

Rule G-15: Confirmation, Clearance, Settlement and Other Uniform Practice Requirements with Respect to Transactions with Customers*(a) Customer Confirmations.*

(i) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation that complies with the requirements of this paragraph (i):

(A) Transaction information. The confirmation shall include information regarding the terms of the transaction as set forth in this subparagraph (A):

(1) No change.

(2) Trade date and time of execution. The trade date and time of execution shall be shown; provided that, for a transaction in municipal fund securities, a statement that the time of execution will be furnished upon written request of the customer may be shown in satisfaction of the obligation to disclose the time of execution on the confirmation. [In addition, either (a) the time of execution, or (b) a statement that the time of execution will be furnished upon written request of the customer shall be shown.]

(3) – (8) No change.

(B) – (C) No change.

(D) Disclosure statements:

(1) – (3) No change.

(4) The confirmation for a transaction (other than a transaction in municipal fund securities) executed for or with a non-institutional customer shall include a reference, and hyperlink if the confirmation is electronic to the Security Details page for the customer's security on EMMA, along with a brief description of the type of information available on that page.

(E) Confirmation format. All requirements must be clearly and specifically indicated on the front of the confirmation, except that the following statements may be on the reverse side of the confirmation:

(1) – (2) No change.

[(3) The statement concerning time of execution that can be provided in satisfaction of subparagraph (A)(2) of this paragraph.]

(F) Mark-ups and Mark-downs.

(1) General. A confirmation shall include the dealer’s mark-up or mark-down for the transaction, to be calculated in compliance with Rule G-30, Supplementary Material .06 and expressed as a total dollar amount and as a percentage of the prevailing market price if:

(a) the broker, dealer or municipal securities dealer (“dealer”) is effecting a transaction in a principal capacity with a non-institutional customer, and

(b) the broker, dealer or municipal securities dealer purchased (sold) the security in one or more transactions in an aggregate trading size meeting or exceeding the size of such sale to (purchase from) the non-institutional customer on the same trading day as the non-institutional customer transaction. If any such transaction occurs with an affiliate of the dealer and is not an arms-length transaction, the dealer is required to “look through” to the time and terms of the affiliate’s transaction(s) with third parties in the security in determining whether the conditions of this paragraph have been met.

(2) Exceptions. A dealer shall not be required to include the disclosure specified in paragraph (F)(1) above if:

(a) the non-institutional customer transaction was executed by a principal trading desk that is functionally separate from the principal trading desk within the same dealer that executed the dealer purchase (in the case of a sale to a customer) or dealer sale (in the case of a purchase from a customer) of the security, and the dealer had in place policies and procedures reasonably designed to ensure that the functionally separate principal trading desk through which the dealer purchase or dealer sale was executed had no knowledge of the customer transaction;

(b) the customer transaction is a “list offering price transaction” as defined in paragraph (d)(vii) of Rule G-14 RTRS Procedures; or

(c) the customer transaction is for the purchase or sale of municipal fund securities.

(ii) – (v) No change.

(vi) Definitions. For purposes of this rule, the following terms shall have the following meanings:

(A)– (H) No change.

(I) The term “arms-length transaction” shall mean a transaction that was conducted through a competitive process in which non-affiliate firms could also participate, and where the affiliate relationship did not influence the price paid or proceeds received by the dealer.

(J) The term “non-institutional customer” shall mean a customer with an account that is not an institutional account, as defined in Rule G-8(a)(xi).

(vii) – (viii) No change.

(b) – (g) No change.

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Rule G-30: Prices and Commissions

(a) – (b) No change.

Supplementary Material

.01 General Principles.

(a) Each broker, dealer or municipal securities dealer (each, a “dealer,” and collectively, “dealers”), whether effecting a trade on an agency or principal basis, must exercise reasonable diligence in establishing the market value of the security and the reasonableness of the compensation received on the transaction.

(b) – (c) No change.

(d) Dealer compensation on a principal transaction with a customer is considered to be a mark-up or mark-down that is computed from the [inter-dealer market price]prevailing market price at the time of the customer transaction, as described in Supplementary Material .06. As part of the aggregate price to the customer, the mark-up or mark-down also must be a fair and reasonable amount, taking into account all relevant factors.

