MSRB
Municipal Securities Rulemaking Board

Regulatory Notice

2014-08

Publication Date
March 17, 2014

Stakeholders
Municipal Securities Dealers, Municipal Advisors, Issuers, Investors, General Public

Notice Type
Request for Comment

Comment Deadline
May 16, 2014

Category
Professional Qualification

Affected Rules
Rule G-1; Rule G-2; Rule G-3; Rule D-13

Request for Comment on Establishing Professional Qualification Requirements for Municipal Advisors

Overview

The Municipal Securities Rulemaking Board (MSRB) is seeking comment on draft amendments to its professional qualification rules to establish requirements for municipal advisors and their associated persons. The draft amendments would set professional qualification standards for municipal advisor professionals and require municipal advisors and their associated persons engaging in municipal advisory activities to be qualified in accordance with MSRB rules.

Currently, MSRB Rule G-3 establishes the classifications and qualification requirements for associated persons of dealers. The draft amendments would add new registration classifications for municipal advisors under Rule G-3: (a) municipal advisor representatives – for those who engage in municipal advisory activities; and (b) municipal advisor principals – for those who engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons. The draft amendments would require each prospective municipal advisor representative to take and pass the municipal advisor representative qualification examination prior to being qualified as a municipal advisor representative. The MSRB will consider at a later date a qualification examination for municipal advisor principals. If such an examination is proposed, it is expected that each municipal advisor principal would, as a prerequisite, be required to take and pass the municipal advisor representative qualification examination before taking the municipal advisor principal qualification examination.

To provide for an orderly implementation of the proposed changes to MSRB Rule G-3, the MSRB proposes a one-year grace period for individuals currently engaged in municipal advisory activities to take and pass the municipal advisor representative qualification exam. The proposed qualification standards do not include any apprenticeship requirements.

Moreover, the MSRB proposes to eliminate the apprenticeship requirement for municipal securities representatives.

Finally, MSRB Rules G-1 and G-3 would be amended to remove the reference to "financial advisory or consultative services for issuers in connection with the issuance of municipal securities," as these activities generally, consistent with the Securities and Exchange Act of 1934 (Act) and rules and regulations thereunder, may not be performed by a broker, dealer or municipal securities dealer (dealer) without registering as a municipal advisor.

Comments on the MSRB's proposed implementation of professional qualification requirements for municipal advisors should be submitted no later than May 16, 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, or Michael Cowart, Assistant General Counsel, Professional Qualifications, at 703-797-6600.

Background

The MSRB is charged with setting professional standards and continuing education requirements for municipal advisors.[2] Specifically, the Act requires associated persons of dealers and municipal advisors to pass examinations as the MSRB may establish to demonstrate that such individuals meet the standards of competence as the MSRB finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons.[3] The examinations are intended to determine whether an individual meets the MSRB's basic qualification standards for a particular registration category. The examinations measure a candidate's knowledge of the business activities, as well as the regulatory requirements, including

[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] The MSRB expects to propose continuing education requirements for municipal advisors at a later date.

[3] Section 15B(b)(2)(A) of the Act.

MSRB rules, rule interpretations and federal laws applicable to a particular registration category.

The MSRB is establishing a new professional qualification examination for municipal advisor representatives, which it expects to make available in 2015 for individuals engaged in municipal advisory activities. Under the draft amendments to Rule G-3, each individual engaged in municipal advisory activities would be required to take and pass the examination to demonstrate a minimum level of competency as a municipal advisor professional.

Summary of the Draft Amendments

Application of MSRB Qualification Requirements to Municipal Advisors
MSRB Rule G-2 establishes the standards of professional qualification for municipal securities dealers and currently provides that no dealer shall engage in municipal securities activities unless such dealer and every natural person associated with such dealer is qualified in accordance with MSRB rules. The MSRB proposes to amend Rule G-2 to add that no municipal advisor shall engage in municipal advisory activities unless such municipal advisor and every natural person associated with such municipal advisor is qualified in accordance with MSRB rules.

New Registration Classifications
The draft amendments to Rule G-3 would create two new registration classifications: (a) municipal advisor representative and (b) municipal advisor principal. The classification of associated persons as representatives and principals is consistent with other regulatory schemes, including those for broker-dealers.[4]

The additional classifications would distinguish between municipal advisor representatives who would be qualified to engage in municipal advisory activities and municipal advisor principals who would be further qualified to supervise the municipal advisory activities of the municipal advisor and its associated persons. The draft amendments to Rule G-3 would define a municipal advisor representative as a natural person who is an associated person of a municipal advisor, other than a person whose functions are solely

[4] Examples of these other schemes include the following classifications: Series 7 (General Securities Representative) and Series 24 (General Securities Principal); Series 42 (Registered Options Representative) and Series 4 (Registered Options Principal); Series 22 (Direct Participation Programs Limited Representative) and Series 39 (Direct Participation Programs Limited Principal).

clerical or ministerial, who engages in municipal advisory activities as defined in Rule D-13.[5]

The draft amendments would define a municipal advisor principal as a natural person associated with a municipal advisor who is directly engaged in the management, direction or supervision of the municipal advisory activities, as defined in MSRB Rule D-13, of the municipal advisor. In addition, draft Rule G-3 would require each municipal advisor to designate at least one municipal advisor principal to be responsible for the municipal advisory activities of the municipal advisor.[6]

Furthermore, the draft rule would require each municipal advisor representative to take and pass the municipal advisor representative qualification examination prior to being qualified as a municipal advisor representative.[7]

Grace Period

To provide for an orderly transition to the new qualifications regime by individuals engaged in municipal advisory activities, the MSRB would give municipal advisor representatives a one-year time period from the effective date to pass the examination.[8] This one-year grace period is intended to provide municipal advisor representatives with sufficient time to study and take (and, if necessary retake) the examination without causing undue disruption to business of the municipal advisor. As is the case for all MSRB

[5] Rule D-13 defines municipal advisory activities as the activities described in Section 15B(e)(4)(A)(i) and (ii) of the Act, which includes advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms and other similar matters concerning such financial products or issues, or solicitation of a municipal entity. Rule D-13 would be amended to reflect the SEC's interpretation of the statutory definition of municipal advisor. Hence, "municipal advisory activities" would mean the activities described in Section 15B(e)(4)(A)(i) and (ii) of the Act and the rules and regulations promulgated thereunder.

[6] Proposed MSRB Rule G-44 sets forth the obligation of municipal advisors to supervise the municipal advisory activities of the municipal advisor and its associated persons to ensure compliance with applicable MSRB and SEC rules.

[7] The definition of municipal advisor representative would be substantially identical to the definition in SEC Form MA-I pertaining to the individuals who must be listed on the form - meaning natural persons associated with the municipal advisor engaged in municipal advisory activities on behalf of the firm.

[8] The MSRB will announce the effective date of the municipal advisor representative qualification examination at a later date.

qualification examinations, individuals who do not pass the examination would be permitted to retake the examination after 30 days. However, any person who fails the examination three or more times in succession would be prohibited from taking the examination for six months.

Uniform Requirement – Grandfathering

The MSRB proposes, as part of the amendments, to require that all persons considered municipal advisor representatives as defined by MSRB Rule G-3 pass the qualification examination, regardless of whether such persons have passed other MSRB or MSRB-recognized examinations (such as the Series 52 or 7 examinations), or previously have been engaged in municipal advisory business. The MSRB believes that the significant changes that accompany the new regulatory regime for municipal advisors dictate that each individual planning to conduct business as a municipal advisor representative demonstrate a minimum level of knowledge of business and regulatory requirements by passing a general qualification examination. The practice of "grandfathering," or allowing persons to qualify by virtue of having passed another qualification examination or by industry experience, may not effectively ensure a minimum level of competency by those individuals acting as municipal advisor representatives.

Corresponding changes to MSRB Rule G-3(a)(i)(A)(2) have been proposed to remove from the permissible activities of a municipal securities representative "financial advisory or consultative services for issuers in connection with the issuance of municipal securities," as these activities generally require registration as a municipal advisor.

Apprenticeship

MSRB Rule G-3 currently requires a municipal securities representative to serve an apprenticeship period of 90 days before transacting business with any member of the public or receiving compensation for such activities. The intent of the provision, which was added in 1976, was to ensure that persons with no prior experience in the securities industry would learn from an experienced professional before conducting business with the public. Since that time, other regulators have eliminated the apprenticeship requirement, and instead rely on each firm to identify the necessary training and supervision standards for new employees rather than imposing a rigid apprenticeship requirement with no defined training requirements.[9] In light

[9] In 2008, FINRA eliminated the apprenticeship requirements established under prior NYSE Rule 345 for certain categories of representatives. *See* FINRA Regulatory Notice 08-64 (October 2008).

of these developments, the MSRB proposes to eliminate the apprenticeship requirement for municipal securities representatives and proposes no such requirement for municipal advisor representatives.

Request for Comment

The MSRB is requesting comment from the industry and other interested parties on the draft amendments to Rules G-1, G-2, G-3 and D-13 set forth below. In addition to the substance of the proposed changes, the MSRB invites commenters to address the following questions:

Should all individuals engaged in municipal advisory activities demonstrate a minimum level of competence by taking and passing a general qualification examination?

- Is the one-year grace period sufficient time for municipal advisor representatives to study and take (and, if necessary retake) the municipal advisor representative qualification examination?
- Do dealers believe the current 90-day apprenticeship requirement for municipal securities representatives is beneficial?
- Would there be any negative consequences if the current municipal securities representative apprenticeship requirement were eliminated?
- Would dealers realize any cost savings if the current municipal securities representative apprenticeship requirement were eliminated?
- Is there a benefit to having an apprenticeship period for municipal advisor representatives?
- How should economic analysis apply to proposed new registration classifications and the establishment of a basic qualification examination?

March 17, 2014

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Text of Draft Amendments[10]

Rule G-1: Separately Identifiable Department or Division of a Bank

(a) No change.

(b) For purposes of this rule, the activities of the bank which shall constitute municipal securities dealer activities are as follows:

(1) underwriting, trading and sales of municipal securities;

~~(2) financial advisory and consultant services for issuers in connection with the issuance of municipal securities;~~

(2) ~~(3)~~ processing and clearance activities with respect to municipal securities;

(3) ~~(4)~~ research and investment advice with respect to municipal securities;

(4) ~~(5)~~ any activities other than those specifically enumerated above which involve communication, directly or indirectly, with public investors in municipal securities; and

(5) ~~(6)~~ maintenance of records pertaining to the activities described in paragraphs (1) through (4) ~~(5)~~ above;

provided, however, that the activities enumerated in paragraphs (3) ~~(4)~~ and (4) ~~(5)~~ above shall be limited to such activities as they relate to the activities enumerated in paragraph~~s~~ (1) ~~and (2)~~ above.

(c) – (d) No change.

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Rule G-2: Standards of Professional Qualification

No broker, dealer, or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security, and no municipal advisor shall engage in municipal advisory activities, unless such broker, dealer, municipal securities dealer or municipal advisor ~~or municipal securities dealer~~ and every natural person associated with such broker, dealer, municipal securities dealer or municipal advisor ~~or municipal securities dealer~~ is qualified in accordance with the rules of the Board.

* * * * *

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

Rule G-3: Classification of Principals and Representatives; Numerical Requirements; Testing; Continuing Education Requirements[11]

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

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

(i) Definitions.

(A) The term "municipal securities representative" means a natural person associated with a broker, dealer or municipal securities dealer, other than a person whose functions are solely clerical or ministerial, whose activities include one or more of the following:

(1) underwriting, trading or sales of municipal securities;

~~(2) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;~~

(2) ~~(3)~~ research or investment advice with respect to municipal securities; or

(3) ~~(4)~~ any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

provided, however, that the activities enumerated in subparagraphs (2) ~~(3)~~ and (3) ~~(4)~~ above shall be limited to such activities as they relate to the activities enumerated in subparagraph~~s~~ (1) ~~and (2)~~ above.

(B) No change.

(ii) No change.

~~(iii) Apprenticeship.~~

~~(A) Any person who first becomes associated with a broker, dealer or municipal securities dealer in a representative capacity (whether as a municipal securities representative, general securities representative or limited representative – investment company and variable contracts products) without having previously qualified as a municipal securities representative,~~

[11] The MSRB has proposed the elimination of the requirement for a Financial and Operations Principal (FinOp). *See* MSRB Notice 2013-22 (Dec. 13, 2013). The MSRB expects to file a proposed rule change in this regard shortly.

~~general securities representative or limited representative - investment company and variable contracts products shall be permitted to function in a representative capacity without qualifying pursuant to subparagraph (a)(ii)(A), (B) or (C) for a period of at least 90 days following the date such person becomes associated with a broker, dealer or municipal securities dealer, *provided, however*, that such person shall not transact business with any member of the public with respect to, or be compensated for transactions in, municipal securities during such 90 day period, regardless of such person's having qualified in accordance with the examination requirements of this rule. A person subject to the requirements of this paragraph (a)(iii) shall in no event continue to perform any of the functions of a municipal securities representative after 180 days following the commencement of such person's association with such broker, dealer or municipal securities dealer, unless such person qualifies as a municipal securities representative pursuant to subparagraph (a)(ii)(A), (B) or (C).~~

~~(B) Prior experience, of at least 90 days, as a general securities representative, limited representative investment company and variable contracts products or limited representative government securities, will meet the requirements of this paragraph (a)(iii).~~

(b) *Municipal Securities Principal; Municipal Fund Securities Limited Principal.*

(i) Definition. The term "municipal securities principal" means a natural person (other than a municipal securities sales principal), associated with a broker, dealer or municipal securities dealer ~~that has filed with the Board in compliance with rule A-12,~~ who is directly engaged in the management, direction or supervision of one or more of the following activities:

(A) underwriting, trading or sales of municipal securities;

~~(B) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;~~

(B) ~~(C)~~ processing, clearance, and, in the case of brokers, dealers and municipal securities dealers other than bank dealers, safekeeping of municipal securities;

(C) ~~(D)~~ research or investment advice with respect to municipal securities;

(D) ~~(E)~~ any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

(E) ~~(F)~~ maintenance of records with respect to the activities described in subparagraphs (A) through (D) ~~(E)~~; or

(F) ~~(G)~~ training of municipal securities principals or municipal securities representatives.

provided, however, that the activities enumerated in subparagraphs (C) ~~(D)~~ and (D) ~~(E)~~ above shall be limited to such activities as they relate to the activities enumerated in subparagraph~~s~~ (A) ~~or (B)~~ above.

