any associated person as defined by MSRB Rule D-11~~person registered with a broker, dealer or municipal securities dealer who has direct contact with customers in the conduct of the broker, dealer or municipal securities dealer's securities sales, trading and investment banking activities, and to the immediate supervisors of such persons~~ (~~collectively,~~ "covered ~~registered~~ persons"). ~~"Customer" shall mean any natural person and any organization, other than another broker, dealer or municipal securities dealer, executing securities transactions with or through or receiving investment banking services from a broker, dealer or municipal securities dealer.~~

(B) *Standards for the Firm Element*

(1) Each broker, dealer and municipal securities dealer must maintain a continuing and current education program for its covered ~~registered~~ persons primarily engaged in activities described in Rule G-3(a)(i) to enhance their securities knowledge, skill, and professionalism. At a minimum, each broker, dealer and municipal securities dealer shall at least annually evaluate and prioritize its training needs, ~~and~~ develop a written training plan, and conduct training on municipal securities for covered persons primarily engaged in activities described in Rule G-3(a)(i). The plan must take into consideration the broker, dealer and municipal securities dealer's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of covered registered persons in the Regulatory Element. If a broker, dealer or municipal securities dealer's analysis determines a need for supervisory training for persons with supervisory responsibility, such training must be included in the broker, dealer or municipal securities dealer's training plan.

(2) Minimum Standards for Training Programs—Programs used to implement a broker, dealer or municipal securities dealer's training plan must be appropriate for the business of the broker, dealer or municipal securities dealer and, at a minimum must cover the following matters concerning municipal securities products, services and strategies offered by the broker, dealer or municipal securities dealer:

(a) General investment features and associated risk factors;

(b) Suitability and sales practice considerations;

(c) Applicable regulatory requirements.

(3) Administration of Continuing Education Program—A broker, dealer or municipal securities dealer must administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by covered ~~registered~~ persons.

(C) Participation in the Firm Element—Covered ~~registered~~ persons primarily engaged in activities described in Rule G-3(a)(i) must take all appropriate and reasonable steps to participate in a minimum of one hour of Firm Element continuing education on municipal securities annually as required by the broker, dealer or municipal securities dealer. Other covered persons included in a broker, dealer or municipal securities dealer's plan must take all appropriate and reasonable steps to participate in continuing education programs as required by the broker, dealer or municipal securities dealer.

(D) No change.

Rule G-7 Information Concerning Associated Persons

(a) No associated person (as hereinafter defined) of a broker, dealer or municipal securities dealer shall be qualified for purposes of Rule G-2 of the Board unless such associated person meets the requirements of this rule. The term "associated person" as used in this rule means (i) a municipal securities principal, (ii) a municipal securities sales principal, ~~(iii) a financial and operations principal,~~ (iii) ~~(iv)~~ a municipal securities representative, (iv) ~~(v)~~ a municipal securities sales limited representative, and (v) ~~(vi)~~ a municipal fund securities limited principal.

(b) - (e) No change.

(f) Every broker, dealer and municipal securities dealer shall maintain and preserve a record of the name and residence address of each associated person, designated by the category of function performed (whether municipal securities principal, municipal securities sales principal, or municipal securities representative ~~or financial and operations principal~~) and indicating whether such person has taken and passed the qualification examination for municipal securities principals, municipal securities sales principals, municipal securities representatives, municipal securities sales limited representatives, or municipal fund securities limited principals ~~or financial and operations principals~~ prescribed by the Board or was exempt from the requirement to take and pass such examination, indicating the basis for such exemption, until at least three years after the associated person's employment or other association with such broker, dealer or municipal securities dealer has terminated.

Rule G-27 Supervision

(a) No change.

(b) *Supervisory System.* Each dealer shall establish and maintain a system to supervise the municipal securities activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable Board rules. Final responsibility for proper supervision shall rest with the dealer. A dealer's supervisory system shall provide, at a minimum, for the following:

(i) No change.

(ii) (A) *General.* The designation of one or more associated persons qualified as municipal securities principals, municipal securities sales principals, municipal fund securities limited principals, ~~financial and operations principals~~ in accordance with Board rules, or as general securities principals to be responsible for the supervision of the municipal securities activities of the dealer and its associated persons as required by this rule.

(B) No change.

(C) *Appropriate Principal.*

(1) No Change.

~~(2) A non-bank dealer shall designate a financial and operations principal as responsible for the financial reporting duties specified in Rule G-3(d) (i)(A-E) and with primary responsibility for books and records under paragraph (c)(i)(E) below; provided, however, that a non-bank dealer meeting the requirements of Securities Exchange Act Rule 15c3-1(a)(2)(iv), (v) or (vi) or the exemption under Rule 15c3-1(b)(3) may, but is not required to, designate a financial and operations principal as responsible for such financial reporting duties and with primary responsibility for such books and records.~~

(2) ~~(3)~~ A municipal securities sales principal may be designated as responsible for supervision under paragraphs (c)(i)(B), (C) and (G) and subsection (e)(i) of this rule, to the extent the activities pertain to sales to or purchases from a customer of municipal securities.

(3) ~~(4)~~ A general securities principal may be designated as responsible for supervision under paragraph (c)(i)(E) and subparagraph (c)(i)(G)(1) of this rule and under Rules G-7(b) and G-21(f).

~~(5) A financial and operations principal may be designated as responsible for supervision under paragraph (c)(i)(F) of this rule~~.

(4) ~~(6)~~ A municipal fund securities limited principal may be designated as responsible for supervision under sections (a), (b), (c), (d), (e) and (f) of this rule to the extent that the activities pertain solely to transactions in municipal fund securities.

(iii) – (vii) No change.

(c) – (g) No change.

Alphabetical List of Comment Letters on MSRB Notice 2013-22 (December 13, 2013)

1. Bartholomew, Patricia E., 2014 Chair, Securities Industry Council on Continuing Education, and Bartol, William E., 2013 Chair, Securities Industry Council on Continuing Education: Letter dated January 13, 2014

2. Bond Dealers of America: Letter from Michael Nicholas, Chief Executive Officer, dated January 13, 2014

3. Diamant Investment Corporation: E-mail from Herbert Diamant dated December 13, 2013

4. Financial Services Institute: Letter from David T. Bellaire, Executive Vice President and General Counsel, dated January 13, 2014

5. Investment Company Institute: Letter from Tamara K. Salmon, Senior Associate Counsel, dated January 13, 2014

6. MetLife Securities, Inc.: Letter from Jennifer Lewis, Corporate Counsel, dated January 13, 2014

7. National Society of Compliance Professionals: Letter from Judy Werner, Executive Director, dated January 14, 2014

8. Romano Wealth Management: E-mail from Joe Romano dated January 13, 2014

9. RW Smith & Associates, Inc.: E-mail from Paige Pierce dated January 13, 2014

10. Securities Industry and Financial Markets Association: Letter from David L. Cohen, Managing Director and Associate General Counsel, dated January 13, 2014

11. Wulff, Hansen & Co.: Letter from Chris Charles, President, dated January 9, 2014

January 13, 2014

Ronald W. Smith, Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, Virginia 22314

Subject: Municipal Securities Rulemaking Board Rule Proposal 2013-22

Dear Mr. Smith:

We appreciate the opportunity to comment on Rule Proposal 2013-22 (the "Proposal") as it relates to proposed changes in the Firm Element training requirements for a Municipal Securities Rulemaking Board ("MSRB") member's continuing education program. As the current and former Chairpersons of the Securities Industry Council on Continuing Education (the "CE Council"), we believe that in its current form, the Proposal addresses a purported regulatory training deficiency that has not been publically documented with examination findings or enforcement activity and further creates discordant regulatory requirements among the Self Regulatory Organizations ("SROs"), unnecessarily adding to the complexity of each Firm's regulatory burden while compromising each Firm's ability to develop Firm Element training suitably addressing the needs of each Firm. We therefore suggest that this proposal be tabled and that the MSRB open a dialog with the CE Council to discuss whether industry-wide changes should be considered.

THE SECURITIES INDUSTRY COUNCIL ON CONTINUING EDUCATION

The CE Council was established as a result of the work of an industry task force created under the sponsorship of various Self Regulatory Organizations (the "SROs"), including the MSRB, to study the issue of continuing education in the securities industry and develop recommendations for action by the SROs. Those recommendations included the creation of a "Two Element Structure" for continuing education which introduced the concepts of regulatory element and firm element training that today comprise the substance of the securities industry's continuing education requirements.

The report of the task force also recommended the creation of a permanent Securities Industry/Regulatory Council on Continuing Education to ensure "that the [Continuing Education Program] content is current and relevant to changes in the industry's products and legal/regulatory standards". Among the proposed purposes of the recommended Council is to "mandate specific minimum core curricula for inclusion in appropriate sections of the Firm

Element." The CE Council was established in November 1993 when the SROs endorsed the recommendations of the task force.

Despite the language of the task force recommendations, the CE Council as it exists today performs an advisory role to the SROs in the implementation and enforcement of each SRO's respective rules. In that capacity, it brings together the collective experience and expertise of its industry members, its SRO members, and its SEC and NASAA liaisons to help identify the changing continuing education needs of a diverse and dynamic industry while offering practical solutions to address those problems. Importantly, the CE Council, indeed the history of the development of continuing education in our industry, recognizes the value of creating and managing regulatory programs that effectively address a regulatory need while promoting consistency in approach among the SROs. The result is of which is the delivery of effective training without the expense of overly burdensome or inconsistent regulatory requirements. In our view, the CE Council is an aggressive, engaged association of professionals whose input over the years has been instrumental in achieving that result.

THE RULE PROPOSAL

The Proposal makes two significant changes to the Firm Element training requirements for MSRB members firms. In the first case, it mandates one hour, annually, of training on municipal securities for covered persons primarily engaged in activities described in Rule G-3(a)(i). In the second, it expands the coverage of the Firm Element requirement to those associated persons who are not client facing. Both of these proposed requirements are inconsistent with current rules of the other SROs, introduce regulatory inefficiency and lead to only speculative benefits in industry training as further discussed below.