(e) No change.

.02 – .05 No change.

.06 Mark-Up Policy

(a) Prevailing Market Price

(i) A dealer that is acting in a principal capacity in a transaction with a customer and is charging a mark-up or mark-down must mark-up or mark-down the transaction from the prevailing market price. Presumptively for purposes of this Supplementary Material .06, the prevailing market price for a municipal security is established by referring to the dealer's contemporaneous cost as incurred, or contemporaneous proceeds as obtained, consistent with applicable MSRB rules. (See, e.g., Rule G-18).

(ii) When the dealer is selling the municipal security to a customer, other evidence of the prevailing market price may be considered only where the dealer made no contemporaneous purchases of the security or can show that in the particular circumstances the dealer's contemporaneous cost is not indicative of the prevailing market price. When the dealer is buying the municipal security from a customer, other evidence of the prevailing market price may be considered only where the dealer made no contemporaneous sales of the security or can show that in the particular circumstances the dealer's contemporaneous proceeds are not indicative of the prevailing market price.

(iii) A dealer's cost is (or proceeds are) considered contemporaneous if the transaction occurs close enough in time to the subject transaction that it would reasonably be expected to reflect the current market price for the municipal security.

(iv) A dealer that effects a transaction in municipal securities with a customer and identifies the prevailing market price using a measure other than the dealer's own contemporaneous cost (or, in a mark-down, the dealer's own proceeds) must be prepared to provide evidence that is sufficient to overcome the presumption that such contemporaneous cost (or proceeds) provides the best measure of the prevailing market price. A dealer may be able to show that such contemporaneous cost is (or proceeds are) not indicative of prevailing market price, and thus overcome the presumption, in instances where: (A) interest rates changed after the dealer's contemporaneous transaction to a degree that such change would reasonably cause a change in municipal securities pricing; (B) the credit quality of the municipal security changed significantly after the dealer's contemporaneous transaction; or (C) news was issued or otherwise distributed and known to the marketplace that had an effect on the perceived value of the municipal security after the dealer's contemporaneous transaction.

(v) In instances where the dealer has established that the dealer's cost is (or, in a mark-down, proceeds are) not contemporaneous, or where the dealer has

presented evidence that is sufficient to overcome the presumption that the dealer's contemporaneous cost (or proceeds) provides the best measure of the prevailing market price, such as those instances described in (a)(iv)(A), (B) and (C), the dealer must consider, in the order listed and subject to (a)(viii), the following types of pricing information to determine prevailing market price:

(A) Prices of any contemporaneous inter-dealer transactions in the municipal security in question;

(B) In the absence of transactions described in (A), prices of contemporaneous dealer purchases (sales) in the municipal security in question from (to) institutional accounts with which any dealer regularly effects transactions in the same municipal security; or

(C) In the absence of transactions described in (A) and (B), for actively traded municipal securities, contemporaneous bid (offer) quotations for the municipal security in question made through an inter-dealer mechanism, through which transactions generally occur at the displayed quotations.

(A dealer may consider a succeeding category of pricing information only when the prior category does not generate relevant pricing information (e.g., a dealer may consider pricing information under (B) only after the dealer has determined, after applying (A), that there are no contemporaneous inter-dealer transactions in the same security). In reviewing the pricing information available within each category, the relative weight, for purposes of identifying prevailing market price, of such information (i.e., a particular transaction price or quotation) depends on the facts and circumstances of the comparison transaction or quotation (e.g., whether the dealer in the comparison transaction was on the same side of the market as the dealer in the subject transaction and timeliness of the information). Because of the lack of active trading in most municipal securities, it is not always possible to establish the prevailing market price for a municipal security based solely on contemporaneous transaction prices or contemporaneous quotations for the security. Accordingly, dealers may often need to consider other factors, consistent with (a)(vi) and (a)(vii) below.