(ii) – (iv) No change.

(c) No change.

(d) *Financial and Operations Principal*.

(i) – (iii) No change.

(e) *Municipal Advisor Representative*

(i) Definition.

(A) The term "municipal advisor representative" means a natural person who is an associated person of a municipal advisor who engages in municipal advisory activities on the firm's behalf, other than a person whose functions are solely clerical or ministerial.

(ii) Qualification Requirements.

(A) Every municipal advisor representative shall take and pass the Municipal Securities Advisor Qualification Examination prior to being qualified as a municipal advisor representative. The passing grade shall be determined by the Board.

(B) Any person who ceases to be associated with a municipal advisor for two or more years at any time after having qualified as such in accordance with subparagraph (d)(ii)(A) shall qualify in such capacity prior to being qualified as a municipal advisor representative.

(f) *Municipal Advisor Principal*

(i) Definition. The term "municipal advisor principal" means a natural person who is an associated person of a municipal advisor who is directly engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor.

(ii) Numerical Requirements. Every municipal advisor shall have at least one municipal advisor principal.

(g) ~~(e)~~ *Confidentiality of Qualification Examinations*. No associated person of a broker, dealer, municipal securities dealer or municipal advisor ~~or municipal securities dealer~~ shall:

(i) – (iv) No change.

(h) ~~(f)~~ *Retaking of Qualification Examinations*. Any associated person of a broker, dealer, ~~or~~ municipal securities dealer or municipal advisor who fails to pass a qualification examination prescribed by the Board shall be permitted to take the examination again after a period of 30 days has elapsed from the date of the prior examination, except that any person who fails to pass an examination three or more times in

succession shall be prohibited from again taking the examination until a period of six months has elapsed from the date of such person's last attempt to pass the examination.

(i) ~~(g)~~ *Waiver of Qualification Requirements.*

(i) No change.

(ii) The requirements of paragraph ~~(d)(ii)~~ (e)(ii)(A) 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.~~ in extraordinary cases for any municipal advisor representative who demonstrates extensive experience in a field closely related to the municipal advisory activities of a municipal advisor. Such waiver may be granted by

(A) a registered securities association with respect to a person associated with a member of such association, or

(B) the Commission with respect to a person associated with a municipal advisor registered with the Commission and that is not a member of a registered securities association.

(j) ~~(h)~~ *Continuing Education Requirements*

This section (j) ~~(h)~~ prescribes requirements regarding the continuing education of certain registered persons subsequent to their initial qualification and registration with a registered securities association with respect to a person associated with a member of such association, or the appropriate regulatory agency as defined in section 3(a)(34) of the Act with respect to a person associated with any other broker, dealer or municipal securities dealer ("the appropriate enforcement authority"). The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

(i) – (ii) No change.

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Rule D-13: "Municipal Advisory Activities"

Except as otherwise specifically provided by rule of the Board, "~~M~~ municipal advisory activities" means the activities described in Section 15B(e)(4)(A)(i) and (ii) of the Act and the rules and regulations promulgated thereunder.

Alphabetical List of Comment Letters on Notice 2014-08 (March 17, 2014)

1. Arrow Partners: Letter from Steven Rubenstein dated May 16, 2014

2. Association of Registration Management: Letter from Michele Van Tassel, President, dated May 16, 2014

3. Bond Dealers of America: Letter from Michael Nicholas, Chief Executive Officer, dated May 16, 2014

4. Cedar Partners Ltd: Letter from Christy Ping, Director/Chief Compliance Officer, dated May 16, 2014

5. Central States Capital Markets: E-mail from Mark Detter dated April 17, 2014

6. CFA Institute: Letter from Inigo Bengoechea, Director, and Dan Larocco, Manager, dated April 25, 2014

7. Compass Securities Corporation: Letter from John R. Ahern, President

8. Dixworks LLC: E-mail from Dennis Dix, Jr. dated April 11, 2014

9. Fitzgibbon Toigo Associates, LLC: E-mail from Brian X. Fitzgibbon dated May 16, 2014

10. Fortress Group, Inc.: Letter from Bruce A. Williamson, Managing Director and Chief Compliance Officer, dated May 16, 2014

11. Frank Taylor: E-mail dated March 19, 2014

12. George K. Baum & Company: Letter from Guy E. Yandel, EVP Public Finance, Dana L. Bjornson, EVP and Chief Compliance Officer, and Andrew F. Sears, SVP and General Counsel, dated May 16, 2014

13. Government Credit Corporation: E-mail from Joseph Mooney dated March 18, 2014

14. Hamersley Partners, LLC: Letter from Andrew Phillips, Principal and CCO, dated May 16, 2014

15. IMMS LLC: E-mail from John Daly dated May 16, 2014

16. Investment Company Institute: Letter from Tamara K. Salmon, Senior Associate Counsel, dated May 8, 2014

17. Jorge Rosso: E-mail dated April 3, 2014

18. Monahan & Roth, LLC: Letter from Lisa Roth, President, dated May 16, 2014

19. MVision Private Equity Advisers USA LLC: Letter from Victoria Sherliker, General Counsel, dated May 16, 2014

20. National Association of Independent Public Finance Advisors: Letter from Jeanine Rodgers Caruso, President, dated May 16, 2014

21. New Albany Capital Partners, LLC: Letter from Rick Wayman dated May 14, 2014

22. Oyster River Capital LP: Letter from Richard A. Murphy dated May 16, 2014

23. Perkins Fund Marketing LLC: Letter from Gilman C. Perkins, Principal and Managing Member, dated May 16, 2014

24. Raftelis Financial Consultants, Inc.: Letter from Alexis F. Warmath, Vice President, and Christopher P.N. Woodcock, President, Woodcock & Associates, Inc., dated May 16, 2014

25. Securities Industry and Financial Markets Association: Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, dated May 16, 2014

26. Sonja Sullivan: E-mail dated May 16, 2014

27. Stacy Havener: E-mail dated May 16, 2014

28. Stonehaven: Letter from Steven Jafarzadeh, Managing Director and Partner, dated May 16, 2014

29. Tessera Capital Partners: Letter from Donna DiMaria, CEO/CCO, dated May 16, 2014

30. Third Party Marketers Association: Letter from Donna DiMaria, Chairman of the Board of Directors, dated May 16, 2014

31. Tibor Partners Inc.: E-mail from William Johnston dated March 18, 2014

32. Timothy D. Wasson: Letter

33. Yuba Group: Letter from Linda Fan, Managing Partner, dated April 28, 2014

34. Zions First National Bank: Letter from W. David Hemingway, Executive Vice President, dated May 16, 2014

35. Zions First National Bank: Letter from James G. Livingston, Senior Vice President, dated May 16, 2014

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May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

My firm (Arrow Investments) is a FINRA member specializing in placement agent services. Arrow Partners is also currently registered as a Municipal Advisor with the SEC and MSRB. Arrow Partners offers traditional long-only investment management services to institutional investors and financial intermediaries. I am also a founding member and Past President of the Third Party Marketer's Association (3PM).

I have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors.

I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Respectfully yours,

Regards,

Steven Rubenstein

ARM Association of Registration Management
Post Office Box 133, Bowling Green Station, New York, NY 10274

May 16, 2014

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

Re: MSRB Regulatory Notice 2014-08: Request for Comment on Establishing Professional Qualification Requirements for Municipal Advisors

Dear Mr. Smith,

The Association of Registration Management, Inc. ("ARM")[1] would like to comment on the proposed amendments to the Municipal Securities Rulemaking Board ("MSRB") professional requirements for municipal advisors and their associated persons. ARM appreciates the opportunity to submit this letter and present feedback collected from the financial securities industry on this topic and the related process.

Along with our member firms, ARM has reviewed the proposed professional qualification standards for municipal advisor professionals and the suggested procedures for applying for both individual and entity registrations. As a result of that review, ARM believes that the best solution for the Securities and Exchange Commission ("SEC"), MSRB, the industry, and our clients would involve a more uniform approach to registration. ARM encourages the SEC and MSRB to leverage existing securities examinations and uniform applications for registration, and the system for processing

[1] The Association of Registration Management is an industry association founded in 1975, comprised of registration professionals from broker-dealers and investment advisers who deal with the regulatory community on licensing matters and related issues.

those applications, the Central Registration Depository, ("CRD")[2] owned and operated the Financial Industry Regulatory Authority ("FINRA").

ARM is mindful that unlike FINRA, the MSRB is not a membership or self-regulatory organization ("SRO"), but rather a rulemaking body. However, from a registration perspective, that is a difference without a distinction. The MSRB is a securities regulator, and with the adoption of independent registration and qualification requirements, operates no differently than any securities SRO.

ARM believes the existing municipal securities examinations, the Series 52 and 53, cover the topics necessary to conduct business as a municipal advisor and to supervise municipal advisors, respectively. However, if the MSRB strongly feels that the duties of municipal advisors require additional expertise, ARM recommends adding additional questions to the existing examinations, rather than creating entirely new examinations.

Furthermore, by grandfathering registered representatives who have the corresponding licenses to those examinations, the Municipal Securities Representative ("MR") and Municipal Securities Principal ("MP") registrations, the MSRB will also capture those individuals who have qualified by completing more encompassing examinations, such as Series 7 examinations prior to November 7, 2011. Should the MSRB add new questions to the existing examinations, ARM is confident that grandfathering is still the correct course of action. Existing MR and MP registered representatives are experienced municipal securities professionals, and that experience should suffice for the additional expertise necessary to operate as municipal advisors.

Alternatively, if the MSRB insists on new examinations for the municipal advisor registration categories and/or fails to grandfather MR and MP registered representatives, ARM suggests the MSRB considers how FINRA adopted and phased in the Operations Professional registration ("OS") requirement and the requisite examination, the Series 99, as an example. With the introduction of that registration, FINRA allowed their member firms to have individuals continue acting in an OS capacity for a period of one year

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[2] The Central Registration Depository is a registration database, which was launched in 1981. CRD is used by broker-dealers and various regulators, including: (1) self-regulatory organizations; (2) all 50 US states; and (3) additional jurisdictions such as the District of Columbia, Puerto Rico, and the US Virgin Islands. CRD is also the data source for the FINRA BrokerCheck program. In addition to the use by broker-dealers, the investment adviser community also leverages CRD functionality.

from the effective date[3], while they prepared for the examination to avoid disruption in the firms' operations. FINRA also recognized the overlap of content between the Series 99 and other examinations, including the Series 6, 7, and 27.

In connection with our request to leverage existing examinations, ARM also requests that the MSRB utilizes the existing securities registration forms and the system through which those forms are processed. ARM member firms have been using CRD for over 30 years to register their broker-dealers and investment advisers. To apply for both entity and individual registrations with multiple regulatory organizations and exchanges, uniform licensing applications were developed for member firms. Through this uniformity and consistency, these forms address common issues and reduce both redundancies among, and inconsistencies between, the responses to form questions. These standardized applications, including Forms BD, ADV, U4, and U5[4], increase the efficiency and effectiveness of the registration and disclosure processes. Furthermore, by minimizing the number of forms, the securities regulators have prevented the over saturation of disclosure information by highlighting the relevant facts through specific questions and form sections. ARM believes that a comparison of uniform security applications to municipal advisor forms, such as Forms A-12, MA, and MA-I, demonstrates overlapping requirements. For example, key sections of the municipal advisor forms—such as Identifying Information (or General Information), Business Activities, and Contact Information—are also key sections on the uniform securities registration applications.

Uniform securities registration applications also feature a long list of registration categories. Some of these categories are common across multiple exchanges and regulatory organizations, and others are specific to individual organizations. ARM recommends a detailed analysis of these applications to include the new municipal advisor registration categories and any questions or form sections that are relevant to municipal advisor business and activities.

In addition to the increased efficiencies that can be accomplished with uniform applications, the MSRB can improve the efficiency and effectiveness

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[3] This allowance was provided on the condition that individuals submitted the required application within a 60-day timeframe.

[4] The full titles of the referenced forms are as follows: (1) Form BD- Uniform Application for Broker-Dealer Registration; (2) Form ADV- Uniform Application for Investment Adviser Registration; (3) Form U4- Uniform Application for Securities Industry Registration or Transfer; and (4) Form U5- Uniform Termination Notice for Securities Industry Registration.

of their own processes and interactions with industry firms. CRD system features include, but are not limited to:

> (1) automated completeness check functionality to ensure data quality and prevent the submission of incomplete applications;
> (2) validation processes to check for the appropriate examinations for the categories of registrations being sought;
> (3) filters to identify those applicants who require regulatory review for disclosure incidents and other reasons;
> (4) reports and queries related to the application and registration information in the CRD data;
> (5) mass-filing through an electronic filing transfer process ("EFT"), in which licensing applications and amendments for multiple individuals are filed at the same time; and
> (6) accounting functionality to collect and disburse registration and renewal fees to the appropriate regulatory agencies.

FINRA also provides support services to complement the CRD system features, which also benefit member firms, regulators, and the investing public. First, industry firms are able to use FINRA's Call Center for support in the registration application process. Call Center personnel assist system users by answering application content and process questions, and by resolving technical issues such as access problems. Access problems with the MSRB and SEC sites were specifically cited in feedback received from our member firms, including cases where access was not resolved after weeks of requests and follow-up communication. Second, FINRA staff reviews disclosure filings to enforce compliance with reporting requirements and to screen for possible statutory disqualifications. Third, FINRA uses some of the collected data in their public disclosure program, allowing investors to use BrokerCheck to conduct their own background checks to determine which firms and registered representatives they are comfortable bringing their business to. ARM believes that these CRD features and related services would relieve administrative and process burdens, as well as the related costs, for both the MSRB and our member firms.