Summary of the Current Firm Element Training Requirements

The CE Council has succinctly described the requirements for Firms in its *Guide to Firm Element Needs Analysis and Training Plan Development* available on the CE Council website. In pertinent part it states:

"Self-regulatory organization ("SRO") rules, including NASD Rule 1120 (Continuing Education Requirements) require each broker-dealer to maintain a continuing and current education program for its "covered registered persons" to enhance their securities knowledge, skills and professionalism. A "covered registered person" includes any person registered with a member who has direct contact with customers in the conduct of the member's securities sales, trading and investment banking activities, any person registered as a research analyst pursuant to NASD Rule 1050, and the immediate supervisors of such persons. Pursuant to NASD Rule 1120, FINRA's continuing education requirements consist of a Regulatory Element and a Firm Element.

The Firm Element requires each firm to evaluate and prioritize its training needs and develop a written training plan on an annual basis. The annual training plan developed and administered by

the firm for purposes of the Firm Element requirement must update and inform covered registered persons of job- and product-related subjects relevant to the firm's business. The firm must annually evaluate and prioritize training needs by conducting a Needs Analysis, and then develop a written Training Plan.

In planning, developing, and implementing a Firm Element plan, a firm must consider its size, structure, and the scope of its business activities, as well as any regulatory developments, and the performance of its registered employees in the Regulatory Element program(s). Outlined below are several issues and concepts that firms should incorporate as part of completing and documenting their Firm Element program, including the two main components of the Firm Element: the Needs Analysis and the Written Training Plan."

Discussion on the Mandated One Hour Training Requirement

We believe Firms following the CE Council's guidelines can adequately and demonstrably create, implement and document a relevant continuing education program for its associated persons covering all regulated areas. SROs acting with common purpose and directives in implementing this program have provided an immeasurable benefit for firms who are required to comply with these mandates. The requirements are clear, each Firm's efforts are centrally documented and the training can easily be oversighted and reviewed by regulatory auditors. This is one of the few areas where SROs have acted in concert for the benefit of Firms, creating a consistent process that can more readily and easily undergo regulatory review. Truly a "win-win" for all involved. It seems likely to us that if SROs individually mandate separate and distinct standards for the Firm Element, it will create an enormous burden on firms to comply with each mandate and on regulators to oversight review.

Discussion on the Expansion of Associated Persons Subject to Firm Element Training

From our review of the Proposal, the primary concern of the MSRB is the definition of "covered person" in that the MSRB believes the definition is not sufficiently broad to encompass all persons they feel should receive annual training. If, in fact, the current training requirements are insufficient in terms of associated person coverage or if expanding coverage would enhance the value of the Firm Element training, we would suggest that these questions merit consideration on an industry-wide basis and that the MSRB work with the CE Council to review the issue and propose an industry-wide response, rather than begin a parsing process that could easily become a slippery slope of fragmented regulation.

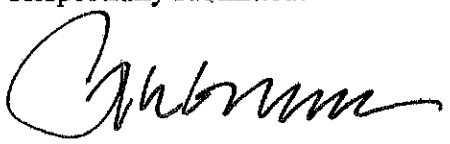
Summary

We believe the current regulatory requirements for Firm Element continuing education are fully developed and adequately address all areas of the securities industry. The coordinated effort of the various SROs, NASAA, the SEC and member firms has been of inordinate benefit to the implementation of a relevant continuing education program. To the extent that the MSRB feels the need to make changes to the current requirements, we would strongly encourage beginning a

dialog with the CE Council, rather than go forward with this proposal as stated, both for the good of firms and regulatory efforts alike.

Thank you for the opportunity to comment.

Respectfully submitted:



Patricia E. Bartholomew
2014 Chair
Securities Industry Council on Continuing Education

William E. Bartol
2013 Chair
Securities Industry Council on Continuing Education

BDA Bond Dealers of America

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January 13, 2014

VIA ELECTRONIC MAIL

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

RE: MSRB Notice 2013-22 (December 13, 2013)

Dear Mr. Smith:

On behalf of the Bond Dealers of America ("BDA"), I am pleased to submit this letter in response to MSRB Notice 2013-22, regarding proposed amendments to Rule G-3 to require all associated persons primarily engaged in municipal securities activities to participate in a minimum of one hour of Firm Element continuing education on municipal securities topics annually and the harmonization of Rule G-3(a)(ii)(C) with FINRA Rule 1032(b) (the "Proposed Rule"). We welcome this opportunity to state our position and provide these comments from a platform of tremendous support for any measures that will improve the municipal securities market and, in particular, any improvements that will provide better market transparency and efficiency for all market participants.

Support for Increased Municipal Securities Education

The BDA generally supports the MSRB's concept to require all professionals primarily engaged in municipal market activities to participate in meaningful, municipal securities industry-specific Firm Element continuing education in an effort to ensure that these individuals have a certain level of competency regarding municipal securities. We believe requiring all professionals primarily engaged in municipal market activities to complete at least one-hour of Firm Element training annually would also help keep these professionals abreast of emerging regulatory developments and industry trends, without having to include additional municipal securities content on such general securities

qualification examinations or impose a specific examination requirements for registered representatives engaged in municipal securities activities. While the MRSB does not want this one-hour requirement to be seen as the sole training criteria for "covered persons" as defined in the Proposed Rule, this may well be an unintended result. To help prevent this unintended result, the BDA would suggest that rather than imposing an arbitrary one hour training requirement, the MSRB instead consider developing and publishing an annual municipal training topic list focused on regulatory developments and industry trends and require firms to develop their enhanced municipal training component of the Firm Element continuing education to include at least one topic from the MSRB content list. With one of the reasons given for the proposed change to the scope of the Firm Element component of continuing education the unique nature of the municipal securities market and its distinct regulatory scheme, this would ensure that regulatory updates are presented in an accurate and complete manner and would be consistent across all industry professionals who are primarily engaged in municipal securities activities. The remaining scope of the Firm Element component would remain within the discretion of each firm and tailored to each firm's individual business model based upon the ongoing internal assessment of each firm. The BDA believes this would discourage the potentially unintended consequence of the proposed one-hour minimum requirement being used as the sole training criteria for covered persons and ensure that covered persons are receiving the same information about the most important regulatory trends and developments in the municipal securities markets on an annual basis.

Competency and Continuing Education Standards for Municipal Securities Activities Should be Collaborative and Consistent

One of the reasons given by the MSRB for the proposed change to the scope of the Firm Element component of continuing education is the unique nature of the municipal securities market and its distinct regulatory scheme. Because the current scope of Firm Element component of continuing education is within the discretion of each firm, each firm tailors its programs to its particular business model and each firm's annual training program differs from one firm to another. To best understand current practices, the BDA would suggest the MSRB work with industry professionals, such as a subset of BDA

member firms, who would be willing to have both formal and informal dialogue with MSRB staff about their current continuing education procedures and how the proposed changes to current procedures may positively or negatively impact such firm(s) and how such changes may be better tailored in order to achieve the desired results. Therefore, the BDA would suggest the MSRB reconsider a formal rulemaking and instead convene a subset of the industry in an effort to work on guidelines and/or best practices for all firms to utilize so that the continuing education process would be more streamlined and consistent across the entire industry. Additionally, this informal discussion would help our firms better understand precisely what the MSRB sees as the perceived risk, thereby further positioning our firms to assist the MSRB toward their efforts in addressing the stated concern.

Evidence of Compliance with Minimum Firm Element Continuing Education Requirements

The BDA is concerned about how compliance with the one-hour minimum Firm Element component would be evidenced and what standard would be used in determining who qualifies as a "covered person" for purposes of Rule G-3. Standards for determining who needs to participate in the Firm Element component of continuing education would need to be developed by each firm and would be subject to scrutiny by the regulators. Additional recordkeeping is likely to be required possibly in the form of a certificate for each professional who has completed the continuing education requirement. The BDA would suggest the MSRB consider how to minimize the effects of demonstrating compliance with new continuing education requirements.

Support for Harmonization with FINRA Rule 1032(b)

The BDA supports the MSRB's effort in harmonizing MSRB Rule G-3(a)(ii)(C) with FINRA Rule 1032(b) so that both sets of rules are as straightforward, understandable and manageable by compliance and enforcement staff at the same time. As proposed, the amended rule would preclude a Limited Representative from engaging in activities other than sales and those sales would be further limited to municipal securities. We would caution that even though the result would be to make MSRB Rule G-3(a)(ii)(C)

consistent with FINRA Rule 1032(b), this is still a change to an established industry practice, and we would anticipate associated costs related to updating, redrafting and establishing written supervisory procedures. In addition, if Limited Representatives are no longer able to perform activities such as underwriting, sales, research or any other activities which involve communication, directly or indirectly, with public investors in municipal fund securities, additional personnel will need to be hired to perform these activities. Additionally, the phrase "primarily engaged" is not defined, and there is no guidance in the MSRB commentary that sheds any light as to how this standard is to be applied. This lack of information will lead to disparate interpretation as to what "primarily engaged" means by various dealers. While the release points to the use of this "primarily engaged" concept in other MSRB rules, the fact remains that the MSRB has never given any guidance as to how to apply that standard in any of their other rules, either. MSRB needs to set forth a bright line definition of what "primarily engaged" means in order to ensure that the reps they intend to be covered by this new training requirement are captured uniformly across the industry.

Finally, we would caution that with any new or enhanced regulatory requirement, there are associated compliance costs borne by the staff at our member firms. These additional burdens, which may be manageable, but which are worth noting, range from the initial reading and interpretation of a new proposal to drafting for approval any updated written supervisory procedures culminating finally with the implementation and documentation of such compliance. Therefore, we would also encourage the MSRB pay close attention to the potential associated costs for dealers, which may be borne as a result of these proposed regulatory changes.

Thank you again for the opportunity to submit these comments.

Sincerely,

Michael Nicholas

Chief Executive Officer

Comment on Notice 2013-22

from Herbert Diamant, Diamant Investment Corporation

on Friday, December 13, 2013

Comment:

Diamant Investment Corporation is a seasoned municipal bond dealer that has been trading bonds since 1974. Our perspective is that of a small business which prides itself on providing clarity to difficult issues.