(vi) In the event that, in particular circumstances, the above factors are not available, other factors that may be taken into consideration (not in any required order or combination) for the purpose of establishing the price from which a customer mark-up (mark-down) may be calculated, include but are not limited to:

- Prices, or yields calculated from prices, of contemporaneous inter-dealer transactions in a “similar” municipal security, as defined below;

- Prices, or yields calculated from prices, of contemporaneous dealer purchase (sale) transactions in a “similar” municipal security with institutional accounts with which any dealer regularly effects transactions in the “similar” municipal security with respect to customer mark-ups (mark-downs); and

- Yields calculated from validated contemporaneous inter-dealer bid (offer) quotations in “similar” municipal securities for customer mark-ups (mark-downs).

The relative weight, for purposes of identifying prevailing market price, of the pricing information obtained from the factors set forth above depends on the facts and circumstances surrounding the comparison transaction (i.e., whether the dealer in the comparison transaction was on the same side of the market as the dealer in the subject transaction, timeliness of the information, and, with respect to the final factor listed above, the relative spread of the quotations in the similar municipal security to the quotations in the subject security).

(vii) Finally, if information concerning the prevailing market price of the subject municipal security cannot be obtained by applying any of the above factors, dealers (and the regulatory agencies responsible for enforcing MSRB rules) may consider as a factor in assessing the prevailing market price of a municipal security the prices or yields derived from economic models (e.g., discounted cash flow models) that take into account measures such as reported trade prices, credit quality, interest rates, industry sector, time to maturity, call provisions and any other embedded options, coupon rate, and face value; and consider all applicable pricing terms and conventions (e.g., coupon frequency and accrual methods).

(viii) Because the ultimate evidentiary issue is the prevailing market price, isolated transactions or isolated quotations generally will have little or no weight or relevance in establishing prevailing market price. For example, in considering the pricing information described in (a)(v), a dealer may give little or no weight to pricing information derived from an isolated transaction or quotation, such as an off-market transaction. In addition, in considering yields of “similar” municipal securities, except in extraordinary circumstances, dealers may not rely exclusively on isolated transactions or a limited number of transactions that are not fairly representative of the yields of transactions in “similar” municipal securities taken as a whole.

(b) “Similar” Municipal Securities

(i) A “similar” municipal security should be sufficiently similar to the subject security that it would serve as a reasonable alternative investment to the investor. At a minimum, the municipal security or securities should be sufficiently similar that a market yield for the subject security can be fairly estimated from the

yields of the “similar” security or securities. Where a municipal security has several components, appropriate consideration may also be given to the prices or yields of the various components of the security.

(ii) The degree to which a municipal security is “similar,” as that term is used in this Supplementary Material .06, to the subject security may be determined by all relevant factors, including but not limited to the following:

(A) Credit quality considerations, such as whether the municipal security is issued by the same or similar entity, bears the same or similar credit rating, or is supported by a similarly strong guarantee or collateral as the subject security (to the extent securities of other issuers are designated as “similar” securities, significant recent information concerning either the “similar” security’s issuer or subject security’s issuer that is not yet incorporated in credit ratings should be considered (e.g., changes to ratings outlooks));

(B) The extent to which the spread (i.e., the spread over U.S. Treasury securities of a similar duration) at which the “similar” municipal security trades is comparable to the spread at which the subject security trades;

(C) General structural characteristics and provisions of the issue, such as coupon, maturity, duration, complexity or uniqueness of the structure, callability, the likelihood that the municipal security will be called, tendered or exchanged, and other embedded options, as compared with the characteristics of the subject security;

(D) Technical factors such as the size of the issue, the float and recent turnover of the issue, and legal restrictions on transferability as compared with the subject security; and

(E) The extent to which the federal and/or state tax treatment of the “similar” municipal security is comparable to such tax treatment of the subject security.

(iii) When a municipal security's value and pricing is based substantially on, and is highly dependent on, the particular circumstances of the issuer, including creditworthiness and the ability and willingness of the issuer to meet the specific obligations of the security, in most cases other securities will not be sufficiently similar, and therefore, pricing information with respect to other securities may not be used to establish the prevailing market price.