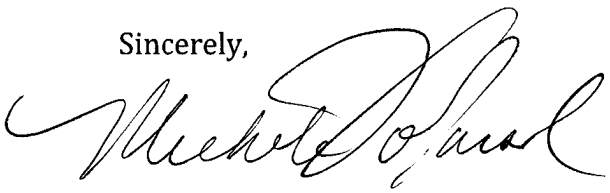
ARM recognizes the existence of municipal advisors that are not broker-dealers, and therefore would not be able to use the CRD registration process at this time. However, we believe that this is a relatively small percentage of the municipal advisor population. The efficiencies and benefits achieved by having the significant majority of municipal advisors registering through CRD should outweigh any additional efforts needed to address this smaller population.

ARM has had several discussions about the possibility of extending the MSRB registration process to CRD with FINRA. In response, FINRA contacts have expressed their willingness to assist the MSRB by introducing the CRD system and its potential uses. Our organization and our member firms will gladly participate in conferences and discussions with both FINRA and the MSRB to provide more detailed feedback on the use of this system and to use our combined years of registration experience to assist the MSRB in developing application, disclosure, and review procedures through the use of CRD.

ARM understands and fully supports the need for municipal advisor qualifications and registration categories. However, the organization and our member firms have concerns about the process to apply for those registrations. We recommend contacting ARM for more detailed industry feedback and to further explore the possibility of using CRD for municipal advisor registration processing.

Thank you for your time and consideration on this matter. Please contact me if you wish to discuss the matter in more detail, if you have any questions, or if I can assist with this initiative any further.

Sincerely,



Michele Van Tassel
President, Association of Registration Management, Inc.
armgmnt@armgmnt.org

On behalf of the Executive Board and members of the
Association of Registration Management, Inc.

CC: Mario DiTrapani
Vice President, Registration and Disclosure
Financial Industry Regulatory Authority

Katherine England
Assistant Director, Trading and Markets
Securities and Exchange Commission

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May 16, 2014

VIA ELECTRONIC MAIL

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

RE: MSRB Notice 2014-08 (March 17, 2014): Request for Comment on Establishing Professional Qualification Requirements for Municipal Advisors

Dear Mr. Smith:

On behalf of the Bond Dealers of America ("BDA"), I am pleased to submit this letter in response to Municipal Securities Rulemaking Board ("MSRB") Notice 2014-08, regarding Draft Rule G-3 ("Draft Rule G-3").[1] Under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act")[2], Congress, among other things, amended Section 15B of the Securities Exchange Act of 1934 ("Exchange Act") to provide for the regulation by the Securities and Exchange Commission ("SEC") and the MSRB of municipal advisors and to grant the MSRB certain authority to protect municipal entities and obligated persons. The Dodd-Frank Act accordingly grants the MSRB broad rulemaking authority over municipal advisors and municipal advisory activities. Among other rules published and soon-to-be published by the MSRB, Draft Rule G-3 is an important component of the regulatory framework for municipal advisors and we welcome this opportunity to provide our comments.

All Municipal Finance Professionals Should Have the Same Training

The BDA believes that all municipal finance professionals, including municipal advisors, should be treated the same with respect to the training and testing they are required to

[1] See MSRB Notice 2014-08 (March 17, 2014).
[2] Pub. Law No. 111-203, 124 Stat. 1376 (2010).

undertake in order to perform their responsibilities under the law. It is our opinion that there is nothing one group of municipal finance professionals should be trained to comprehend that another should not. And while we agree with the MSRB that professional qualification standards need to be established for municipal advisor professionals and their associated persons who engage in municipal advisory activities, we would suggest that the MSRB apply a more streamlined approach in establishing these standards. Below, we will lay out three options, in order of preference, which we would suggest the MSRB consider as alternatives to the approach laid out in Draft Rule G-3. We believe each of these alternatives will accomplish the same goals and reach the same intended audience, while not overloading the system or overburdening other municipal finance professionals.

Suggested Alternative Options

We believe the MSRB should consider the following three alternatives to the separate testing and continuing education requirement for municipal advisors set forth in Draft Rule G-3. First, the MSRB should consider foregoing the creation and administration of a wholly new exam for those financial professionals who are already subject to periodic examinations. The current test to qualify as a municipal securities representative is the Series 52 examination is the current test for associated persons newly qualifying as a municipal securities representative. The MSRB should consider whether this could be used for municipal advisor representatives. If so, then the MSRB could instead include all of the new relevant municipal advisor regulation and compliance information to the continuing education component of the exam cycle. For those municipal advisor representatives who are not currently qualified as municipal securities representatives they would be required to take the Series 52 exam, which would cover exactly the same material covered under the continuing education component for previously licensed finance professionals. This option would essentially allow those broker dealers who are already qualified as municipal securities representatives and subject to examinations (Series 52 or Series 53), to be qualified under the new standards set by Draft Rule G-3 and streamline the qualification process by using only one test for all currently unlicensed municipal finance professionals to take to qualify to enter the municipal finance industry.

We would suggest also investigating the steps taken by the industry when implementing the Series 79 exam for those people who had previously taken the Series 7 exam and met certain other qualifications. Specifically, FINRA Regulatory Notice 09-41 for Investment Banking Representatives provides that investment bankers who hold the Series 7 registration, as well as those who have passed and are registered with a "Series 7-equivalent exam," may opt in to the Investment Banking Representative registration, provided that, as of the date they opt in, such individuals are engaged in investment banking activities covered by Rule 1032(i). Those individuals who choose to opt in retain their Series 7 or Series 7-equivalent registered representative registration in addition to the investment banking registration. After May 3, 2010, Regulatory Notice 09-41 provides that any person who wishes to engage in the specified investment banking activities will be required to pass the Series 79 Exam or obtain a waiver.[3] If this precedent were also followed by the MSRB for Draft Rule G-3, it would permit certain qualified individuals to opt-in, while still maintaining the continuing education component of the exam cycle, which would cover the new information identified by the MSRB as important for the industry to understand for the purposes of acting under the municipal advisor regulatory regime. Therefore, we believe the MSRB could look to this Series 7 opt-in for the Series 79 as precedent for it to act accordingly in allowing certain qualified individuals to opt-in for the municipal advisor requirements.

Second, the BDA believes the next best solution would be to create a supplemental exam for previously licensed financial professionals, which would cover only the new material created by the MSRB. Those professionals who have already taken professional qualification exams such as the Series 7 or Series 52 exam would only now be subject to taking an exam covering the new material that was not included in their previously administered exams. Much of the information that would be tested in order to qualify as a municipal advisor representative is the same as that for municipal securities representatives. Similar to the above suggestion, those municipal advisor representatives

[3] FINRA Regulatory Notice 09-41, Investment Banking Representative, http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p119461.pdf.

who are not municipal securities representatives and currently not subject to periodic examinations would take the new exam or some combination of an existing exam and the supplemental exam.

Third, if neither of the above scenarios seems workable to the MSRB, we would then suggest the MSRB create an entirely new exam and require all associated persons, including municipal advisor representatives, municipal advisor professionals and municipal securities representatives, to take this exam, thus establishing one uniform standard for all finance professionals and avoiding the situation where two exams are required to be taken by professionals at broker-dealer firms. As stated above, we believe the information needed to be known about the municipal securities market, credit is generally the same for a municipal advisor representative as it is for a municipal securities representative. The Series 52 or 53 exams would be eliminated in favor or this new broader exam that all municipal finance professionals would be required to take. We believe this alternative saves the industry from having to implement, manage and document compliance and continuing education requirements with two separate exams and schedules.

Additionally, the BDA would like to encourage the MSRB to require the passing grade for any new material covered by an exam for municipal advisory activities be the same 70% standard in place for all other exams.

The Rule As Proposed Would be Prohibitively Costly to the Industry

The BDA believes Draft Rule G-3 as proposed would be disproportionately expensive to structure and maintain for broker-dealer firms who will have to manage two registrations regimes for each employee. We also believe the MSRB should perform a thorough cost and benefit analysis for Draft Rule G-3 prior to its implementation. We have assessed the cost per firm for non-broker dealer firms to be significantly less for two reasons. One, non-dealer firms have fewer employees per firm as compared to broker-dealer firms and two, employees of non-dealer affiliated firms will only be required to take, pass and perform the required certification and continuing education for exams related to

municipal advisory activities (i.e.. there will be one test for municipal advisor representatives and one for municipal advisors principals so that the employees at municipal advisory firms may need to take two exams.) Unfortunately, this lends itself to an uneven playing field directly at the outset of the exam process with the practical outcome being keeping dealers from acting as municipal advisors. In our view, does the industry a disservice by taking a large component of the qualified professional players out of the game.

In fact, the BDA did a "back of the envelope" assessment of the costs to the industry. While these costs may not be insignificant with respect to one municipal advisor representative at one firm, they are substantial when looked at by firms with multiple municipal advisor representatives, many of whom are also broker dealers. We've laid our estimate of the costs for your consideration below:

- Assume there are 22,000 non-broker dealer financial advisory firms affected by the new municipal advisor rule and corresponding regulatory regime. If each has 1.5 employees who will need to qualify as municipal advisor representatives, that accounting amounts to 33,000 individuals who have to take the new exam and perform the associated continuing education requirement that currently do not have to do so.
- Assume there are 4,200 broker-dealer registered firms. If each has 10 employees who will qualify as municipal advisor representatives, that amounts to 42,000 individuals who will have to take the new exam and perform the associated continuing education requirement in addition to their exam and continuing education requirement to qualify as municipal securities representatives.

At the outset, those two scenarios alone would require 75,000 people to take new exams and meet the new continuing education requirements. To break it down in terms of cost to an individual BDA firm, we estimate the following numbers: For a smaller BDA member firm, we estimate the expense for registration of new municipal advisor representatives to be approximately $30,000. On top of that expense, that same firm

would have to pay $70,000 to bring those individuals who need to be dually registered under the requirements of the Draft Rule as a municipal advisor representative and as a municipal securities representative.

We would like to reiterate to the MSRB that not only does the complication of having to take two sets of exams and continuing education requirements cause an undue burden and costs for broker dealer firms, but also there immeasurable cost of the lost time of the municipal advisor representatives that could be spent serving the clients this rule is intended to benefit rather than preparing for and taking multiple tests. As a result, we would like to encourage the MSRB to undertake a full and complete study of the costs and benefits of the implementation of Draft Rule G-3 in its expected final form prior to its approval.

Maintain the One-Year Grace Period

The BDA supports the MSRB's provision to transition to the new qualification regime by providing municipal advisor representatives a one-year grace period from the effective date of Draft Rule G-3 (to be announced by the MSRB at a later date) in order to prepare for and pass the examination. However, we would caution that the MSRB may want to consider the volume of applicants (both those currently registered under other regimes and those unregistered municipal advisors) who will be descending upon the existing testing centers in droves. In fact, we are estimating that there could be as many as 75,000 people who would have to take, and possibly retake, this test during the one-year grace period. We would recommend that the MSRB review and assess the current testing center capacities to ensure that the testing centers will be able to accommodate the estimated number of municipal advisor representatives and professionals who will be seeking to be tested (and possibly retested) during the one-year grace period. Failure to do so may result in the MSRB having to extend the deadline or worse, having certain municipal advisor representatives and professionals unable to complete the required testing during the one-year grace period due to congestion at the testing centers. Thus, we would suggest that the MSRB undertake to investigate whether the current testing sites can accommodate this increased volume of applicants wanting to take the new exam,

while also serving those who are taking other professional qualification exams and continuing education requirements at the same exact locations.

The BDA would also like to suggest the MSRB consider how and where the licenses for those municipal advisor representatives not affiliated with a broker dealer firm, and thus not registered with FINRA, will be held. For broker-dealer firms, it is FINRA who holds the licenses for municipal advisor representatives once licensed via the examination process. This information, found on BrokerCheck, provides investors with information regarding the professional backgrounds of former and current FINRA-registered firms. This should also be the case for professionals qualifying for licenses under the municipal advisor regime. In our opinion, this goes directly to investor and issuer diligence as well as for accessibility to information. Therefore, we would like to point this out for the MSRB's consideration as it works with the SEC and FINRA toward the ultimate goal of establishing and maintaining a regulatory and examination regime for everyone licensed under the municipal advisor rule.

Waivers Should be Consistently Granted

The BDA is not opposed to Draft Rule G-3 including a waiver of qualification requirements that may be granted to individuals in extraordinary cases. However, we would like to suggest that any qualification requirements established for such waivers be limited with the result that waivers will be granted sparingly and only when appropriate. For example, in the experience of those at our member firms, we have only seen waivers permitted in instances where a firm has hired someone who had previously taken relevant exams, been licensed, and had requisite experience in the field, yet, for some reason, had let their registration lapse. A waiver in this instance would have been permitted to allow reactivation of such individual's registration. Similarly, under Draft Rule G-3, we believe waivers should only be permitted for the qualification requirements if there had been a previous attainment of licensure. We would be opposed to allowing waivers for an individual who had never taken a relevant professional qualification exam in the first place.

Effective Date / Delay in Implementation

As we have stated in previous meetings and letters, given the interaction and interdependence of each rule and regulation required to construct a complete regulatory framework for municipal advisors, the BDA believes the MSRB should delay implementation of all of its rules and regulations falling under the municipal advisor regulatory regime until all rules and regulations have been approved by the SEC. Consistent with our previous comments, we would reiterate that we believe an implementation date of six months following the approval of the last of the rules in the regulatory regime by the SEC is fair, given the complexity of the entirety of the municipal advisor regulatory regime. In the alternative, if the MSRB will have the exam finalized at the time of the identified effective date of this rule (or the entirety of the regulatory regime), we would ask that the industry be given one full year from that point to serve as the grace period. However, if the exam is not finalized by the effective date identified by the MSRB, we would ask that they make an allowance for the effective date to ensure there is a full one year grace period starting once the exam is final.