While it clearly is important that persons engaged in the business of municipal bonds understand the product, this is already being covered as part of Firm continuing education for those employees that are engaged in selling municipal bonds and who the Firm believes need ongoing education. For MSRB to contemplate forcing additional education requirements simply places another layer of regulatory burden on top of the existing education requirement. This is a great example of regulatory overreach, which adds unnecessary regulatory compliance to all bond dealers.

Clearly this initiative of a duplicative regulation is not designed to protect the customer, as the costs of additional regulation end up being ultimately being paid by the customer. Also, by now securities firms should have sufficient training processes in place to handle this MSRB concern, so securities firms and their employees are not benefiting from this proposed rule. Assuming the MSRB is not promulgating rules simply to demonstrate they have the ability to write another rule, then the only persons who will benefit are those firms in the business of certifying or testing securities persons.

If the MSRB intends to move ahead with this ruling, I suggest MSRB amend this rule wording to at least acknowledge that it will have no benefit to the securities industry or the customer. Then it will be easier to understand why it was promulgated. Alternatively, the MSRB could visit several dozen firms and find out just how existing education programs are being conducted and whether there is even a problem that needs to be solved. This approach would resolve the question of whether there even is an industry wide problem with education that needs addressing, and then MSRB could address the real issues if any.

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VIA ELECTRONIC MAIL

January 13, 2014

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street
Suite 600
Alexandria, VA 22314

Re: Regulatory Notice 2013-22: MSRB Proposed Changes to Continuing Education Program

Dear Mr. Smith:

On November 25, 2013, the Municipal Securities Rulemaking Board (MSRB) released a request for comments on proposed amendments to Rule G-3 (Proposed Changes) to require all associated persons primarily engaged in municipal securities activities to participate in a minimum of one hour of Firm Element continuing education on municipal securities topics annually. The MSRB is also proposing to eliminate requirements under Rule G-3(d) for certain firms to appoint at least one Financial and Operations Principal, and modifying the scope of permissible activities for a Limited Representative – Investment Company and Variable Contracts Product.

The Financial Services Institute[1] (FSI) appreciates the opportunity to provide comment on this important proposal. Based upon our members' interpretation of the purpose and impact of the Proposed Changes with regard to continuing education requirements, FSI supports the Proposed Changes. FSI believes that the MSRB's proposed rule language is successfully tailored to capture securities professionals primarily engaged in municipal securities activities while not imposing additional continuing education requirements on associated persons of a broker-dealer firms for whom this additional training would be unnecessary.

Background on FSI Members

The independent broker-dealer (IBD) community has been an important and active part of the lives of American investors for more than 30 years. The IBD business model focuses on comprehensive financial planning services and unbiased investment advice. IBD firms also share a number of other similar business characteristics. They generally clear their securities business on a fully disclosed basis; primarily engage in the sale of packaged products, such as mutual funds and variable insurance products; take a comprehensive approach to their clients' financial goals and objectives; and provide investment advisory services through either affiliated registered investment adviser firms or such firms owned by their

[1] The Financial Services Institute, Voice of Independent Broker-Dealers and Independent Financial Advisors, was formed on January 1, 2004. Our members are broker-dealers, often dually registered as federal investment advisers, and their independent contractor registered representatives. FSI has 100 Broker-Dealer member firms that have more than 138,000 affiliated registered representatives serving more than 14 million American households. FSI also has more than 35,000 Financial Advisor members.

registered representatives. Due to their unique business model, IBDs and their affiliated financial advisers are especially well positioned to provide middle-class Americans with the financial advice, products, and services necessary to achieve their financial goals and objectives.

In the U.S., approximately 201,000 independent financial advisers – or approximately 64 percent of all practicing registered representatives – operate in the IBD channel.[2] These financial advisers are self-employed independent contractors, rather than employees of the IBD firms. These financial advisers provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans with financial education, planning, implementation, and investment monitoring. Clients of independent financial advisers are typically "main street America" – it is, in fact, almost part of the "charter" of the independent channel. The core market of advisers affiliated with IBDs is comprised of clients who have tens and hundreds of thousands as opposed to millions of dollars to invest. Independent financial advisers are entrepreneurial business owners who typically have strong ties, visibility, and individual name recognition within their communities and client base. Most of their new clients come through referrals from existing clients or other centers of influence.[3] Independent financial advisers get to know their clients personally and provide them investment advice in face-to-face meetings. Due to their close ties to the communities in which they operate their small businesses, we believe these financial advisers have a strong incentive to make the achievement of their clients' investment objectives their primary goal.

FSI is the advocacy organization for IBDs and independent financial advisers. Member firms formed FSI to improve their compliance efforts and promote the IBD business model. FSI is committed to preserving the valuable role that IBDs and independent advisers play in helping Americans plan for and achieve their financial goals. FSI's primary goal is to ensure our members operate in a regulatory environment that is fair and balanced. FSI's advocacy efforts on behalf of our members include industry surveys, research, and outreach to legislators, regulators, and policymakers. FSI also provides our members with an appropriate forum to share best practices in an effort to improve their compliance, operations, and marketing efforts.

Comments

FSI appreciates the opportunity to provide a response to the Proposed Changes. FSI supports efforts by the MSRB and other regulators that seek to increase efficiency and eliminate duplicative regulatory requirements. FSI and its members have reviewed the Proposed Changes and believe that it provides a measured and balanced approach to achieving MSRB's goals to increase municipal securities training while ensuring that unnecessary additional regulatory requirements are avoided. While the proposal broadens the scope of Firm Element continuing education requirements to all associated persons, it simultaneously narrows this requirement to only those covered persons that are primarily engaged in municipal securities activities. This is a sound and tailored approach that FSI supports.

The Regulatory Notice also requests comments on several other areas related to continuing education requirements outside of the substance of the Proposed Changes. Specifically with regard to technology's role in delivering Firm Element training, many firms have experienced a less costly and more effective

[2] Cerulli Associates at http://www.cerulli.com/.
[3] These "centers of influence" may include lawyers, accountants, human resources managers, or other trusted advisers.

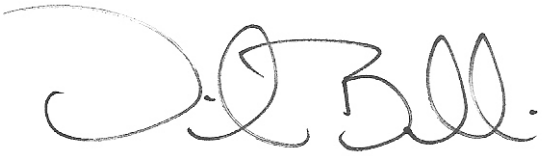
experience. The leveraging of technology has allowed firms to tailor in-house training to specific associated persons as well as for vendors to provide solutions that cater to the needs of specific firms. In addition to being more efficient from a resource perspective, technology has allowed for greater scalability in delivering training throughout firms and broker-dealer networks. We encourage MSRB and other regulators to continue to provide firms with the flexibility to utilize technology as it reduces costs and increases effectiveness with regard to regulatory requirements.

Conclusion

We are committed to constructive engagement in the regulatory process and, therefore, welcome the opportunity to work with MSRB on this and other important regulatory efforts.

Thank you for your consideration of our comments. Should you have any questions, please contact me at (202) 803-6061.

Respectfully submitted,



David T. Bellaire, Esq.
Executive Vice President & General Counsel

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January 13, 2014

Ronald W. Smith, Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, Virginia 22314

Re: MSRB Notice 2013-22 Relating to Continuing Education Requirements

Dear Mr. Smith:

The Investment Company Institute ("ICI")[1] appreciates the opportunity to provide comments to the Municipal Securities Rulemaking Board (MSRB) on its proposal to amend MSRB Rule G-3 relating to professional qualifications.[2] In particular, the rule would be revised to require unregistered associated persons to fulfill the "Firm Element" of the MSRB's Continuing Education Program annually,[3] require registered associated persons to fulfill a set amount of Firm Element training annually, limit the activities of associated persons who are registered in a limited capacity, and delete provisions in the rule relating to Financial Operations Principals ("FINOPs").[4] While the Institute supports

[1] The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of $16.3 trillion and serve more than 90 million shareholders.

[2] *See MSRB Proposes Changes to Continuing Education Program,* MSRB Regulatory Notice No. 2013-22 (Dec. 13, 2013) (the "Notice"), which is available at: http://www.msrb.org/~/media/Files/Regulatory-Notices/RFCs/2013-22.ashx?n=1.

[3] Pursuant to Rule G-3(h)(ii), the "Firm Element" portion of the continuing education requirement currently requires registered representatives who have direct contact with customers to participate in a training program that is tailored to the firm's size, organizational structure, scope of business activities, and other factors. While registrants must annually evaluate and prioritize their training needs and develop a training program that satisfies the Firm Element requirements, they are not required to provide such training annually, nor are there mandatory training hours that must be fulfilled. The MSRB's current rule is consistent with rules of other self-regulatory organizations ("SROs") (*see, e.g.,* FINRA Rule 1250 and Rule 9.3A(c) of the Chicago Board Options Exchange ("CBOE")).

[4] The Notice also proposes technical revisions to Rule G-7 (relating to recordkeeping) and Rule G-27 (relating to supervision) to accommodate the changes proposed to Rule G-3.

those portions of the proposal that relate to limited representatives and FINOPs because they would better align the MSRB's regulatory requirements with those of FINRA, we strongly oppose the proposed revisions to the Firm Element requirements.

I. PROPOSED REVISIONS TO THE FIRM ELEMENT REQUIREMENTS

The Firm Element requirements in MSRB Rule G-3 currently apply only to a dealer's *registered* associated persons. The MSRB proposes to extend this requirement to *all* associated persons who are "primarily engaged" in municipal securities activities and require that such persons receive at least one hour of Firm Element training annually. As a preliminary matter, we oppose the manner in which the MSRB is unilaterally proposing substantive changes to its Firm Element requirements instead of working cooperatively with the other SROs through the Securities Industry Regulatory Council on Continuing Education (the "Council") to effect such changes. Indeed, the proposed amendments to the Firm Element requirements are inconsistent with the continuing education requirements developed by the Council and implemented by other SROs. We additionally oppose the proposed changes because of the lack of clarity regarding their application and because the proposal is not in line with the MSRB's recently announced *Policy on the Use of Economic Analysis in MSRB Rulemaking*.[5] While we oppose the MSRB unilaterally revising the Firm Element requirements, until such time as the MSRB provides more complete information about the proposal and an economic analysis of it, we are unable to assess fully its impact on our members or provide substantive comment on its requirements. Each of these issues is discussed in more detail below.

A. The Proposal is Inconsistent with Other SROs' Requirements

The Institute has long advocated for and supported MSRB initiatives that better align the MSRB's rules and regulatory requirements with those of FINRA. This alignment is particularly important for our members that are dually registered with the MSRB and FINRA as a result of their activities as mutual fund underwriters and sponsors of state 529 college savings plans. Our members have both appreciated and benefited from the MSRB's efforts to ensure such regulatory consistency to the extent practicable. Unfortunately, the MSRB's current proposal is a significant deviation from that consistency. More importantly, it is a significant deviation from the uniform manner in which the other SROs have implemented continuing education requirements based on recommendations of the Council.

The Council is the successor organization to a Task Force on Continuing Education that was created in May 1993 under the sponsorship of the NASD (n/k/a FINRA), other SROs,[6] the North American Securities Administrators Association, and the

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[5] *See MSRB Adopts Policy for Integrating Economic Analysis into Rulemaking Process* MSRB Press Release (Sept. 26, 2013) announcing the MSRB's new *Policy on the Use of Economic Analysis in MSRB Rulemaking* ("Economic Analysis Policy"). The Economic Analysis Policy is available at: http://www.msrb.org/About-MSRB/Financial-and-Other-Information/Financial-Policies/Economic-Analysis-Policy.aspx.

[6] These other SROs were the American Stock Exchange, CBOE, the MSRB, the New York Stock Exchange ("NYSE"), and the Philadelphia Stock Exchange.

Securities Industry Association (n/k/a SIFMA) to study the issue of continuing education for securities professionals and develop recommendations. In September 1993, the Task Force published a report recommending an "industry-wide program for continuing education" that included a "Firm Element."[7] The Task Force's Report also specifically discussed which securities professionals should be subject to the continuing education requirements:

> . . . The Firm Element should be applicable to *registered* producing personnel in sales, trading, and investment banking positions who conduct business with customers (retail or institutional) and their first-level immediate supervisor. With this delineation, implementation of the [continuing education] program would be simplified, industry acceptance would be more easily achieved *and the desired benefits could be obtained*.[8]

To oversee ongoing implementation of the proposed continuing education requirements, the Task Force also recommended creation of a permanent industry/regulatory council on continuing education. Consistent with this recommendation, in November 1993, the Council was created "with specific advisory and consultative responsibilities for the Continuing Education Program" that had been recommended by the Task Force. The Council consisted of thirteen industry representatives and six SRO representatives.[9] In August 1994, it published details of a proposed mandatory Continuing Education Program ("Program") that included a Firm Element. The Council's proposal was jointly proposed by the SROs, subsequently approved by the SEC, and uniformly implemented by the SROs. As noted in the SROs' joint proposal, the purpose of this joint rulemaking was "to adopt *uniform* enabling rules for the implementation of a continuing education program for the securities industry."[10] Since its adoption, the Program has only applied to <u>*registered*</u> securities professionals as recommended by the Council.[11]

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[7] *See Report and Recommendations of the Securities Industry Task Force on Continuing Education* (Sept. 1993) ("Task Force Report").

[8] Task Force Report at p. 7. (Emphasis added.)

[9] Today, the Council consists of 18 industry representatives and representatives from three SROs (*i.e.,* FINRA, the CBOE, and the MSRB). In addition, FINRA and the SEC each have four liaisons to the Council.

[10] *See* SEC Release No. 34-35102 (Dec. 15, 1994) at p. 2. The SROs participating in this rulemaking were the American Stock Exchange, CBOE, the Chicago Stock Exchange, the MSRB, the NASD, the NYSE, the Pacific Stock Exchange, and the Philadelphia Stock Exchange.

[11] To this day, the Council remains actively engaged in overseeing and making recommendations to the SROs regarding their uniform Programs. According to its website, it continues to meet quarterly to fulfill its mission to recommend updates to the SROs' Programs and to "[promote] effective implementation of meaningful continuing education to the securities industry." It also continues to publish twice a year a "Firm Element Advisory" to identify current regulatory and sales practice issues that registrants may want to consider including in their Firm Element training plans. For more about the Council's ongoing activities,

To our knowledge, the Council, which includes the MSRB among its members, has never recommended extending any portion of the continuing education requirements to persons who are not registered as securities professionals, nor has it mandated specific training hours for registered associated persons. Also, to our knowledge, in the past when the MSRB has proposed amendments to its continuing education requirements, such amendments have been consistent with recommendations of the Council and with similar amendments proposed by the other SROs.[12] Notwithstanding this, the MSRB has determined that its Firm Element requirements should be unilaterally revised to apply to *unregistered* persons and to mandate specific training hours for all persons subject to the Firm Element requirements. It does not appear as though the MSRB's proposal has been vetted by the Council; nor is it being proposed jointly with the other SROs in order to ensure uniformity in the continuing education requirements imposed on securities industry professionals.

Should the MSRB want to pursue an expansion of the Firm Element, we recommend that it begin the process through its membership on the Council to ensure that any changes made to its Program have wide support among the members of the Council, including those representing financial services firms. This would also ensure that other SROs are willing to implement similar changes to their programs as appropriate to preserve uniformity across the securities industry.

B. The Proposal is Unclear

According to the Notice, the Firm Element requirements would apply to all "covered persons that are primarily engaged in municipal securities activities, as described in Rule G-3(a)(i)."[13] Identifying which of its associated persons are "primarily engaged in municipal securities activities" may be a relatively easy exercise for municipal securities dealers whose primary business consists of the offer and sale of municipal securities other than municipal fund securities. In the case of our members and other dealers whose municipal securities activities are limited to the offer and sale of municipal fund securities, such as 529 plan securities, this will be an incredibly difficult exercise. This is because our members' associated persons who are engaged in municipal securities

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see http://www.cecouncil.com/the_council/activities_and_new_initiatives/ and http://www.cecouncil.com/Documents/2011+Council+Status+Report.pdf.

[12] *See, e.g.,* SEC Release No. 34-39576 (Jan. 23, 1998), in which the MSRB proposed amendments to its Program that "will be adopted uniformly with rule changes of other SRO Council members . . ." Release at p. 2.

[13] Notice at p. 4. MSRB Rule G-3 expressly excludes from the definition of "municipal securities representative" and "municipal securities sales limited representative" any person whose function is "solely clerical or ministerial."

activities and whom the MSRB hopes to capture in its proposal – *i.e.,* those "who work in the dealer's back and middle office and do not have direct contact with customers" – are likely involved in the processing of transactions involving both mutual fund shares and 529 plan securities. For the sake of efficiency, our members' 529 plan and mutual fund businesses tend to be integrated; transactions involving 529 plan securities are handled through the same systems and by the same back office and middle office personnel who process transactions involving mutual fund shares. As such, it would be very difficult, if not impossible, for our members to determine which back office and middle office personnel are "primarily engaged in municipal securities activities." Unlike the existing Firm Element requirements, which are triggered by a person's registration status, the MSRB's proposed standard is not clear cut.

The MSRB's standard for determining who is covered by the proposed requirement raises a variety of unresolved issues. In order to determine which of its employees are subject to this new requirement, a dealer presumably would first attempt to determine which of its employees are purely clerical or ministerial.[14] After eliminating those employees, a dealer would then have to determine which of its remaining employees are "primarily engaged in municipal securities activities." The MSRB's proposal includes no guidance for dealers to use in making this determination. As such, it is impossible to know whether the determination should be based on: the number of hours a specific employee spends processing 529 plan transactions versus mutual fund transactions; the volume of 529 plan transactions a person processes versus mutual fund transactions processed; the amount of time spent designing and maintaining systems to process 529 plan securities versus mutual fund securities; all of the above; or, some other standard. Also, the period of time over which the dealer is to measure these activities to make the required determination is not specified.

Without more guidance as to how a dealer is to determine which of its associated persons are clerical and ministerial employees and which of the remaining unregistered associated persons are primarily engaged in municipal securities activities, it is impossible to determine with any degree of precision how the MSRB's proposal will impact our members.[15] In considering these issues, however, it bears noting that firms that operate their 529 plan and mutual fund businesses on an integrated basis likely do not track – or have systems designed to track – the type of information that could be used to determine

[14] The scope of this category also is unclear. For example, would a branch office receptionist that interacts with retail customers fall into this category?

[15] Without greater clarity, we also do not believe that the MSRB can, with any degree of accuracy, assess the benefits and costs of the proposal in accordance with its Economic Analysis Policy. These issues are discussed in Section C of this letter, below.

which of their unregistered associated persons are "primarily engaged in municipal securities activities."[16]

Our concerns with the vagueness of the MSRB's proposal are not limited to determining which associated persons are subject to it. We also are concerned with how the proposal will impact dealers if one or more of their associated persons fail to satisfy the new Firm Element requirement. Currently, a registered associated person who fails to comply with the SROs' continuing education requirements puts his or her registration status in jeopardy, as compliance is a requirement to maintain a registration. The threat of de-registration is a powerful tool to ensure compliance with the existing continuing education requirements, but it will not be a tool that dealers can use to motivate unregistered associated persons to comply with the proposed requirements. We are concerned that an unregistered person's failure to comply could put a municipal securities dealer at risk of being deemed out of compliance despite its best efforts to comply.

Until such time as the MSRB provides more detailed information about the proposal's scope and how it intends to enforce these new requirements, we are unable to provide more meaningful information regarding our concerns.