Thank you for the opportunity to present our views on Draft Rule G-3.

Sincerely,

Michael Nicholas
Chief Executive Officer

cedarpartnersltd

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May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors Regulatory Notice 2014-08

Dear Mr. Smith:

My firm, Cedar Partners, is registered as an investment adviser in the State of Ohio as well as a Municipal Advisor with the SEC and MSRB. Cedar provides institutional sales and marketing services to investment managers who are registered as investment advisers with the SEC. Cedar Partners assists in marketing the investment managers' services to prospective clients by contacting consultants, pension plan sponsors or other representatives of prospective advisory clients who are seeking the services of an investment manager.

Cedar Partners does not provide investment advice directly or indirectly to clients. Cedar Partners does not manage assets for clients; it does not provide financial planning or similar services and it does not provide any other services that would be considered investment supervisory services. The clients of Cedar Partners consist entirely of Money Managers that manage money primarily for institutional investors, pension plans, other legal entities and high net worth individuals meeting regulatory definitions of qualified or accredited investors.

While we understand the need for comprehensive and current registration requirements, we caution that there is a critical disconnect in the initial approach of MSRB's Regulatory Notice 2014-08 -Establishing Professional Qualification Requirements for Municipal Advisors. Primarily, we believe the definition of Municipal Advisor extends beyond what is necessary. Placement agents, like Cedar Partners, who interface with public pensions have been incorrectly bucketed into the category of Municipal Advisors based on the fact that they may introduce pre-vetted investment managers and opportunities to these public pensions. Placement agents do not act in any fiduciary capacity to these public pensions, but rather serve as an informational channel that assists public pensions in identifying potential allocation targets. This construct is materially distinct from the description that the MSRB publically acknowledges on their website regarding the role of municipal advisors which reads as follows:

Municipal advisors act in a fiduciary capacity for issuers.

- Placement Agents do not act in a fiduciary capacity for issuers.

The strategic services offered by municipal advisors may include development of comprehensive financing plans; analysis and monitoring of client portfolios; advice on potential financing solutions

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and new financial products; and recommendations for tracking and achieving on-budget performance.

- Placement Agents do not offer these services.

Municipal advisors also provide advice on conditions of a new issue, such as structure, timing, marketing, fairness of pricing, terms and bond ratings.

- Placement Agents do not provide advice of any nature to prospective investors.

During the transaction, municipal advisors represent the interests of state and local governments in negotiations with underwriters, rating agencies, banks and others involved. Municipal advisors also assist state and local governments with preparing disclosure documents, including official statements and continuing disclosure documents.

- Placement Agents do not represent or engage in negotiations with underwriters or the other aforementioned counterparties.

The MSRB requested comment concerning the following issues:

- **Should all individuals engaged in municipal advisory activities demonstrate a minimum level of competence by taking and passing a general qualification examination?**
  While we believe that all individuals engaged in municipal advisory activities demonstrate a minimum level of competence by taking and passing a qualification examination, we believe that the MSRB has the responsibility to understand the specific activities undertaken by different types of Municipal Advisors, such as placement agents, and then to assess whether a qualification exam would be appropriate for each type of Municipal Advisors.

- **Is the one-year grace period sufficient time for municipal advisor representatives to study and take (and, if necessary retake) the municipal advisor representative qualification examination?**
  Given the fact that placement agents who are required to sit for the municipal advisor representative examination will need to learn a great deal of material that is irrelevant to our business activities, and the fact that many are small businesses and require all of their representatives focused of generating new business, we do not feel that one year is sufficient time for representatives to study and take and if necessary retake the qualification examination.

- **Do dealers believe the current 90-day apprenticeship requirement for municipal securities representatives is beneficial?**
  Since we have been conducting business in the industry for several years, we do not believe that a 90-day apprenticeship requirement is necessary. An apprenticeship might be worthwhile for individuals that have never before worked in the industry.

- **Would there be any negative consequences if the current municipal securities representative apprenticeship requirement were eliminated?**
  No. It is the responsibility of each firm to ensure that their employees are properly trained to carry out their roles and are supervised in their activities.

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- **How should economic analysis apply to proposed new registration classifications and the establishment of a basic qualification examination?**
  Economic analysis should be used on a firm level to assess the time required for individuals to learn, study and sit for (and re-take if necessary) the new qualifying examination. It should also be used to quantify the lost opportunities firms will face while their employees are focusing on the qualification examination rather than on new business generation. The analysis should also take into account the Principal examination which will be forth coming as well as any new continuing education requirements that will be proposed in subsequent rules.
  We also believe that economic cost-benefit analysis should be performed because of the anticipated high costs to MSRB for implementation of what we believe to be, with respect to placement agents, a redundant or worse an irrelevant examination. Costs the MSRB will likely experience include convening industry groups to assess the need for qualification exams, the cost of MSRB staff to establish qualifying examinations and to test their efficacy as well as the time and effort of other MSRB staff. The time and effort taken up by this comment process and the time of the Board of Directors to debate this proposal is also, very likely, a significant expense.

Cedar strongly believes that the current regulatory qualification framework in place regarding the specific business activity of placement agents satisfies the regulatory qualification standards which apply directly to a placement agent's business activity, and as such that any new and additional professional qualification requirements would be unduly applied to placement agents. As such, we strongly recommend that the MSRB seeks to reconcile to current disconnect by reconsidering their position on the grandfathering provision for those firms NOT focused on municipal securities transactions.

If you have any questions or comments regarding any of the information contained in this letter, please feel free to contact me.

Best regards,

Christy Ping
Director/Chief Compliance Officer
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cping@cedarpartnersltd.com

Comment on Notice 2014-08

from Mark Detter, Central States Capital Markets

on Thursday, April 17, 2014

Comment:

In regards to requirement that a Municipal Advisor pass an examination for certification purposes, Central States Capital Markets would request that Series 7 or Series 52 certifications be considered an appropriate substitute the Municipal Financial Advisor examination.

The Series 7 certification is considered comprehensive in every discipline across the securities and financial services industry. The Series 7 should be more than adequate for displaying financial and regulatory knowledge related to Municipal Advisors.

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

April 25, 2014

Re: MSRB Regulatory Notice 2014-08 Relating to Establishing Professional Qualification Requirements for Municipal Advisers.

Dear Mr. Smith:

CFA Institute appreciates the opportunity to comment to the Municipal Securities Rulemaking Board (the "Board") with regard to its regulatory notice (the "Notice") pertaining to the establishment of professional qualification requirements for municipal advisers. CFA Institute represents the views of investment professionals before standard setters, regulatory authorities, and legislative bodies worldwide on issues that affect the practice of financial analysis and investment management, education and licensing requirements for investment professionals, and on issues that affect the integrity and accountability of global financial markets.

On March 17, 2014 the Municipal Securities Rulemaking Board (MSRB) released Regulatory Notice 2014-08 which requested comment on the Board's intent to establish professional qualification requirements for municipal advisers and their associated persons. Under the proposed amendments, the Board would require municipal adviser representatives to take and pass the municipal adviser representative qualification examination to demonstrate a minimum level of competency.

CFA Institute appreciates the opportunity to provide comments on the Board's new rulemaking. We believe that it is appropriate, and in the interest of investors and municipal entities, for the MSRB to impose qualification requirements on municipal advisers and their associated persons. The new standards

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of competence are similar to the ones already imposed on other securities professionals and should help bring consistency across the investment industry.

Accordingly, CFA Institute recommends that the proposed qualification requirement be constructed in a modular fashion with one component focusing on the knowledge of business and the second component devoted to the rules and regulations of the municipal securities market. Furthermore, we request that CFA charterholders be granted a waiver from the knowledge of business component of the qualification requirement for municipal adviser representatives.

Background on CFA Institute and the CFA Charter

CFA Institute is the leading global association of investment professionals with more than 122,000 members in 144 countries. Our mission is to lead the investment profession globally by promoting the highest standards of ethics, education, and professional excellence for the ultimate benefit of society. We aspire to serve all finance professionals seeking education, knowledge, and professional development. CFA Institute also seeks to lead the investment profession's thinking in the areas of ethics, capital market integrity, and excellence of practice.

As part of its portfolio of educational programs, CFA Institute offers the Chartered Financial Analyst® (CFA®) charter which is the global investment industry's most challenging and most widely respected graduate-level investment credential. Earning the CFA charter requires passing three, six-hour examinations with an overall ten-year average pass rate of 42%. With 10-15% of each level of the CFA exam dedicated to ethics and standards, successfully completing the CFA program demonstrates a commitment to professional ethics as well as a mastery of a comprehensive range of advanced investment principles needed to successfully practice in the investment industry.

The CFA program curriculum is grounded in the practice of the investment profession. The topic areas covered by the CFA program range from ethical and professional standards to investment tools, asset classes (with a strong focus in fixed-income securities) and portfolio management. CFA Institute, through the oversight of the Educational Advisory Committee (EAC), regularly conducts a practice analysis survey of investment professionals around the world to determine the knowledge, skills, and abilities (competencies) that are relevant to the profession. The results of the practice analysis define the Global Body of Investment Knowledge (GBIK) and the CFA Program Candidate Body of Knowledge (CBOK).

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CFA Program Recognition in the United States of America

Regulators around the world recognize the rigor of the CFA program by granting waivers from their own requirements for those who successfully participate in the CFA program. In all, regulators from twenty-three countries or territories formally recognize the CFA program.

In the case of the United States of America, the CFA Program has been recognized by regulatory agencies for certain job roles within the investment profession, thus allowing our candidates and charterholders to waive some of the Series exams required by Financial Industry Regulatory Authority (FINRA) and the New York Stock Exchange (NYSE):

- The NYSE exempts those who have passed CFA Level I and Part I of the NYSE Supervisory Analysts Qualification Exam (Series 16) from Part II of this two part exam.
- The NYSE and FINRA grant a waiver from the Series 86 exam for successful CFA Level II candidates who function as research analysts; and
- FINRA also grants a waiver from the Uniform Investment Adviser Examination (Series 65) for CFA charterholders.

In addition, the CFA charter has also been benchmarked by the National Academic Recognition Information Centre (NARIC) as comparable to a Master's level program relative to the English Qualification and Credit Framework.

Overview of the Board's draft amendments

Among the changes being proposed by the Board, the new rules would create two new registration classifications for municipal advisers: (a) municipal adviser representatives; and (b) municipal adviser principals. This new classification of associated persons as representatives and principals is consistent with those seen in other regulatory regimes. A municipal adviser representative is defined as a person who engages in municipal adviser activities while a principal is defined as a person who is engaged in the management, direction or supervision of the municipal advisory activities of the municipal adviser and its associated persons.

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The draft amendments would require that each prospective municipal adviser representative take and pass the municipal adviser representative qualification examination in order to be qualified as a municipal adviser representative. The Board is also considering establishing a qualification examination for municipal adviser principals at a later date[1].

As to the Uniform Requirement (grandfathering), the MSRB also proposed that all persons considered municipal adviser representatives (as defined by MSRB Rule G-3) must take and pass the qualification examination, regardless of whether such persons have passed other MSRB or MSRB-recognized examinations (such as the Series 52 or 7 examinations), or previously have been engaged in municipal advisory business.

Request to the Board to adopt a modular approach to the municipal adviser representative qualification examination and grant waivers to the CFA Program for the knowledge of business component (investment-related content).

We agree with the Board that the proposed examination should demonstrate test takers' knowledge of business (appropriate investment-related content) as well as knowledge of the rules and regulations pertaining to the markets for municipal securities. In this way, our recommendation would be that MSRB construct the exam in a modular fashion as follows:

- Module 1 – Knowledge of Business (appropriate investment-related content)
- Module 2 – Regulatory Requirements

Considering the above, we request the Board that CFA Charterholders be allowed to waive "Module 1 - Knowledge of Business (appropriate investment-related content)" and only be required to take "Module 2 – Regulatory Requirements" to qualify as municipal adviser representatives.

We believe that, given the nature and rigor of the CFA program. this would be beneficial to the MSRB and the municipal securities market in that it would increase the attractiveness of practicing in this market for the most qualified investment practitioners in the world. In addition, the CFA program already enjoys broad acceptance by regulators in the U.S. as indicated by the waivers currently in place with FINRA and

[1] It is expected that each municipal adviser principal would, as a prerequisite, be required to take and pass the municipal adviser representative qualification examination before taking the municipal adviser principal qualification examination.

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the NYSE (for Series 16, Series 65 and Series 86) which demonstrate the value and trust that regulatory agencies in the U.S. have placed in the program.

If the Board were to grant waivers to the CFA program, there would also be the obvious benefit to CFA charterholders who now would be able to leverage their participation in the CFA program and reduce the additional testing burden they would otherwise face to become municipal adviser representatives.

If a more detailed comparison would be helpful, the Regulator and Program Recognition (RPR) division can conduct a mapping exercise once the Board publishes the detailed learning objectives for the qualification examination. In a mapping exercise of this nature, RPR would match the learning outcome statements of the CFA Program to those of the municipal adviser representative examination. We expect that such a mapping exercise would confirm our assessment and demonstrate significant overlap between the topic areas of both exams.

Uniform Requirement – Grandfathering, Grace Period, and Apprenticeship

Finally, CFA Institute has no opinion on the practice of grandfathering. Similarly, CFA Institute has no position on the Board's proposals for a grace period, or to eliminate the apprenticeship period.

We would be pleased to discuss our comments in greater detail, or to provide any other assistance that would be helpful. If you have any questions, please do not hesitate to contact us.