C. The Proposal is Not Consistent with the MSRB's Economic Analysis Policy

The Institute also opposes the proposed Firm Element revisions to Rule G-3 because they do not appear to have been developed in accordance with the MSRB's Economic Analysis Policy, which it published in September 2013.[17] According to the Economic Analysis Policy,

> Economic analysis should inform, as opposed to determine, the regulatory approach to addressing a market problem or other identified need for rulemaking and serve as part of what the MSRB considers in its deliberation regarding a rule. *Economic analysis is to be included at the earliest stage of the rulemaking process to influence the choice, design, and development of*

[16] Anecdotally, however, because each of our members that is engaged in the 529 plan business is also engaged in the mutual fund business, and because of the limited volume of their 529 business vis-à-vis their mutual fund business, it is quite possible that none of their associated persons would meet the MSRB's "primarily engaged in municipal securities activities" standard. According to Institute data, as of the 2012 calendar year-end, approximately $169 billion was invested in 529 college savings plans as compared to $13,045,220 billion invested in mutual funds. *See 2013 Investment Company Fact Book,* 53rd Ed. (Investment Company Institute, 2013) at pp. 136 and 142.

[17] *See* fn. 5, above.

> *policy options before a specific regulatory course has been determined.* [Emphasis added.]

We respectfully submit that the proposal is not in line with the MSRB's Economic Analysis Policy. In particular, according to the Economic Analysis Policy, the "four key elements" of a good regulatory economic analysis that should be considered "at the earliest stage of the rulemaking process" are:

1. Identifying the need for a proposed rule and explaining how it will meet that need;
2. Articulating a baseline against which to measure the likely impact of the proposed rule;
3. Identifying and evaluating alternative regulatory approaches; and
4. Assessing the benefits and costs, both quantitative and qualitative, of the proposed rule and the main reasonable alternative regulatory approaches.

The MSRB's Notice fails to satisfy *any* of these "four key elements."[18]

In lieu of conducting a "good regulatory economic analysis" *prior* to publishing its proposed amendments, the MSRB instead has already determined its proposed course of action[19] and now asks commenters to provide it the following feedback and "include relevant data wherever possible":

- What are the potential benefits, if any, of the changes to the continuing education requirements?
- Please describe in detail and quantify any new burdens that the proposed change would impose on dealers;
- How much would it cost your firm to develop and deliver one hour of Firm Element continuing education annually for associated persons primarily engaged in municipal securities activities?

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[18] The Notice does include at least one statement about the MSRB's reasons for issuing the proposal. In particular, it states that the "MSRB believes the proposed rule change will enhance the overall securities knowledge, skill and professionalism of associated persons primarily engaged in municipal securities activities and, hence, will advance the MSRB's interest in protecting investors, municipal entities and the public interest." Notice at p. 4. In our view, however, a statement of the MSRB's belief, in the absence of any supporting data or analysis to support it, does not meet the requirement of the Economic Analysis Policy that such analysis inform a regulatory approach to addressing a market problem or identifying a need for rulemaking. *Cf.,* MSRB Notice 2014-01, which proposes new MSRB Rule G-42 to govern the standards of conduct and duties of municipal advisors and which contains 11 pages of economic analysis that appears to be consistent with the MSRB's Economic Analysis Policy. *See* MSRB Notice 2014-01 at pp. 17-28.

[19] *See* Notice at p. 1 ("The MSRB is providing notice of these proposed changes to MSRB Rule G-3, which will be filed with the Securities and Exchange Commission ("SEC") *shortly*." (Emphasis added.))

- What is the total cost of development and delivery of Firm Element continuing education regarding municipal securities?
- What percentage of your firm's employees would be impacted by the proposed rule change on continuing education?
- Has technology made it easier and less costly to develop and deliver Firm Element training? What types of technology are utilized by your firm to deliver Firm Element training?
- Are there any alternatives to the proposed changes to continuing education requirements?[20]

The information the MSRB seeks appears to be the type of information that, according to the Economic Analysis Policy, the MSRB should have considered *prior* to proposing its amendments. We oppose the MSRB pursuing adoption of the proposed amendments to the Firm Element without first undertaking an analysis that is consistent with its Economic Analysis Policy and that justifies the proposal based on qualitative and quantitative evidence of its costs and benefits. In addition to direct costs, such analysis should also consider the costs associated with the MSRB deviating from the uniform manner in which the SROs have jointly implemented continuing education requirements and the impact of such deviation on those dealers that are dually registered with the MSRB and FINRA.[21]

II. PROPOSED REVISIONS TO RULES G-3(A)(ii)(C), G-7, AND G-27

The Institute supports the proposed revisions to Rule G-3(a)(ii)(C) that would limit the activities of persons who are duly qualified as limited representatives. As proposed, such persons' activities would be limited exclusively to the sales and purchases from customers of municipal fund securities.[22] We support this revision because it will

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[20] Notice at pp. 8-9.

[21] Due to the short comment period provided by the MSRB and because of the lack of clarity regarding the scope of the proposal, we are unable to assess fully the costs and benefits associated with the proposed amendments to the Firm Element program. It appears, however, that there are likely to be significant costs associated with it. Aside from developing and delivering the required Firm Element content, these costs would include, among others: designing systems to track on an ongoing basis which associated persons are subject to the requirement and which have fulfilled their annual requirement; reminders to associated persons of their need to fulfill the requirements; and maintaining records documenting how and when the requirements have been satisfied. To the extent a dealer relies on an outside vendor to produce and deliver its continuing education content, which is not uncommon, the dealer's costs are likely to increase if the vendor imposes fees based on the number of associated persons who attend such training sessions.

[22] We find use of the phrasing "purchases from customers" in this proposal awkward. Unlike municipal securities dealers that sell bonds and purchase bonds from their customers, municipal securities dealers involved in the sale of municipal fund securities do not ever "purchase" such securities back from their customers. Instead, like mutual funds, when an owner wishes to liquidate its 529 plan holdings, the securities are redeemed with proceeds paid to the customer from the 529 plan trust. While FINRA's comparable rule, Rule 1032(d) refers to a limited representative's ability to "purchase" securities, that rule

make the MSRB's rule more consistent with FINRA's similar rule, Rule 1032. We recommend, however, that the MSRB additionally revise its rule to expressly clarify that such limited representatives may also engage in solicitation activities. This further revision is necessary to make the MSRB's rule entirely consistent with FINRA's rule, which permits limited representatives to engage in the "solicitation, purchase, and/or sale of investment company securities." In the absence of this revision, it is unclear whether the MSRB's revised rule would permit limited representatives to engage in solicitation activities involving municipal fund securities.

We additionally support the repeal of the provisions in Rule G-3(d) that currently: (1) define the term "financial and operations principal;" (2) impose qualifications requirements on a person acting as a FINOP (*i.e.,* passage of the Series 27 examination, which is administered by FINRA); and (3) require every broker, dealer, or municipal securities dealers to have at least one FINOP unless eligible for a waiver from this requirement.[23] In light of FINRA's similar FINOP requirements and the fact that municipal securities dealers that are FINRA members would be required to comply with FINRA's requirements, the MSRB has proposed to delete its separate FINOP requirements. As explained in the Notice, repeal of this provision "will simplify the qualification rules that dealers must follow and avoid regulatory duplication."[24] We agree and support this proposed revision. We commend the MSRB for its interest in avoiding unnecessary regulatory costs and duplication and for proposing this amendment in furtherance of such interest.[25]

■ ■ ■ ■ ■

We appreciate the opportunity to provide these comments and your consideration of them. If you have any questions, please contact the undersigned at (202)326-5825.

Sincerely,

/s/
Tamara K. Salmon
Senior Associate Counsel

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extends to transactions involving closed-end fund shares. Unlike mutual fund shares, closed-end fund shares may be purchased by a broker-dealer from a customer.

[23] FINRA imposes similar requirements on FINOPs of its members. *See* FINRA Rule 1022.

[24] Notice at p. 7.

[25] We also support the technical amendments to Rule G-7 and G-27 to accommodate the proposed changes to Rule G-3(d).

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MetLife®

Jennifer Lewis
Corporate Counsel
Law Department
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January 13, 2014

BY ELECTRONIC SUBMISSION

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

Re: MSRB Regulatory Notice 2013-22 (MSRB Proposes Changes to Continuing Education Program)

Dear Mr. Smith:

MetLife Securities, Inc. appreciates this opportunity to respond to Regulatory Notice 2013-22 issued by the Municipal Securities Rulemaking Board (the "MSRB") in which the MSRB is requesting comment on proposed amendments to Rule G-3 to require all associated persons primarily engaged in municipal securities activities to participate in a minimum of one hour of Firm Element continuing education on municipal securities topics annually. We are requesting clarification of the phrase "primarily engaged in municipal securities activities."

Footnote 6 of the Regulatory Notice states that the "phrase 'primarily engaged in municipal securities activities' is similar to terminology used in MSRB rules to distinguish those individuals who are municipal finance professionals. *See* MSRB Rule G-37(g)(iv)(A)." MSRB Rule G-37(g)(iv)(A) states, in relevant part, as follows:

> (iv) The term "municipal finance professional" means:
>
> (A) any associated person primarily engaged in municipal securities representative activities, as defined in rule G-3(a)(i), provided, however, that sales activities with natural persons shall not be considered to be municipal securities representative activities for purposes of this subparagraph (A);

We interpret Footnote 6 to mean that the proposed continuing education requirement would not apply to associated persons that solely engage in selling municipal securities to retail customers. We believe this interpretation is consistent with the MSRB's policy goals for the proposal. We request that the MSRB confirm our understanding.

We would be pleased to discuss this comment in greater detail. If you have any questions, please do not hesitate to contact the undersigned at (617) 578-4228.

Very truly yours,

Jennifer Lewis

cc: ***Municipal Securities Rulemaking Board***
Lynette Kelly, Executive Director
Gary L. Goldsholle, General Counsel
Lawrence P. Sandor, Deputy General Counsel

Enclosure

January 14, 2014

VIA ELECTRONIC MAIL

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

Re: MSRB Regulatory Notice 2013-22 (December 13, 2013)

Dear Mr. Smith:

This letter is submitted on behalf of the National Society of Compliance Professionals, Inc. (the "NSCP") in response to the publication by the Municipal Securities Rulemaking Board, ("MSRB"). In Regulatory Notice 2013-22, the MSRB proposes amendments to Rule G-3 to require all associated persons primarily engaged in municipal securities activities to participate in a minimum of one hour of firm element continuing education ("CE") on municipal securities topics annually. Additionally, Rule G-3(a)(ii)(c) would be modified so as to be analogous with FINRA's NASD Rule 1032(b).

About the NSCP:

The NSCP is a non-profit membership organization with approximately 2,000 securities industry professionals dedicated to developing education initiatives and practical solutions to compliance-related issues. Our members work in the compliance areas of broker-dealers, investment advisers and private fund firms and come from firms of all sizes. To our knowledge, NSCP is the largest organization of securities industry professionals in the United States devoted exclusively to compliance.

Our remarks reflect the NSCP's fundamental mission, which is to set the standard for excellence in the securities compliance profession. This commitment is exemplified by, among other things, the time and resources the NSCP, and the industry professionals whose volunteer services its marshals, have devoted in the past seven years to the development of a voluntary certification and examination program for compliance professionals.[1]

[1] Persons who complete NSCP's certification program qualify for the "Certified Securities Compliance Professional" (CSCP) designation.

Our mission is directed at the interests of compliance programs and compliance professionals. We accordingly support a regulatory scheme that: (1) promotes practices that support market integrity and the interests of investors; (ii) creates clarity as to a firm's obligations to provide a reasonable system of supervision; (iii) promotes requirements that enable compliance officers to create reasonable workable programs; and (iv) avoids requirements or mandated tasks that are more costly or less efficient in realizing a regulator's public policy objectives, thereby increasing the difficulty facing a compliance officer in the discharge of his or her duties.

We shall first address the proposed rules changes in the Regulatory Notice and then address the concerns we have about certain aspects of some of the proposed changes.

1. Rule G-3 and G-7: Professional Qualifications. The proposed changes would eliminate the requirement of MSRB Rule G-3(d) for certain firms to appoint at least one financial and operation principal. We believe this is appropriate since it eliminates requirements that are redundant of FINRA requirements, *e.g.*, FINRA's NASD Rule 1022(b).

2. Rule G-3: Professional Qualifications. Rule G-3 would also be modified to limit the activities of a Limited Representative exclusively to sales and purchase from customers of municipal fund securities. This change would amend Rule G-3(a)(ii)(C) to be consistent with FINRA's NASD Rule 1032(b) so that a Series 6 Limited Representative would be precluded from engaging in activities other than sales. We believe this is an appropriate change which will reduce confusion as to the appropriate activities to be engaged in by a Series 6 Limited Representative.

If this change is adopted, following completion of the administrative review and adoption process, we recommend that MSRB clarify that the Limited Representative license referenced in the Regulatory Notice is the Series 6 (Investment Company and Variable Contracts Products) license. It would not affect the Series 51 (Mutual Fund Representative) or the Series 52 (Municipal Securities Representative) license categories.[2] Thus, there will continue to be three designations of municipal registered representatives: (1) Municipal Securities Representatives, (2) Municipal Securities Limited Representatives, and (3) Municipal Securities Representatives qualified by virtue of being a Limited Representative – Investment Company and Variable Products.

3. Rule G-3(h): Continuing Education Requirements. Rule G-3(h)(ii)(A) would be modified to apply its requirements to any "associated person as defined by MSRB Rule D-11." Associated persons (excluding those with solely clerical or ministerial functions) would be deemed "covered persons." This would broaden the scope of covered persons to include non-registered persons. Currently, the rule covers registered persons being in direct contact with customers, and those engaged in trading and investment banking activities and their immediate supervisors. With the concerns described later in this letter, it seems reasonable for non-registered persons to be required to complete continuing education training. We note, however, that this new requirement represents a departure from current industry-wide requirements, *e.g.*, FINRA Rule 1250 prescribes requirements for registered persons only. Registered persons are obviously bound by FINRA and MSRB rules and their registration necessarily includes a specific agreement that they are so bound. Mandating continuing

[2] *See* MSRB Notice 2011-62 (November 7, 2011) for a full description.

education for non-registered persons may involve changes in the terms and conditions of employment for such employees (or otherwise associated persons). While MSRB members may be penalized for failing to implement such training, it is unclear what authority the MSRB has with respect to such individuals. Clearly, such persons are not subject to the loss of their registration status. We wonder if the MSRB has considered the full implications of such a change, especially since it reflects a departure from the requirements imposed by other self-regulatory organizations.[3]

Rule G-3(h)(ii)(B) (Standards for the Firm Element) would be modified to apply to "covered persons" (as redefined) primarily engaged in activities described in Rule G-3(a)(i). We ask if the MSRB has in mind a definition of "primarily engaged in." Does this mean persons who have generated revenue constituting more than 50% of their revenue production; more than 50% of their transactional work; 50% of their average daily activity? We suggest that firms would be challenged in accurately identifying such persons on a consistent basis. Firms would also be challenged in assuring that the proper universe of "covered persons" will be identified on an ongoing basis and appropriately trained. Would an annual evaluation be required that firms must adequately substantiate to show compliance?

Policy Concerns. Besides the technical aspects of the proposed changes we discussed above, we have the following concerns:

1. Departure from Current FINRA – Mandated Standards for the Firm Element. As the MSRB is aware, firms must annually evaluate and prioritize their training needs. FINRA Rule 1250 requires members to implement a training program covering the securities products services and strategies they offer. Firms must conduct an annual "Needs Analysis." Included in this evaluation, firms must, at a minimum, cover the general investment features and associated risk factors, suitability and sales practice considerations and applicable regulatory requirements. Generally, this annual Needs Analysis is to be particularized to a firm's business and no special categories of that business are isolated for special treatment. Indeed, this Needs Analysis process is supported by the Securities Industry Continuing Education Council[4] in regularly published Firm Element Advisories. We note that in the most recent Advisory for example, a significant number of MSRB-related topics are recommended for consideration. (The Fall 2013 Advisory included these topics: Telemarketing, MSRB Rule G-39; Build America and Direct Pay Bonds, MSRB Notice 2013-13; Political Contributions, MSRB Notice 2013-09; Interdealer Dollar Pricing, MSRB Notices 2013-13 and 2012-55; MSRB Rule G-17, Application to Municipal Securities Underwriters; Regulation of Broker's Brokers, MSRB Notice 2012-34; EMMA System; New Issue and Information Submission Requirements, MSRB 2012-64.)

[3] Perhaps, rather than eliminating the "registered" component of "covered registered person" to capture the municipal securities representatives that the MSRB seeks to have trained, the Board could simply drop the "who has direct contact with customers in the conduct of the broker, dealer …" portion of the MSRB Firm Element rule. In other words, if you perform activities that require significant regulatory responsibility, then you must be registered. And, if you are registered, then you are covered by G3(h)(ii) Firm Element requirements.

[4] Securities Industry/Regulatory Council on Continuing Education

We believe that firms engaged in the municipal securities business are currently required by FINRA rules to provide appropriate continuing education training to their employees and agents commensurate with the scope and volume of their business. We note that in MSRB Notice 2011-62, the MSRB reminded firms of their responsibilities to develop continuing education initiatives which suitably address their employees/agents conducting municipal securities activities:

> The MSRB would expect that as a dealer's business becomes more focused on municipal securities, the written training plan would call for greater training regarding municipal securities and related regulatory developments. Similarly, as a dealer's municipal securities activities becomes more complex, the MSRB would expect that the written training plan would call for greater emphasis on those areas of complexity.
>
> In accordance with the requirements of Rule G-27(b)(ii)(C)(1), dealers must designate a Municipal Securities Principal as responsible for supervising the various municipal securities activities of the dealer, including the Firm Element of the continuing education program as it applies to the dealer's municipal securities activities. To the extent a dealer engages in securities activities, other than municipal securities activities, which are covered by the continuing education rules of a registered securities association, it is the expectation of the MSRB that a Municipal Securities Principal would coordinate with any other personnel assigned to oversee the firm's overall continuing education program and would review the written training plan in order to confirm that the plan provides adequate coverage of municipal securities in light of the dealer's activities in that market.

We understand that firms have undertaken to provide CE training consistent with the municipal securities business conducted at these Firms.

We ask if the MSRB staff has conducted a review sufficient to demonstrate that firms are not appropriately conducting CE training tailored for individuals engaged in the municipal securities business. We question whether extraordinary training efforts should target those primarily engaged in the municipal securities business, as opposed to those persons not primarily engaged in the business. We suggest that less actively engaged persons might be more appropriate targets for municipal-related training. The occasional sale of a municipal securities product might arguably have been affected by a person less actively engaged in municipal business and perhaps less knowledgeable about industry and regulatory developments.

We question the need for a prescriptive rule suggesting a minimum amount of time to be committed to municipal securities-related CE training. Currently, there are no prescriptive rules that we are aware of that mandate specific time on any aspect of securities industry CE training.

Request for Comments. We believe that the Regulatory Notice poses some excellent questions seeking relevant data concerning the imposition of new burdens placed upon firms in terms of cost and process changes that might have to be developed. Given the limited amount of time allowed for

comments (30 days) which overlapped the extended holiday season for a good part of that time, we recommend that the MSRB allow a longer period of time for firms to become familiar with the MSRB's proposed changes and to supply more responsive information. Given the timing it has been difficult to identify much in the way of data to be responsive to the questions posed. With more time, NSCP could reach out to more members for additional information if so requested by the MSRB. Nonetheless, we offer some thoughts on several of the questions posed in the Request for Comment:

- Anticipated benefits of protecting investors resulting from proposed training requirement changes. We are unaware of how much actual change would result from the proposed changes since firms are required to provide CE training targeting the products, services and strategies they currently offer. We are not sure what would be added except for a new process to identify certain "covered persons" to receive at least one hour of focused training. Such a process would presumably need to be included in a firm's written supervisory procedures with which the execution of such procedures must be "proved up" by documentation.