Yours sincerely,

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James Allen, Head Capital Markets Policy Americas, CFA Institute
Kate Lander, Head of Regulator and Program Recognition, CFA Institute

Compass Securities Corporation
MEMBER FINRA, SIPC, MSRB

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

My firm is a FINRA member specializing in placement agent services. I am also currently registered as a Municipal Advisor with the SEC and MSRB. Compass is an institutionally focused independent broker/dealer that has helped its clients with a variety of high quality traditional and alternative investment products. I am also a member of Third Party Marketer's Association (3PM). I have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Respectfully yours,

John R. Ahern
President
Compass Securities Corporation

50 Braintree Hill Office Park, Suite 105 • Braintree, MA 02184
Telephone: 781-535-6083 Fax: 781-535-6084 e-mail: Principals@CompassSecurities.com

Comment on Notice 2014-08

from Dennis Dix Jr, DIXWORKS LLC

on Friday, April 11, 2014

Comment:

Re professional qualifications: The MA universe is far more diverse than the broker dealer community where most participants do much the same thing for which a one-size-fits-all examination is appropriate. I don't believe it's possible to fairly test all MA's in the same way. I am a one-man shop dealing with small to medium sized municipalities, taxing districts, and school districts. I have done so for 43 years. My product is usually a plain vanilla garden variety GO note or bond that serves my particular client base very well. I have never done a VRB, derivative, revenue bond, conduit, or other sophisticated transaction. I don't intend to. I would surely flounder on an exam that looked for answers on these types of transactions/securities. I do not need to know how to do these deals in order to be an effective and worthwhile practitioner in my market. I am sure there are other MA's who are specialized to one degree or another, unlike the broker dealer community, that would have the same problem as I do. An inability to pass an exam that tests things I know nothing about would, I believe, unfairly put me out of business for no good reason. I feel this is a strong argument for grandfathering smaller shops that have successfully been in business for say, over ten years, even though I am aware the Board has decided against it. I appreciate the need to validate proficiency, but some account needs to be taken where such diversity in practices exist, otherwise, perfectly competent practitioners may be forced to close for failing an exam on subjects of which they have no knowledge.

Comment on Notice 2014-08

from Brian Fitzgibbon, Fitzgibbon Toigo & Co. LLC

on Friday, May 16, 2014

Comment:

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

I am an owner and key participant in FITZGIBBON TOIGO & Co., a registered broker dealer with the SEC, member of FINRA, Municipal Advisor with MSRB and a member of SIPC. The firm's only business is to assist investment management firms with a placement agent services to institutional investors most of which are tax exempt organizations that do not invest in municipal securities. I currently hold 7,24, 63, and 79 registrations. I object to any silly or wasteful duplication of effort to registration. I have documented a level of expertise in the securities industry through my current registrations. I believe the Dodd Frank Act was enacted to bring regulation to unregulated segments of the market not to put bamboo slivers under the fingernails of documented qualified participants..

I sit on the Board of Directors for Third Party Marketer's Association (3PM) and endorse their comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Sincerely,
Brian X. Fitzgibbon

Fitzgibbon Toigo Associates, LLC (FINRA/SIPC/MSRB member)
412 Park Street, Upper Montclair, NJ 07043
Tel: 973-746-4944 Fax:973-746-2121
Brian@FitzgibbonToigo.com

FORTRESS
GROUP

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

My firm is a FINRA member specializing in private placement of alternative asset funds (private equity, private credit, real estate, and natural resource funds) to institutional investors. My firm is also currently registered as a Municipal Advisor with MSRB and the SEC.

I have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Respectfully yours,

Bruce A. Williamson, CFA
Managing Director & Chief Compliance Officer
Fortress Group, Inc.

Comment on Notice 2014-08

from frank taylor,

on Wednesday, March 19, 2014

Comment:

Why wouldn't a current series 7 registration qualify for the competence test in lieu of taking a newly produced "municipal advisory" test?

George K. Baum & Company
INVESTMENT BANKERS SINCE 1928

May 16, 2014

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

Re: MSRB Notice 2014-08 Establishing Professional Qualification Requirements for Municipal Advisors

Dear Mr. Smith:

On behalf of George K. Baum & Company ("GKB" or the "Firm"), we are pleased to submit this letter in response to the request for comments in MSRB Regulatory Notice 2014-08 (the "Notice"). Please also note that our Firm is a member of both the Bond Dealers of America ("BDA") and the Securities Industry and Financial Markets Association ("SIFMA"), and we support their comments on the issue as well.

One Examination and Qualification Standard

Central to all of our comments below is the belief that a Municipal Advisor ("MA"), trained to the minimum qualification level represented by taking a qualifying exam, needs to know everything that a Municipal Finance Professional ("Underwriter") needs to know when the Underwriter is trained to the minimum qualification level. Similarly we believe that an Underwriter, trained to the minimum qualification level, needs to know everything that a MA needs to know when the MA is trained to the minimum qualification level. We do not believe that an Underwriter can interface properly with an MA or an issuer unless the Underwriter understands all of the ethical requirements that the MA's relationship with a borrower entails. Similarly we do not believe that an MA can give educated advice to an issuer or obligated person on the activities of the Underwriter unless the MA understands the mechanics of the public debt market and the obligations that an Underwriter deals with when balancing the needs of borrowers and lenders.

While it is arguable that the increased industry costs of having dual registration requirements offset the possible increased industry regulatory burden of not allowing firms to register employees only for the services that they can, or choose to provide, we feel that there should only be one category of registered representative for the purposes of qualifying exams and continuing education.

Transition Time Frame

Currently there are 193 broker dealer firms, 9 banks and 697 non-broker dealer, non-bank MAs registered as municipal advisors with the MSRB. Under the new registration requirements, George K. Baum alone has over 100 employees that will need to be registered as MAs. Assuming that the average broker deal has 50 employees which need to be registered as MAs, the average bank has 50 employees that need to be registered as MAs, and the average non-broker dealer, non-bank MA firm has 10 employees which need to be registered as MAs, there will be a total of 17,070 people who will have to pass the new MA qualifying exam in the first year the exam is offered. Using those same numerical assumptions and further assuming that MAs will have to have the same continuing education requirements as Municipal

Finance Professionals ("MFP's"), every year thereafter 5,690 people will have to take an additional continuing education exam. In addition the system will need to accommodate everyone who will need to take a Municipal Advisor Principal exam. Our concern is that the existing exam system, which is already overburdened so that it can take a month or more to get an exam scheduled, will not be ready to absorb this additional requirement. We believe that the MSRB should take this into consideration when determining how long the window is when any additional exam needs to be taken.

Continuing Education and Opt-in Proposal

As stated above, we feel that MAs and MFPs, and their associated principals, need to be trained, at least to the level of the qualifying exams, so that they each know, and are tested on, the same information. Given that premise, there will only be a portion of the new exam for which existing MFPs and their principals will not have already been tested. As result, for persons at existing broker-dealer firms who have passed the relevant Series 52 and Series 53 qualification exams, we believe that any proposal which requires them to qualify under any new MA examination would not provide any material additional benefits or protection for municipal issuers or investors versus the significant time, cost and disruption involved. Rather, we believe that existing Series 52 and Series 53 qualified persons should only be required to participate in a continuing education portion of the qualification process when the MSRB has incorporated specific MA related issues in the continuing education curriculum. Therefore, we believe that professionals currently registered as Series 52 and Series 53 should be given the same time period, as those required to take the new MA qualifying exam have, to complete the continuing education component addressing the additional MA specific information.

Accordingly, we believe the MSRB should follow the opt-in process FINRA has enacted in recent years for those individuals holding in good standing a Series 52 (and Series 53) exam(s). When FINRA introduced the Series 79 examination requirement for investment banking representatives, any registered person with a Series 7 qualification was allowed to opt-in to the Series 79 qualification. Similarly, when the Series 99 was introduced for Operations Professionals, those holding a Series 7 qualification were allowed to opt-in to the Series 99 qualification. Lastly, an individual who was duly qualified as a Municipal Securities Representative by virtue of having taken and passed the Series 7 examination prior to November 7, 2011 is not required to retake the Series 52 in order to re-qualify as a Municipal Securities Representative. We would propose that the continuing education requirements for all these individuals with an opt-in registration position would be satisfied in one regularly scheduled regulatory continuing education session within the initial opt-in deadline period. If existing MFPs have not taken the MA specific continuing education module, during the appropriate initial opt-in period, then they would not be qualified to act as MAs going forward and would be required to take the appropriate MA examination should they wish to become an MA in the future.

90 Day Apprenticeship Requirement

We agree with the proposal that the 90 day apprenticeship requirement should be eliminated for current municipal securities representatives and should not be required for the new MA representatives. We do not believe that a 90 day apprenticeship provides any tangible benefit to any relevant parties. We would also note that FINRA does not have any apprenticeship requirements for any of its qualification examinations and both NYSE and NASD historically did not have any apprenticeship requirements for any of their registrations.

Conclusion
We support the MSRB's expanded mission to protect municipal entities and obligated persons through a proper qualification examination of municipal advisors, but also believe it can be accomplished at a much lower cost and more effectively than simply requiring thousands of currently registered municipal professionals to take costly examinations.

Thank you in advance for your attention to our concerns and comments.

Sincerely,

Guy E. Yandel
EVP Public Finance

Dana L. Bjornson
EVP & Chief Compliance Officer

Andrew F. Sears
SVP & General Counsel

Comment on Notice 2014-08

from Joseph Mooney, Government Credit Corporation

on Tuesday, March 18, 2014

Comment:

I am astounded that MSRB will not consider passsingMSRB's Series 52 exam as documentation of one's ability to continue to preform as a Financial Advisor . The best approach would to be to require any one who has sucessfully completed MSRB's prior exams to offer continuing education. If the existing personnel have problems with the Series52 exam I believe that the most cost effective approach would be to edit Series 52 and any other exam that would be helpful in improving the ability of the financial community to meet its obligations to its clients. Adding continuing education program would also be a strong step forward .This approach is frequently used in professions that deal with life and death issues.

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

My firm is a FINRA member specializing in placement agent services to institutional investors, primarily corporate and public pension plans and investment consulting firms.. I am also currently registered as a Municipal Advisor with the SEC and MSRB. I have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary (please see attached), which has earned my strong support.

Respectfully yours,

Andrew

_____

Andrew Phillips
Principal & CCO
Hamersley Partners, LLC
1 Hollis Street, Suite 350
Wellesley, MA 02482
(781) 235-3235
aphillips@hamersleypartners.com

3PM
THIRD PARTY MARKETERS ASSOCIATION

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

The Third Party Marketers Association ("3PM") supports MSRB's initiative to establish a separate professional requirement for the recently created market participant profile of Municipal Advisor, which is outlined in the MSRB's Regulatory Notice 2014-08.

While we understand the need for comprehensive and current registration requirements, we caution that there is a critical disconnect in the initial approach of MSRB's Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. Primarily, we believe the definition of Municipal Advisor extends beyond what is necessary because as written it would effectively require certain professionals who are already licensed, to be subject to another, duplicative, regime. Placement Agents who introduce alternative investment managers to public pensions are already required to be registered with FINRA as registered representatives of broker-dealers. These placement agents are already properly registered in the scope of their business activities as General Securities Representatives because they are participating in private securities transactions. The scope of their qualifications and training includes municipal securities.

According to the SEC's Final Rule regarding Release No. 34-70462; File No. S7-45-10, "As discussed in the Proposal, until the passage of the Dodd-Frank Act, the activities of municipal advisors were largely unregulated, and municipal advisors were generally not required to register with the Commission or any other federal, state, or self-regulatory entity with respect to their municipal advisory activities.", it is clear to see the identification of municipal market participants which the MSRB is targeting for these professional qualification requirements. These municipal market participants are involved with the issuance of municipal securities and related matters.

The placement agents serving the U.S. alternative asset management industry are registered with broker-dealers regulated by the SEC and FINRA, and all of the placement agent firms operate in an environment of rigorous compliance oversight and controls. All U.S. placement agents must be registered with FINRA as General Securities Representatives by passing the Series 7 exam which contains a significant amount of content on municipal securities and related rules. In addition, all General Securities Representatives are required to complete Continuing Education requirements on a recurring

frequency which tests foundational and updated content knowledge.

As outlined in FINRA's General Securities Representative Qualification Examination – Content Outline, the municipal securities content for the Series 7 examination is one of the top 2 focus topics for questions accounting for approximately 20% of the exam:

Subject area	**Approximate number of**	**Percentage of exam**
Options	50	20%
Municipal Securities	50	20%
Packaged Securities	20	8%
Direct participation programs	15	6%
Corporate Securities	15	6%
Securities industry regulations	15	6%
Exchange operation / NYSE	15	6%
Economics and securities analysis	15	6%
Margins	10	4%
US government securities	15	6%
Retirement plans and taxation	15	6%
Customer Accounts	15	6%

This data clearly supports the historical framework of proper qualification requirements being in place for placement agents who introduce alternative investment managers to public pensions. These market participants should not be required to meet additional professional qualification requirements which are not relevant to their business activities.

To overcome this disconnect, we strongly recommend that the MSRB focus on the relevant regulatory precedent set by FINRA in 2009 regarding the Series 79 – Limited Representative Investment Banking. Following the SEC's approval, Rule 1032 (i) effectively developed a qualification examination for this category. Individuals who were registered as General Securities Representatives (Series 7) and engaged in the member firm's investment banking business as described in Rule 1032 (i) were provisioned with a grandfathering clause to the new registration category which was given a timeframe of six months from the effective date of the Rule.

FINRA's goal of establishing a special limited license category was effectively implemented by providing market participants who were already properly licensed and conducting business activity within the scope of the special license category with a transitional "Opt-In" Period as outlined in FINRA Regulatory Notice 09-41. This transitional period applied to both General Securities Representatives and General Securities Principals in supervisory roles.