- Generally, the annual Needs Analysis for designing a firm's CE program is performed by the firm's compliance professionals often working with other business and operations area personnel. In smaller firms, much of the administrative burden for identifying topics to be covered and persons to receive CE training is borne by a firm's compliance department. A prescriptive requirement, *e.g.*, minimum of one hour for each "covered person" will add to the administrative burden for those persons and because of the detail involved perhaps result in greater opportunity for errors. Training is considered very important by the compliance profession but at the same time we do not want individuals to lose sight of its importance while being bogged down by administrative functions associated with such a prescriptive rule.

- The estimate of costs for firms to develop one hour of focused Firm Element is unclear. Based upon the limited information obtained from a few of our members, we understand that the cost of developing (or buying) a single 20 minute training program could vary between $5,000 to $15,000 if it was determined that additional training courses were needed (i.e. new covered persons). Many firms currently use third party vendors to provide courses as well. Total costs for firms would vary based upon the size of firms and their scope of business. A few estimates ranged from $25,000 to $100,000. As mentioned, these estimates are calculated based upon the prior experience of the few NSCP members we were able to contact. We recommend that the MSRB seek further input reflecting its determination of how a firm's CE process would need to be modified, how covered persons are to be identified, and what types of training are anticipated. In other words, greater accuracy of projecting anticipated costs may be supported by more precision in what would be expected to be implemented.

- The responses too many of the excellent questions posed in the Request for Comment will depend upon the business model, size and experience of each firm. Once again, in the limited time available, we are unable to provide much information that is responsive. We ask if the MSRB has a sufficient amount of data to conclude that the objectives of the proposed changes are not currently being met through existing continuing education efforts by firms.

- The MSRB asks if alternatives to the proposed changes are available. We suggest that through the Securities Industry Council, the MSRB continue to press for inclusion of appropriate coverage of municipal securities issues in the Regulatory and Firm Elements of continuing education recommendations. For example, we understand that persons registered in the operations professional category are prescreened when taking the Regulatory Element Training, *i.e.*, individuals taking such training identify the operational areas they are engaged in. Training is thus tailored to assume they are knowledgeable about important aspects of the operational areas they are engaged in. Persons taking Firm Element courses who are primarily involved in municipal securities could be similarly identified and appropriately trained on issues they are expected to know about.

Further, we believe that the MSRB, FINRA and the SEC could undertake to develop a White Paper describing best practices for firms to develop and implement their continuing education programs. Thus each firm could be guided in establishing continuing education programs that are consistent with its business model.

Conclusion: We commend MSRB for seeking guidance on ways for firms to develop programs to effectively train their supervised persons engaged in the municipal securities business. We believe that firms should be able to tailor their CE training programs within a flexible process. We also believe that mandating prescriptive minimum hourly training requirements is inconsistent with the industry-wide goal of designing CE training appropriately addressing each firm's needs, based upon a self-managed analysis.

****

Thank you for your attention to these comments. The NSCP appreciates the opportunity to submit comments in response to the Notice and would welcome the opportunity to answer any follow-up questions the MSRB has on this submission. Questions regarding the foregoing should be directed to the undersigned at (860) 672-0843.

Very truly yours,

Judy Werner
Executive Director
jwerner@nscp.org

Comment on Notice 2013-22

from Joe Romano, Romano Wealth Management

on Monday, January 13, 2014

Comment:

I echo the comments and sentiments in the comment letter written by Chris Charles of Wulff Hansen & Co. I think he has provided a very thoughtful and measured comment to this proposed rule.

Comment on Notice 2013-22

from Paige Pierce, RW Smith & Associates, Inc

on Monday, January 13, 2014

Comment:

We wish to express our support of the positions expressed in the letter submitted by Chris Charles of Wulff, Hansen & Co. He makes a number of pertinent points regarding the MSRB's proposed changes to continuing education requirements. These changes as proposed are redundant and too prescriptive, likely impacting smaller firms the hardest, creating a potentially negative impact on limited resources without an offsetting benefit.

We appreciate the opportunity to comment.

Thank you,
Paige Pierce

sifma

Invested in America

January 13, 2014

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street
Alexandria, VA 22314

Re: **MSRB Notice 2013-22 (December 13, 2013): Request for Comment on Proposed Changes to MSRB Rule G-3: Continuing Education Program, Financial Operation Principal, and Limited Representative – Investment Company and Variable Contract Products**

Dear Mr. Smith:

The Securities Industry and Financial Markets Association ("SIFMA")[1] appreciates the opportunity to comment on the Municipal Securities Rulemaking Board's ("MSRB") Request for Comment on the proposed changes to MSRB Rule G-3 detailed in Regulatory Notice 2013-22[2] (the "Proposal"). This Notice contains three proposed changes: (a) expanding the scope of persons subject to and the substance of the "firm element" of a broker, dealer, or municipal securities dealer's continuing education requirements contained in MSRB Rule G-3(h); (b) eliminating the requirement of MSRB Rule G-3(d) for certain firms to appoint at least one Financial and Operations Principal, and (c) modifying the scope of permissible activities for a Limited Representative – Investment Company and Variable Contracts Products (Limited Representative) in MSRB Rule G-3(a)(ii)(C).

SIFMA supports eliminating the requirement of MSRB Rule G-3(d) for certain firms to appoint at least one Financial and Operations Principal, and modifying the scope of permissible activities for a Limited Representative – Investment Company and Variable Contracts Products (Limited Representative) in MSRB Rule G-3(a)(ii)(C). However, we believe the proposed changes to MSRB Rule G-3(h), while well-intentioned, require

[1] SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

[2] MSRB Notice 2013-22 (December 13, 2013) available at http://msrb.org/~/media/Files/Regulatory-Notices/RFCs/2013-22.ashx?n=1.

additional consideration and analysis. Due to timing of the comment period, including the recent year-end holidays and effective date of the SEC's Municipal Advisor Rule and the requisite implementation planning and training, we have received limited feedback from SIFMA's members on the proposed rule changes. We believe MSRB should reconsider the proposal altogether, and preliminary feedback includes the issues below.

I. MSRB should not "de-harmonize" its Continuing Education Requirements from FINRA Rules

As noted by the MSRB, in addition to individual licensing and regulatory continuing education requirements administered by FINRA, "dealers [are required] to establish a formal training program to keep certain registered persons up to date on job and product-related subjects (the "Firm Element"). In planning, developing and implementing the Firm Element program, each MSRB registrant must consider its size, structure, scope of business and regulatory concerns. Further, each registrant must administer its Firm Element program in accordance with its annual needs analysis and written training plan, and must maintain records documenting the content of the program and completion of the program by certain registered persons."

These MSRB requirements are currently harmonized with FINRA's Rule 1250(b) Firm Element Continuing Education Requirements. The SEC's 2012 Report on the Municipal Securities Market includes a recommendation for the Commission work with the MSRB to harmonize MSRB rules with similar FINRA rules.[3] However, the MSRB appears to disregard this theme by proposing to "de-harmonize" its Firm Element Continuing Education rule from FINRA's without offering any compelling evidence that this is necessary or that those primarily engaged in municipal securities activities are inadequately trained or educated.

II. MSRB should not expand application of Firm Element Continuing Education to Unregistered Associated Persons Primarily Engaged in Municipal Securities Activities

This proposal would expand the individuals required to take firm element continuing education. It would apply to *associated persons primarily engaged* in municipal securities activities whereas current MSRB and FINRA rules apply to *registered* individuals with *customer contact* (and also registered operations professionals). MSRB would uniquely expand the Firm Element to certain middle and back office personnel and perhaps to roles related to finance and accountings that would result in a distinct educational module for personnel without customer contact, However, MSRB has not demonstrated a compelling need to subject these individuals to additional training and education or that the type of training proposed (e.g. investment features, suitability, sales practices, regulations) would even be relevant to their particular job functions.

[3] Report on the Municipal Securities Market, U.S, Securities and Exchange Commission, July 31. 2012, at page 141, available at http://www.sec.gov/news/studies/2012/munireport073112.pdf.

- Furthermore, MSRB's introduction of a new "primarily engaged in" standard would create additional uncertainty and administrative burden in making the determination of who is covered[4]. This would be a highly distinct standard from existing requirements to identify registered individuals with customer contact.

- The proposal would also mandate training in a particular product area (and presumably would need to cover topics unique to municipal securities that are listed in the notice as examples) as well as mandating a specific time requirement whereas FINRA's rule included flexibility on content and time that allows firms to address "hot topics" or compliance issues that may pose the most risk to the firm and its customers in the current market environment.[5]

- In most circumstances, registered individuals primarily engaged, or engaged at all, in municipal securities activities with the public do receive training on municipal securities through various means including Firm Element Continuing Education. Individuals engaged in back office operations receive training appropriate to their job function. The administrative costs of having inconsistent requirements would outweigh the benefits and this proposal is in conflict with stated goals of rule harmonization.

[4] The phrase "primarily engaged" is not defined in the MSRB Rules, and there is no guidance in the MSRB commentary that sheds any light as to how this standard is to be applied. This will lead to disparate interpretation as to what "primarily engaged" means by various dealers. While the Proposal points to the use of this "primarily engaged" concept in other MSRB rules, the fact remains that the MSRB has never given any guidance as to how to apply that standard in any of their other rules, either. MSRB should set forth a bright line definition of what "primarily engaged" means in order to ensure that the individual they intend to be covered by this new training requirement are captured uniformly across the industry.

[5] While MSRB Notice 2013-22 cites anti-money laundering training as an example of particular topic training, it important to note that such training is required by statute under the Bank Secrecy Act. SIFMA is not aware of financial services product specific training imposed by a regulatory agency, nor is any cited. Additionally, the "one hour" specific requirement is flawed. One hour is a subjective requirement that is easily manipulated and does not focus on the quality of the training being delivered. Focusing on the quantity (i.e., time element) versus the quality of the training provided is misguided. A presenter (or a participant) may move through material very slowly and achieve the one hour requirement with very little actual material being covered. While the literal requirement of the rule would be met (one hour of muni-specific training), it would obviously fall short of the MSRB's objective. As such, a requirement for an arbitrary one hour training requirement is fundamentally flawed.

III. Level Regulatory Playing Field with Previously Unregulated Municipal Advisors/Financial Advisors

SIFMA is pleased that the MSRB is expeditiously moving forward in defining the scope of duties that a municipal advisor owes to its municipal clients[6]. In addition to the concerns raised above, prior to expanding the scope and manner of training of dealer employees, SIFMA believes that efforts to revise the MSRB's continuing education program should instead be focused on newly regulated/previously unregulated financial advisors to establish a minimum threshold of training annually that is appropriate in the public interest and for the protection of investors, municipal entities or obligated persons.

IV. Financial Operations Principal and Limited Representative – Investment Company and Variable Contracts Products

SIFMA concurs with the MSRB that the requirement of MSRB Rule G-3(d) for certain firms to appoint at least one Financial and Operations Principal should be eliminated, and the scope of permissible activities for a Limited Representative – Investment Company and Variable Contracts Products (Limited Representative) in MSRB Rule G-3(a)(ii)(C) should be modified as proposed.

[6] MSRB Notice 2014-01, Request for Comment on Draft MSRB Rule G-42, on Duties of Non-Solicitor Municipal Advisors (January 9, 2014), available at http://msrb.org/~/media/Files/Regulatory-Notices/RFCs/2014-01.ashx?n=1. MSRB Notice 2014-01 is also notable as it is the first time the MSRB has officially incorporated an economic analysis into its rulemaking. MSRB Notice 2013-22 is silent regarding economic analysis.

V. Conclusion

SIFMA sincerely appreciates this opportunity to comment upon the Proposal. SIFMA supports the eliminating the requirement of MSRB Rule G-3(d) for certain firms to appoint at least one Financial and Operations Principal, and modifying the scope of permissible activities for a Limited Representative – Investment Company and Variable Contracts Products (Limited Representative) in MSRB Rule G-3(a)(ii)(C). However, we believe the proposed changes to MSRB Rule G-3(h), while well-intentioned, requires additional consideration and analysis for the reasons discussed above.

We would be happy to meet with you and the MSRB's staff to discuss our comments further. Please do not hesitate to contact me with any questions at (212) 313-1265.

Sincerely yours,

David L. Cohen
Managing Director
Associate General Counsel

cc:

Municipal Securities Rulemaking Board
Lynnette Kelly, Executive Director
Ernesto Lanza, Deputy Executive Director
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January 9, 2014

Ronald W. Smith, Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

Dear Mr. Smith:

Thank you for the opportunity to comment on Regulatory Notice 2013-22. Wulff, Hansen & Co. is an 80-year-old FINRA member broker/dealer operating primarily in the municipal securities markets and is also a municipal financial advisor.

We support the proposed elimination of the redundant requirement that firms have a Financial and Operations Principal and we have no opinion on the changes to the activities of a Limited Representative. Our further comments are confined to the Continuing Education aspects of the Notice.

We believe much of the proposal is redundant, overly prescriptive, unduly burdensome, and will result in unintended consequences. Specifically, we believe that:

- *The Notice contains no evidence that the current system is inadequate*
- *The proposal is redundant as applied to FINRA Members*
- *In some cases the proposal would likely result in reduced training*
- *The proposal would likely result in some persons receiving irrelevant training*
- *The proposal exempts some persons who may pose a risk to the public:*
- *The proposed quantitative approach is inconsistent with FINRA's qualitative approach*
- *The proposal is unworkably vague as to the definition of 'primarily engaged'*

Our reasons for these views are outlined below:

The Notice contains no evidence that the current system is inadequate:
Rule G-3 already sets forth an adequate continuing education requirement, and no evidence is presented to support the need for a change or any examples of how the public is being harmed by the alleged insufficiency of those existing rules. Since the proposal will almost certainly increase costs and operational burdens for the industry, it would be appropriate to share the actual evidence or examples that presumably prompted the proposed changes, along with the cost/benefit analysis justifying the proposal.

The proposal is redundant as applied to FINRA Members
Most municipal securities dealers, as FINRA members, are already subject to FINRA Rule 1250, which requires an annual training plan appropriate to the business of the member. If a member is engaged in the municipal securities business but does not provide adequate municipal securities training to those persons involved in that business, the firm is arguably already in violation of FINRA Rule 1250.

In some cases the proposal would likely result in reduced training:
Municipal securities dealers, particularly smaller firms, are already burdened with reduced revenue and constantly increasing costs, particularly regulatory costs, and are consequently always looking for

legitimate and compliant ways to reduce or contain this overhead. Firms which in the past believed that G-3 Firm Element compliance required several hours of training may well view the prescriptive one-hour 'minimum standard' as a safe harbor, allowing them to reduce costs while remaining compliant. The specified one-hour minimum will also complicate the process of identifying and proving a violation of the rule by firms whose programs are deemed inadequate by their examiners but meet the quantitative minimum set forth in the rule.

The proposal would likely result in some persons receiving irrelevant training:

With the rigid one-hour minimum, some firms would be understandably motivated to develop a basic one-size-fits-all program of at least one hour and assign that program to all covered persons regardless of relevance. We realize that the proposal does not mandate such a cookie-cutter approach, but submit that such an outcome is more likely than not, especially in small firms with limited size and resources. Even if supplemented with more job-specific material, forcing all covered persons to receive the same one-hour core would inevitably result in at least some of them receiving training irrelevant to their work.

In addition, the change from 'registered person' to 'covered person' brings under the CE umbrella certain unregistered individuals who have no contact with customers but are engaged in an activity described in G-3(a)(i), such as an internal analyst doing municipal research or financial analysis which goes beyond the clerical or ministerial but is not shared with the public. While we support requiring some sort of CE for all those who would benefit from it, it should be relevant to that person's work. When combined with the existing provisions of G-3(h)(ii)(B)(2), such an analyst would now be specifically required to receive training on, for example, sales practice despite the fact that she has no contact with the public and is not licensed to engage in sales. This wastes time and money and, since training resources are finite, would likely 'crowd out' potential training in areas more relevant to her work.

The proposal exempts some persons who may pose a risk to the public:

Under current rules, registered representatives regularly doing a municipal business are presumably already receiving regular training in that area and any representative doing even very occasional municipal securities business should already be receiving at least some municipal training from time to time. Implementing the proposal would allow a firm to cease providing any meaningful municipal training whatsoever to such an 'occasional' actor, while continuing to allow him, though relatively unfamiliar with municipals, to do municipal business with the public. In such a case the firm, though doing nothing, would be compliant with G-3 leaving the FINRA rule (if the firm is a FINRA member) as the only remaining protection for the public.

The proposed quantitative approach is inconsistent with FINRA's qualitative approach:

The vast majority of municipal securities firms are also members of FINRA, to whom the MSRB has delegated examination and enforcement of MSRB rules. The proposed prescription is at odds with FINRA's policy in this area, which avoids setting explicit time or content requirements. FINRA's approach allows the CE program to reflect the diverse business models across various firms. Even within a single municipal securities firm – and of course across widely differing firms - the municipal training needs of a traditional retail broker have little connection with those of an institutional municipal trader, a public finance banker, or a municipal credit analyst. The conflict between the quantitative and qualitative approaches could pose problems and create uncertainty during real-world examinations by FINRA examiners trained to think in qualitative terms.

At first glance 'one hour' seems a simple concept, but when viewed in a real-world context it raises questions. How is the prescribed hour to be measured? Some people can perform tasks and gain understanding of a given amount of material in 30 minutes, while others may need two hours or more to arrive at the same understanding. Must the faster person be assigned additional work while the slower one has satisfied his requirement? Such an outcome is neither fair nor reasonable. The Regulatory Element training program, where persons assigned the same material take widely varying times to complete it, is a good example of what we mean.

The proposal is unworkably vague as to the definition of 'primarily engaged':

The proposed requirement applies to all those who are 'primarily engaged in the municipal securities business'. What does this actually mean? Implementing the proposal would require each firm, presumably on at least an annual basis and at a cost, to analyze each and every person to determine whether the requirement would apply to him or her for the coming year. Without a clear definition of 'primarily engaged', this means that each firm must *guess* as to who should actually be covered. Imagine a registered representative who in 2014 generates 55% of her business from municipals and 45% from equity transactions. Is she 'primarily engaged'? She probably is. In 2015, these ratios are reversed. Is she now exempt from the requirement? How do we know?

If she is indeed exempt, we find ourselves with a person doing a substantial municipal securities business who is nevertheless exempt from the one-hour requirement. If she is not exempt, imagine that another agency, imitating the MSRB's program, has imposed a comparable requirement for those 'primarily engaged' in the equity business. In that scenario we would find ourselves in the paradoxical position of having the same person defined as being 'primarily engaged' in two separate businesses at the same time.

Should the proposal be adopted, it will clearly be vital for MSRB to provide detailed guidance as to the standards by which firms identify their 'covered persons'. Such standards would be best set forth in the rule itself.

In summary, we strongly urge the MSRB to reconsider this proposal in light of the comments received and the unintended consequences that would result. In an industry as complex and diverse as America's municipal securities business, rigid prescriptive measures like this one or the existing specifics in Rule G-3(h)(ii)(B)(2) are a poor substitute for the standard of 'reasonableness' which is the best protection for investors.

As an alternative, if Rule G-3 must be modified we suggest doing so as follows:

- Modify the current definition of covered registered persons in Rule G-3(h)(ii)(A) by adding the qualifying word 'municipal' to the existing "securities sales, trading and investment banking activities"
- Expand the current definition of covered persons by removing the direct customer contact qualification, thus covering all registered persons engaged in municipal securities activities, including dealer-to-dealer activity
- Replace the prescriptive standards in G-3(h)(ii)(B)(2) with language requiring that covered persons receive training appropriate and relevant to their job functions. This would eliminate the waste that results from requiring firms to train people like traders and investment bankers in areas not relevant to their work.
- Add a requirement that covered persons must be provided with appropriate Firm Element training related to municipal securities at least annually

Thank you again for the opportunity to comment.

Sincerely,

Chris Charles
President