FINRA is also currently considering comments to Regulatory Notice 14-09 which would create a separate registration category for limited purpose firms, such as placement agents, that offer securities to

"Qualified Investors". Please see the appendix for a copy of 3PM's comments to FINRA Regulatory Notice 14-09. Whether as a registrant under FINRA's new regulatory scheme for limited purpose firms, or as broker-dealers who act as placement agents under the existing rules and regulations, we believe that the rule set(s) are adequately broad to encompass all broker-dealer activities, including municipal activities, and do not require redundant rules, regulations and licenses.

The MSRB's current proposal for professional qualification requirement is to be applied to the newly created profile of Municipal Advisor which parallels the aforementioned scenario. The MSRB's goal is to establish special professional qualification requirements for Municipal Advisors and those who are charged with supervising them. For those market participants, specifically General Securities Representatives and General Securities Principals, the MSRB should provide a transitional "Opt-In" period for the new professional qualifications proposed which follows the precedent and allows proper exemption to qualified and registered individuals.

The Commission rightly provides exemptive relief to market participants who are already registered with another national regulatory authority such as the SEC and the NFA, as one of the directives of the Municipal Advisor initiative is to ensure that all market participants which are conducting business activities relevant within the municipal securities industry are properly registered with a minimum of one national regulatory authority. This avoids duplicity in the layered regulatory framework which we all operate within while mitigating the practice of double-dipping market participants for fees and registration costs.

We strongly suggest that the MSRB and the Commission should extend this logical methodology to dedicated placement agents who are already registered with FINRA, the SEC and potentially other national regulatory authorities such as the NFA. This would allow the proposal of establishing professional requirements to target the specific market participants who are truly responsible for attaining and maintaining these professional proficiencies in knowledge and practice in the municipal securities arena, while ensuring that properly registered placement agents are not unfairly burdened with additional examination requirements which are not testing the proficiency of their skill sets which is in selling Reg D investment opportunities.

Placement agents who interface with public pensions have been incorrectly bucketed into the category of Municipal Advisors based on the fact that they may introduce pre-vetted investment managers and opportunities to these public pensions. Placement agents do not act in any fiduciary capacity to these public pensions, but rather serve as an informational channel that assists public pensions in identifying potential allocation targets. This construct is materially distinct from the description that the MSRB publically acknowledges on their website regarding the role of municipal advisors which reads as follows:

Municipal advisors act in a fiduciary capacity for issuers.

- Placement Agents do not act in a fiduciary capacity for issuers.

The strategic services offered by municipal advisors may include development of comprehensive financing plans; analysis and monitoring of client portfolios; advice on potential financing solutions and new financial products; and recommendations for tracking and achieving on-budget performance.

- Placement Agents do not offer these services.

Municipal advisors also provide advice on conditions of a new issue, such as structure, timing, marketing, fairness of pricing, terms and bond ratings.

- Placement Agents do not provide advice of any nature to prospective investors.

During the transaction, municipal advisors represent the interests of state and local governments in negotiations with underwriters, rating agencies, banks and others involved. Municipal advisors also assist state and local governments with preparing disclosure documents, including official statements and continuing disclosure documents.

- Placement Agents do not represent or engage in negotiations with underwriters or the other aforementioned counterparties.

It is critical that the MSRB consider that the SEC's final rule, as aforementioned, **provides exemptions provided under the rule which are based on the activities of the [Municipal] advisor *rather than the type of market participant*.** Placement Agents do not interface with public pensions regarding municipal securities, and do not advise public pensions or municipalities regarding portfolio construction, and do not need to have a specific level of understanding of municipal securities instruments as they do not directly relate to a placement agent's activities.

In addition to an examination for Municipal Advisor Representatives, the MSRB is also adding a new registration classification for Municipal Advisor Principals. We once again refer you to the arguments stated above and remind the MSRB that all Municipal Advisors that are already registered as representatives with FINRA are also supervised by the appropriately registered FINRA Principal.

Given that most placement agents who are also MAs are small firms, it is important to recognize the additional burdens the MSRB's proposed rules would place on these small firms. Not only will individuals in our firms have to sit for an examination, but sometime in the future, supervisors will also be required to sit for a MA Principal examination. We believe that this is unnecessary given the fact that we are already registered with FINRA, as both Representatives and Principals, for all of our private placement activities. Those of us who conduct municipal activities carry a specific municipal license, a general securities license, and (or are supervised by someone with) a principal license.

In addition to the registration examinations, it is unreasonable to believe that the MSRB will also be implementing new continuing education requirements for MAs which will further burden small firms who are already registered and subject to continuing education requirements. While this is not covered in Notice 2014-08, we believe that the entire picture must be taken into account to judge the addition impact on small firms.

We further believe that the MSRB's decision to design only one examination that would cover material relevant to all Municipal Advisors is faulty. As articulated earlier in this letter, the definition of Municipal Advisor is extremely broad in that it covers a number of constituencies whose business models vary dramatically from one another. Given this reality, Municipal Advisors will be required to learn material relating to one another's businesses that will be used solely for the purpose of passing the MA qualification examination and never in the course of our day-to-day business operations. This

requirement is time consuming and irrelevant to the MSRBs mission of investor protection is putting an undue burden on the small firms that are already licensed through FINRA.

Questions posed by the MSRB

The MSRB requested comment concerning the following issues:

- **Should all individuals engaged in municipal advisory activities demonstrate a minimum level of competence by taking and passing a general qualification examination?**

  While we believe that all individuals engaged in municipal advisory activities demonstrate a minimum level of competence by taking and passing a qualification examination, we do not believe that this necessary entails that a new examination be written or administered. We believe that the MSRB has the responsibility to understand the specific activities undertaken by different types of Municipal Advisors, such as placement agents, and then to assess whether or not there are any existing examinations that cover these activities. We are confident that the MSRB will determine that placement agents are adequately licensed under the FINRA examination regime. Unless a gap exists, we do not believe a new examination should be required. In this instance, 3PM firmly believes that any of its members offering securities to Municipalities are already covered by FINRA's rules and their qualifying examinations. As such it is unnecessary for the MSRB to write a new examination for placement agents and subject our members to yet another qualifying examination. We believe that the MSRB's efforts should be focused on those Municipal Advisors that currently do not fall under the purview of existing regulatory authorities and that have not passed any type of qualifying examination.

- **Is the one-year grace period sufficient time for municipal advisor representatives to study and take (and, if necessary retake) the municipal advisor representative qualification examination?**

  Given the fact that placement agents who are required to sit for the municipal advisor representative examination will need to learn a great deal of material that is irrelevant to our business activities, and the fact that most of our constituents are small businesses and require all of their representatives focused of generating new business, we do not feel that one year is sufficient time for representatives to study and take and if necessary retake the qualification examination.

- **Do dealers believe the current 90-day apprenticeship requirement for municipal securities representatives is beneficial?**

  Since all of our members have been conducting business for several years, we do not believe that a 90-day apprenticeship requirement is necessary. An apprenticeship might be worthwhile for individuals that have never before worked in the industry, however, 3PM members are seasoned professionals with experience working in the financial services arena.

- **Would there be any negative consequences if the current municipal securities representative apprenticeship requirement were eliminated?**

No. It is the responsibility of each firm to ensure that their employees are properly trained to carry out their roles and are supervised in their activities.

- **Would dealers realize any cost savings if the current municipal securities representative apprenticeship requirement were eliminated?**

  Yes, it is likely that firms will realize some cost savings although we are not experienced in this area to specifically comment on how this would be achieved.

- **Is there a benefit to having an apprenticeship period for municipal advisor representatives?**

  No.

- **How should economic analysis apply to proposed new registration classifications and the establishment of a basic qualification examination?**

  Economic analysis should be used on a firm level to assess the time required for individuals to learn, study and sit for (and re-take if necessary) the new qualifying examination. It should also be used to quantify the lost opportunities firms will face while their employees are focusing on the qualification examination rather than on new business generation. The analysis should also take into account the Principal examination which will be forth coming as well as any new continuing education requirements that will be proposed in subsequent rules.

  We also believe that economic cost-benefit analysis should be performed because of the anticipated high costs to MSRB for implementation of what we believe to be, with respect to placement agents, a redundant or worse an irrelevant examination. Costs the MSRB will likely experience include convening industry groups to assess the need for qualification exams, the cost of MSRB staff to establish qualifying examinations and to test their efficacy as well as the time and effort of other MSRB staff such as the Office of General Counsel and senior staff members such as Lynnette Kelly who have taken the time to seek industry input on the examination. The time and effort taken up by this comment process and the time of the Board of Directors to debate this proposal is also, very likely, a significant expense.

  Costs such as the implementation of the examination process should also be considered and applied not only to the regulatory perspective, but to the firm assessment as well since a portion of these costs will be passed on the firms whose employees will have to take a Representative and Principal examination and will likely have continuing education requirements as well.

  Once the cost is determined, it should be then compared to the benefit the industry will gain – i.e. investor protection - by having MAs take the qualification examinations.

  We believe that in the case of placement agents, who are already covered by FINRA rules and examinations, the benefit will be little. As such, the cost of this undertaking for constituents who are already registered with other Regulatory Authorities will far out-weigh any possible benefits that will be achieved through this process.

Overall, 3PM applauds the thoughtful approach the MSRB has taken towards rulemaking. From the outset, the MSRB has been sensitive to constituencies that are already subject to regulatory oversight and whenever possible has taken the steps to harmonize their new rules with existing rules. Furthermore, given that most of 3PM's constituents are small firms, we also truly appreciate the MSRB's sensitivity to the burdens faced by small firms and that where ever possible you have worked to minimize the impact any new rules have on small firms. We ask only that you take these initiatives one step further and apply them to this rule proposal.

3PM strongly believes that the current regulatory qualification framework in place regarding the specific business activity of placement agents satisfies the regulatory qualification standards which apply directly to a placement agent's business activity, and as such that any new and additional professional qualification requirements would be unduly applied to placement agents who currently satisfy several professional qualification requirements and are required to maintain these levels of professional qualification through continuing education. As such, we strongly recommend that the MSRB seeks to reconcile to current disconnect by reconsidering their position on the grandfathering provision for General Securities Representatives and General Securities Principals who are only focused on private securities transactions and NOT focused on municipal securities transactions.

If you have any questions or comments regarding any of the information contained in this letter or would like to discuss any of these comments in further detail, please feel free to contact me directly by phone at (585) 203-1480 or by email at donna.dimaria@tesseracapital.com.

Thank you in advance for your consideration.
Regards,

Donna DiMaria
Chairman of the Board of Directors
3PM Association

Appendix

3PM is an association of independent, outsourced sales and marketing firms that support the investment management industry worldwide.

3PM Members are properly registered and licensed organizations consisting of experienced sales and marketing professionals who come together to establish and encourage best practices, share knowledge and resources, enhance professional standards, build industry awareness and generally support the growth and development of professional outsourced investment management marketing.

Members of 3PM benefit from:

- Regulatory Advocacy
- Best Practices and Compliance
- Industry Recognition and Awareness
- Manager Introductions
- Educational Programs
- Online Presence
- Conferences and Networking
- Service Provider Discounts

3PM began in 1998 with seven member-firms. Today, the Association has more than 35 member organizations, as well as significant number of prominent firms that support 3PMs and participate in the Association as 3PPs, Industry Associates, Member Benefit Providers, Media Partners and Association Partners.

A typical 3PM member-firm consists of two to five highly experienced investment management marketing executives with, on-average, more than 10 years' experience selling financial products in the institutional and/or retail distribution channels. The Association's members run the gamut in products they represent. Members work with traditional separate account managers covering strategies such as domestic and international equity, as well as fixed income. In the alternative arena, members represent fund products such as mutual funds, hedge funds, private equity, fund of funds and real estate. Some firms' business is comprised of both types of product offerings. The majority of 3PM's members are currently registered with FINRA or affiliated with a broker-dealer that is a member of FINRA.

For more information on 3PM or its members, please visit www.3pm.org

Comment on Notice 2014-08

from John Daly, IMMS LLC

on Friday, May 16, 2014

Comment:

I support completely the Letter of Comments submitted by the 3PM Association (Third Party Marketers Association).

INVESTMENT COMPANY INSTITUTE

1401 H Street, NW, Washington, DC 20005-2148, USA
202/326-5800 www.ici.org

May 8, 2014

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

Re: Qualification Requirements
For Municipal Advisors

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 revise MSRB Rules G-2 and G-3 relating to Standards of Professional Qualification and Testing Requirements.[2] As proposed, the MSRB would require (1) all municipal advisors to have at least one municipal advisory principal and (2) each municipal advisory principal and representative to pass a qualification examination.[3] The MSRB plans to provide a one-year grace period from the time the qualification examination is available for registrants to satisfy the examination requirement.

The Institute supports the MSRB imposing qualification requirements on municipal advisors and their associated persons. We also support the MSRB's proposal to provide a one-year grace period

[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 $16.8 trillion and serve more than 90 million shareholders.

[2] *See Request for Comment on Establishing Professional Qualification Requirements for Municipal Advisors,* MSRB Notice No. 2014-08 (March 17, 2014) (the "Notice"), which is available at: http://www.msrb.org/~/media/Files/Regulatory-Notices/RFCs/2014-08.ashx?n=1.

[3] According to the Notice, the MSRB will consider at a later date whether to create a separate examination for principals and whether the proposed examination requirement will apply without regard to whether the representative or principal has passed other MSRB-recognized examinations or been engaged in municipal advisory business.

for registrants to pass the examination.[4] We strongly recommend, however, that the MSRB reconsider its plans to develop a single examination to qualify all persons to act as a municipal advisor representative without regard to such person's municipal advisory activities. Instead, we recommend that the MSRB utilize at least two examinations – one for representatives of a municipal advisor whose advisory activities are limited to municipal fund securities and one for representatives of all other municipal advisors.[5] We are concerned that use of a one-size-fits-all examination will result in those representatives whose municipal advisory business is limited to municipal fund advice being required to pass a qualification examination that has little, if anything, to do with their advisory activities. As such, the examination would not appear to test competencies relevant to the needs of their advisory clients. By contrast, our recommendation would better serve the interests of the advisor's clients by testing relevant competencies and knowledge. Moreover, our recommendation also is consistent with the MSRB's authority under the Securities Exchange Act of 1934 ("Securities Exchange Act"), the manner in which the MSRB currently imposes examination requirements on representatives of municipal securities dealers, and the MSRB's *Policy on the Use of Economic Analysis in MSRB Rulemaking* ("Economic Policy"), as discussed in more detail below.

TESTING RELEVANT COMPETENCIES

Our recommendation that the MSRB tailor the examinations required of municipal fund advisors is intended to address the very significant differences between municipal advice relating to municipal fund securities, such as 529 college savings plans, and that relating to municipal securities other than municipal fund securities.[6] Indeed, the knowledge and competencies of an advisor may vary significantly depending upon the type of advice it renders. For example, providing advice on municipal securities likely requires a representative to be knowledgeable about issues such as negotiated prices, debt limits and ratios, underwriting periods, agreements, par values, etc. – none of which would be relevant for a municipal advisor whose advisory business is limited to providing advice relating to a municipal fund security such as a 529 education savings plan. As such, testing the representative's competence in these areas would appear to be a mismatch with the services it provides to its clients.

In our view, imposing an examination requirement in order to ensure a minimum level of competency necessitates that the MSRB utilize examinations that are tailored to the municipal advisor's business – *i.e.,* one for municipal advisors whose business is limited to municipal fund securities and

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[4] We understand from the MSRB's staff that this one-year period will commence when the examination is available to registrants.

[5] As discussed in more detail below, in lieu of developing a new, separate examination for the former, the MSRB could recognize the Series 6 examination as the required qualifying examination.

[6] For the ease of discussion, as used in this letter subsequently, the term "municipal securities" is intended to mean municipal securities other than municipal fund securities.

one for advisers whose business involves providing advice on municipal securities.[7] Tailoring the examinations in this way will better align the MSRB's competency requirements with the needs of the client and the business of the advisor.

CONSISTENCY WITH THE MSRB'S AUTHORITY AND CURRENT EXAMINATION REQUIREMENTS

While we recognize that this recommendation may result in the MSRB having to develop an additional examination tailored to those municipal advisors whose advice relates solely to municipal funds, the idea of multiple examinations tailored to a registrant's business is wholly consistent with the provisions of Section 15B(b)(2)(A) of the Securities Exchange Act, which expressly authorizes the MSRB to "appropriately classify . . . municipal advisors taking into account relevant matters, including types of business done, nature of securities other than municipal securities sold, and character of business organizations . . ." in developing standards of competence and other qualifications for municipal advisors and their associated persons. This approach also would benefit investors by ensuring that the competencies tested on the qualification examination are relevant to the business conducted by the municipal advisor. As such, it would appear to better fulfill the MSRB's interest in protecting investors and advisory clients.

Moreover, this recommendation is consistent with the approach currently taken by the MSRB in imposing qualification requirements on representatives of municipal securities dealers. While MSRB Rule G-3(a)(ii) requires every municipal securities representative to pass the "Municipal Securities Representative Examination" (*i.e.,* the Series 52 examination), the rule provides an exception for any representative whose "activities with respect to municipal securities . . . are limited solely to municipal fund securities." In lieu of the Series 52 examination, such persons may instead satisfy the qualification requirements by passing the "Limited Representative – Investment Company and Variable Contracts Products Examination" (*i.e.,* the Series 6 examination). This exception was added to MSRB Rule G-3 in 2000. According to the filing the MSRB made with the SEC to effect this change:

> The Board understands that municipal fund securities may not have features typically associated with more traditional municipal securities. Instead, their features are similar to those of investment company securities. Although Board rules generally have been drafted to accommodate the characteristics of debt securities, the Board believes that most current rules can appropriately be applied to municipal fund securities. Nonetheless, the Board feels that certain rules should be amended to recognize the unique characteristics of municipal fund securities.[8]

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[7] Representatives who provide advice on both municipal fund securities and municipal securities would be required to pass both examinations.

[8] *See Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the MSRB Relating to Municipal Fund Securities,* SEC Release No. 34-43066 (July 21, 2000) at p. 46. A footnote to this excerpt provides in relevant part as follows: "Municipal fund securities generally provide investment return and are valued based on the investment performance of an underlying pool of assets having an aggregate value that may increase or decrease from day-to-day, rather

We believe the Board's recognition of the distinctions between municipal securities and municipal fund securities should similarly be addressed in the rules the MSRB develops to regulate municipal advisors and such rules should distinguish, where appropriate, advisors whose business is limited to rendering advice on municipal fund securities from other advisors. We believe the MSRB's examination requirements are an appropriate place to recognize such a distinction.

CONSISTENCY WITH THE MSRB'S ECONOMIC POLICY

The MSRB's Economic Policy provides in relevant part that the MSRB's "economic analysis is to be included at the earliest stage of the rulemaking process to influence the choice, design, and development of policy options before a specific regulatory course has been determined." It also provides that, in considering new rules or rule revisions, the MSRB should identify and discuss "reasonable potential alternatives to the proposed rule" such as "different rule specifications . . . or differing requirements for different market participants." While the Notice does not indicate whether the MSRB considered these provisions of the Economic Policy in developing its proposed amendments, we believe that our recommendation is consistent with these considerations. Proposing a separate examination for those municipal advisors whose business is limited to rendering advice on municipal fund securities is a "different rule specification[ ] . . . or differing requirement[ ] for different market participants." This approach to imposing qualification requirements] would appear more suited to assessing the advisor's competency than requiring such advisors to pass a test designed for municipal advisors that render advice relating to municipal securities. As such, we believe our recommendation regarding a separate examination for municipal fund advisors is consistent with the MSRB's Economic Policy and should be adopted for that reason as well.

RECONSIDERATION OF UTILIZING ONE EXAM AND GRANDFATHERING

Based on the above, we strongly recommend that the MSRB reconsider its plans to develop a "one-size-fits all" qualification examination for all municipal advisor representatives. We instead recommend that the MSRB utilize two examinations – one for those municipal advisors whose business is limited to the business of municipal fund securities and one for all other municipal advisors.

According to the Notice, in implementing this new examination requirement, the MSRB does not intend to recognize passage of other regulatory examinations in lieu of the new municipal advisor examination. While we appreciate the MSRB's interest in not grandfathering a representative based on passing a "general qualification examination," we believe passing the Series 6 Examination should not be viewed as passing a general qualification examination. The Series 6 is specifically tailored to the types of products on which a municipal advisor whose business is limited to municipal fund securities would render advice. As such, it is a wholly appropriate alternative to the MSRB's proposed "one-size-fits-all" examination that is unrelated to such advisor's business. For this reason, we recommend that, in lieu of

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than providing interest payments at a stated rate or discount, as is the case for more traditional municipal securities. In addition, unlike traditional municipal securities, these interests do not have stated par values or maturity dates and cannot be priced based on yield or dollar price." *See* fn. 24.

developing a separate examination for municipal advisor representatives whose business is limited to providing advice on municipal fund securities, the MSRB permit such persons to qualify by passing the Series 6 examination. This would avoid much of the regulatory effort and costs associated with developing and maintaining a new, additional examination tailored to this business and would ensure that the qualification requirement imposed on persons who render advice on municipal fund securities is relevant to their advisory activities.

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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

From: Jorge L. Rosso
Sent: Thursday, April 03, 2014 1:24 PM
To: Comment Letters
Subject: RE: MSRB Notice 2014-08 Correction (have not been convicted)

-----Original Message-----

First name: Jorge
Last name: Rosso
Email address:
Phone number:
Company name:
Notice number: 2014-08
Comment:
All advisor should have a minimun of four (4) College graduate in finance.
An have not been convicted of any fraud or etical enquire.

May 16, 2014

Lisa Roth
630 First Avenue
San Diego, CA 92101
619-283-3500

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 1600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

I am a regulatory compliance consultant, as well as a registered municipal principal. Many of my clients are small firms, registered with FINRA, operating as placement agents. I am familiar with the compliance and regulatory regimes for these firms, and for many years I have provided consultative commentary to FINRA, the SEC, the PCAOB, and MSRB regarding what I believe to be an appropriate, relevant and meaningful framework for rulemaking for this specialized type of firm.

It is in that context that I have contributed to the letter submitted by the Third Party Marketer's Association (3PM). My particular concerns regarding the MSRB's proposal include failures to accommodate the stark differences between categories of firms swept into the MA registration, redundant licensing, and what I believe to be potential for significant overlap (and possibly conflict) between FINRA's proposal for Limited Corporate Financial Brokers and the MSRB's proposed rules for Municipal Advisers.

My detailed commentary is incorporated into the 3PM letter.

I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, and to reach out to the association for additional insight.

Best regards,

//Lisa Roth//

Lisa Roth, President

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors

Regulatory Notice 2014-08

Dear Mr. Smith:

MVision Private Equity Advisers USA LLC is a FINRA member specializing in fundraising advisory services, usually referred to as a "placement agent". We are also currently registered as a Municipal Advisor with the SEC and MSRB.

MVision is a highly specialised strategic advisory and placement firm with a narrow focus on the institutional alternative assets and private equity industry. MVision's clients are institutional general partners and managers of private equity funds, to whom the firm provides investment banking services and strategic advice generally, and when they are seeking capital from institutional accredited investors under private placement regimes.

We have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. We urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned our strong support.

Yours sincerely

Victoria Sherliker

General Counsel

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May 16, 2014

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

Re: MSRB Notice 2014-08

The National Association of Independent Public Finance Advisors ("NAIPFA") appreciates this opportunity to provide comments in connection with Municipal Securities Rulemaking Board ("MSRB") Notice 2014-08 – Request for Comment on Establishing Professional Qualification Requirements for Municipal Advisors (the "Notice").

1. General Comment

For purposes of consistency and to more accurately reflect the varied roles that Municipal Advisors play within the industry,[1] we request that the examination be referred to as the "Municipal Advisor Qualification Examination" [2] rather than its proposed name, the "Municipal Securities Advisor Qualification Examination" ("MSAQE").

2. New Registration Classifications

We believe that the classification and definition of Municipal Advisor Principals contained within the Notice is appropriate as it clearly describes the activities that would cause an individual to fall within the proposed amendments to MSRB Rule G-3 ("Proposed G-3"). However, without further clarification, Proposed G-3 may result in firms either registering too many or too few Municipal Advisor Representatives, which will result, respectively, in either an unnecessarily elevated level of securities law violations, or an unnecessarily elevated level of compliance and/or licensing-related expenditures by municipal advisory firms.

Notably, and as discussed more fully herein, the Notice states that the definition of Municipal Advisor Representative would be substantially identical to the definition recently adopted by the Securities and Exchange Commission ("SEC") under Rule 15Ba1-2, which relates to the filing of SEC Form MA-I. As such, we believe these comments are equally applicable to both rules, and so too are the potential outcomes noted above with respect to Proposed G-3.

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[1] e.g. serving as financial advisors, investment advisors and solicitors.

[2] Additional alternative names that the MSRB may want to consider include the following: (i) Municipal Advisor Knowledge Evaluation ("MAKE"), (ii) Municipal Advisor Test ("MAT"), and (iii) Series MA-I (no acronym needed) (the supervisory corollary could then be the Series MA-SP).

For purposes of the following comments, Proposed G-3 and Rule 15Ba1-2 shall be referred to collectively as the "Rules." In addition, the following comments are designed to provide NAIPFA's interpretation of the Rules and a proposed standard that, if adopted, would allow municipal advisors to more accurately determine which employees qualify as Municipal Advisor Representatives.

a. Definition of "Municipal Advisor Representatives"

Proposed G-3 defines the term "Municipal Advisor Representative" as a

> natural person who is an associated person of a municipal advisor who engages in municipal advisory activities on the firm's behalf, other than a person whose functions are solely clerical or ministerial.[3]

We believe this definition has two key components that must be considered when determining whether a person will be deemed a Municipal Advisor Representative: (1) whether such person is a natural person who is an *associated person* of a municipal advisor, and (2) whether such person engages in *municipal advisory activities* on the municipal advisor's behalf. Therefore, for purposes of these comments, we must also consider the meaning of the terms "associated person" and "municipal advisory activities."[4]

b. Definition of "Associated Person"

The Notice itself does not define the phrase "associated person." Pursuant to Rule 15Ba1-2, however, the term "person associated with a municipal advisor" has the same meaning as is contained within Section 15B(e)(7) of the Securities Exchange Act of 1934 ("Exchange Act"). Thus, with respect to Municipal Advisor Representatives, the definition of associated person would include the following natural persons:

(A) any partner, officer, director, or branch manager of a municipal advisor (or any person occupying a similar status or performing similar functions);

(B) any other employee of such municipal advisor who is engaged in the management, direction, supervision, or performance of *any activities relating to the provision of advice* to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities; or

[3] Proposed Rule G-3(e).

[4] As noted herein, the definition of "Municipal Advisor Representative" is substantially identical to that utilized by the SEC for purposes of the Form MA-I in terms of determining whether a Form MA-I is required to be filed on such person's behalf. Thus, these comments are equally applicable to Exchange Act Rule 15Ba1-2.

(C) Any person directly or indirectly controlling, controlled by, or under common control with such municipal advisor.[5]

NAIPFA notes that a key aspect of the associated person definition is the phrase "any activities relating to the provision of advice," contained within Section 15B(e)(7)(B). As discussed more fully herein, the absence of this language from the definition of "Municipal Advisory Activities" is significant within the context of a determination of who qualifies as a Municipal Advisor Representative.

c. Definition of "Municipal Advisory Activities"

Proposed Rule D-13 defines the phrase "Municipal Advisory Activities" as those "activities described in Section 15B(e)(4)(A)(i) and (ii) of the Act and the rules and regulations promulgated thereunder." The SEC defined this phrase nearly identically in Rule 15Ba1-1(e). As such, it appears that the phrase "Municipal Advisor Activities" is universally understood to mean (i) the provision of advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to structure, timing, terms, and other similar matters concerning such financial products or issues, or (ii) the solicitation of a municipal entity or obligated person.

However, nothing within either the Exchange Act, Exchange Act Rules 15Ba1-1 through -8, or the Notice provides any guidance with respect to the meaning of the phrase "provide advice to."[6] We note that the term "advice" is clarified within Release No. 34-70462, whereas the term "provide" is not. As such, and as NAIPFA has noted in previous comments, where terms are not defined by statute or regulation, the U.S. Supreme Court has held that such terms are to be interpreted based upon their plain and ordinary meaning in a manner designed to avoid an absurd interpretation. Therefore, the term "provide" must be interpreted accordingly in the absence of further rulemaking designed to provide a definition thereof.

As such, for purposes of the definition of Municipal Advisor Activities, the term "provide" as used within this context means "to give something wanted or needed to someone" or to "supply someone with something."[7]

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[5] Section 15B(e)(7) of the Exchange Act (emphasis added). We note that the SEC has broad authority to exempt persons from the requirements of Section 15B of the Exchange Act pursuant to Section 15B(a)(4) thereof. With respect to the "natural person" limitation adopted by the SEC as a means of clarifying which associated persons of municipal advisors are required to have a Form MA-I filed on their behalf, we believe that the SEC exercised its authority under Section 15B(a)(4) by exempting certain other persons from registration, namely non-natural persons who are associated persons of a Municipal Advisor.

[6] The term "advice" was clarified by the SEC in its release relating to Exchange Act Rules 15Ba1-1 through -8. Therefore, no additional interpretive guidance is requested with respect thereto.

[7] "Provide." *Merriam-Webster.com*. Merriam-Webster, n.d. Web. 15 May 2014. http://www.merriam-webster.com/dictionary/provide.

d. Analysis

As noted above, the definition of associated person contains the phrase "activities relating to the provision of advice." Whereas, the definition of "municipal advisory activities" contains no similar phrase and instead only refers to the act of providing advice. This distinction is not clarified within any of the applicable Exchange Act Rule or the Notice. Thus, we are left to presume that there must be a distinction between engaging in services relating to the provision of advice and providing advice. NAIPFA finds this to be significant in terms of defining who will be deemed a Municipal Advisor Representative for purposes of the Rules.

In this regard, we believe that if the SEC and MSRB intended the term "municipal advisory activities" to extend beyond those individuals who themselves give or supply advice to municipal entities or obligated persons, that the phrase "activities relating to the provision of advice" or some similar concept would have been made a part of the definition of "municipal advisory activities." However, because this phrase is not contained within the definition of "municipal advisory activities," the SEC and MSRB's use of this term acts to modify or limit the term "associated persons" to those persons who themselves are engaged in giving or supplying advice. Thus, a person who provides services relating to the provision of advice may be an associated person, but may not necessarily be engaged in municipal advisory activities unless that person "provides advice to" a municipal entity or obligated person.

In light of the above-referenced interpretation, NAIPFA respectfully requests that the MSRB provide guidance with respect to the following scenarios in order to illustrate whether such individuals would qualify as Municipal Advisor Representatives.

1. Is an individual who, for example, solely produces debt service schedules, but who never provides those schedules to or has any direct interaction with a municipal entity or obligated person required to register as a Municipal Advisor?
2. Is an individual who, for example, solely prepares official statements, but who never provides that document to or has any direct interaction with a municipal entity or obligated person required to register?
3. What if the individual described in either number 1 or 2 above has some direct contact with an issuer, but that contact is limited to merely requesting documents and information from that municipal entity or obligated person?

In the absence of any other circumstances, and based upon the test set forth below, we do not believe that the Rules require individuals such as those described above to register because they themselves are not giving or supplying advice to a municipal entity or obligated person. Rather, such persons are engaged in passive non-advisory activities that merely relate to the provision of advice.

In light of the above interpretation of the definition of "municipal advisory activities" and the term "provide," we believe that the Rules establish that an individual only should be deemed to have provided advice to a municipal entity or obligated person to the extent that such person

himself or herself has supplied, given or furnished such advice. In other words, there must be (a) some interaction or communication between a person and a municipal entity or obligated person with respect to the municipal financial products or the issuance of municipal securities, and (b) that interaction must involve such person giving or supplying advice to a municipal entity or obligated person. Absent some interaction or communication that involves the provision of advice, NAIPFA does not believe that a person should be deemed to fall within the Municipal Advisor Representative category.

Thus, the Rules establish that there is a distinction between a person who simply prepares a debt service schedule and a person who gives a recommendation to a municipal entity or obligated person based on that debt service schedule. Similarly, the Rules establish that there is a distinction between a person who merely prepares an official statement and a person who directly supplies advice to the client relating to the types of disclosures that should be contained therein.

In this regard, NAIPFA suggests that the determination of whether such activities would cause a person to be deemed a Municipal Advisor Representative based on the following test: Whether a person is required to register as a Municipal Advisor Representative depends on whether the person would be required to register as a municipal advisor regardless of his or her status as an employee of a municipal advisor firm. In other words, an associated person must him or herself actually give advice to a municipal entity or obligated person in order to fall within the scope of the Rules.

Although we believe the foregoing analysis is correct, we also believe it illustrates that the Rules may not be clear in terms of providing firms with an understanding of whether a Form MA-I must be filed with respect to a particular employee and whether such person would be deemed a Municipal Advisor Representative. We, therefore, request that the MSRB and/or SEC either provide guidance with respect to this issue, or confirm or refute our analysis of this matter if no such additional guidance is to be provided. In addition, we request that the MSRB and/or SEC either adopt, modify or reject our proposed test for determining whether an individual falls within the Rules. Further, if this test is rejected, we urge the MSRB and/or SEC to establish some clear criteria that can be utilized that will allow firms to accurately determine whether any particular natural person falls within the Rules.

3. Grace Period

Because neither the effective date of the proposed MSRB rule amendments contained within the Notice (collectively, the "Proposed Amendments") nor the content of the MSAQE are yet known (either generally or specifically), NAIPFA cannot opine as to whether the proposed one-year grace period will be sufficient for Municipal Advisor Representative to study and take (and, if necessary retake) the MSAQE. Furthermore, we are limited in our ability to analyze the proposed one-year grace period by the fact that there is no indication that the effective date of the Proposed Amendments will be tied to the date on which the MSAQE itself or the corresponding study guide will be made available to municipal advisors and Municipal Advisor

Representatives. Therefore, we are concerned that the true grace period, in other words, the period between the date on which the MSAQE or its study guide will be available and the date on which the MSAQE must be passed by Municipal Advisor Representatives, may be significantly less than one-year. This is particularly concerning since the date on which the MSAQE and its study guide will be available is still unknown.

Thus, we do not believe that it is possible to determine at this time whether a one-year grace period will provide Municipal Advisor Representatives with a sufficient amount of time with which to study and take (and, if necessary retake) the MSAQE. This would be true even if the grace period were to run from the date of adoption of the examination study guide because we are being asked in this instance to comment on the feasibility of something where we simply do not have sufficient information with which to base our analysis.

Further, it is anticipated that it could take an extensive amount of time for study materials to be prepared and for study preparation activities to take place. Because of this, we are also concerned that the one-year grace period, even if it were to begin on the date of adoption of the examination MASQE or the study guide, may not provide a sufficient amount of time for Municipal Advisor Representatives to study, take the MSAQE and, assuming that a person failed the first time, take the MSAQE again. Our concern in this regard stems, again, from the fact that we have not yet been provided within any indication as to the contents of the MSAQE.

We believe that it is fundamental to the continued integrity of the municipal market that Municipal Advisor Representatives, many of whom have worked in the industry for upwards of thirty years and have not previously taken a licensing examination as either a broker, investment advisor or otherwise, be afforded the opportunity to study for and take the MSAQE at least twice without undue time constraints imposed by an insufficient grace period.

Moreover, because there have been no enforcement actions brought against municipal advisors since the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") in 2010, NAIPFA sees no justification for establishing an examination timeline that needlessly burdens municipal advisors or their Municipal Advisor Representatives. In addition, we anticipate that a constrained test-taking timeline could be particularly burdensome for small municipal advisors who do not have the resources to undertake an expedited study and test-taking schedule.

In light of the foregoing, NAIPFA respectfully proposes that the following two alternatives be considered in place of the grace period specified in the Notice:

(A) The MSRB could refrain from rulemaking at this time relative to the grace period, and continue to refrain from such rulemaking until either the examination study guide is adopted or the MSRB has released at least an outline of the topics that will be covered by the MSAQE. Thereafter, once the stakeholders have been provided an opportunity to review and assess the scope of the test, the MSRB could then propose a grace period. We believe that the benefit of this approach would be that the grace period ultimately adopted

would in all likelihood be more closely correlated to the content of the MSAQE than the seemingly arbitrary one-year grace period proposed in the Notice.

(B) Alternatively, the MSRB could adopt a two-year grace period that would begin to run from the date on which the examination study guide is adopted and made available to Municipal Advisor Representatives. We believe that regardless of the content of the MSAQE that a two-year grace period would provide a sufficient amount of time for studying and test-taking to occur, even for small municipal advisor firms.

As discussed above, (i) it is impossible for market participants to know at this time what the scope of the exam will be, (ii) it will likely take a significant amount of time to prepare study materials and study for the exam, (iii) it is essential that individuals be provided sufficient time with which to take the examination at least twice, if necessary, and (iv) there have been no enforcement actions brought against municipal advisors for breaches of fiduciary duty since the enactment of the Dodd-Frank Act. Therefore, we believe that either option (A) or (B) above would be appropriate in terms of addressing these issues.

4. <u>Apprenticeship</u>

In general, NAIPFA would be supportive of a voluntary apprenticeship or similar program pursuant to which individuals would be provided an opportunity to be employed by a municipal advisor and serve in some limited capacity as a Municipal Advisor Representative without having to first pass the MSAQE.[8] In this regard, we respectfully request that any such apprenticeship period be available for no less than a one year period from the date on which the employee begins engaging in municipal advisory activities. We believe that this apprenticeship period is vital to both municipal advisor employment practices as well as the training of those employees, particularly those who may not have any prior experience within the financial services or municipal securities industries.

Although we do not yet know what the contents of the MSAQE will be, we anticipate that it may take a significant amount of time for an individual to obtain the level of knowledge required to pass the exam. In this regard, and without any indication from the MSRB to the contrary, we anticipate that the MSAQE will be a more comprehensive, and likely more challenging, exam than either the Series 6, Series 7 or Series 66 exams administered to broker-dealer representatives since the MSAQE will be focused on a comprehensive set of municipal advisory-related matters as opposed to the more limited topics covered by each of these exams.

In light of the foregoing, we believe that a voluntary apprenticeship program is appropriate. Such a program would allow firms and, potentially, their employees to have an opportunity to determine for themselves what course of action is appropriate under the circumstances. In this regard, whether to allow individuals to serve in a limited capacity prior to attempting the

[8] Depending upon the MSRB/SEC's determination with respect to our comments in Section 2 herein, our comments in this regard may change in light of that determination.

MSAQE or require such employees to pass the MASQE immediately upon obtaining employment or prior to engaging in municipal advisory activities should be a determination left to the individual firms and there employees. Such an approach would support efficiencies within the market by not imposing a one-size-fits-all regulatory regime upon firms whose employment and training philosophies may result in differing views on whether to allow for apprenticeships. Finally, we do not foresee this approach as creating any significant regulatory issues provided that the appropriate limitations are placed on individuals utilizing the apprenticeship program.

5. Economic Analysis

As we have noted in several of our recent comment letters, each dollar spent by our member firms[9] meeting the obligations imposed by the MSRB is a new expense that will either need to be absorbed by the firms or passed on to their municipal entity and obligated person clients. In addition, the amount of time needed to effectively implement policies and procedures corresponding to the various rules and regulations adopted creates new burdens on municipal advisor firms that will ultimately result in decreased revenue due to lost productivity, that is, unless fees are increased. In either case, the likely result is that costs of issuance will increase, which will have a detrimental impact on municipal entities and obligated persons as well as the public. This impact must therefore be weighed against any benefit that may be achieved by these Proposed Amendments.

In this regard, NAIPFA believes that if the analysis set forth in Section 2 above is not adopted, the Proposed Amendments may encompass individuals whose registration will result in no net benefit to municipal entities and obligated persons because such a determination may cause individuals who themselves are not providing advice to a client to qualify as a Municipal Advisor Representative. This will in turn increase the financial pressures placed on municipal advisors in terms of registration fees, training and testing costs, insurance premiums, continuing education costs, and supervision-related costs. However, because these individuals are not themselves giving or supplying advice to municipal entities and obligated persons and may, instead, merely be engaged in services related to the provision of advice, we do not believe that the registration of such individuals will serve any interest the MSRB may have in protecting municipal entities, obligated persons and the public. This belief is based on the assumption that the individuals providing advice to clients, as well as Municipal Advisor Principals, will ultimately be responsible for any services that may be performed by individuals who may provide services relating to the provision of advice.

In total, regardless of whether the MSRB adopts our Section 2 analysis, the costs associated with the Proposed Amendments could be significant. If our Section 2 analysis is rejected, the compliance costs associated with the Proposed Amendments will only be exacerbated. In light of this, and for the reasons discussed above, we urge the MSRB to adopt the test set forth in Section 2 with respect to determining whether a person is a Municipal Advisor Representative. Adoption of this test would still provide municipal entities and obligated persons with the level

[9] As well as every other firm that would have traditionally been considered an "independent financial advisor."

of protection envisioned by Congress when it passed the Dodd-Frank Act while minimizing the economic impact that the Proposed Rules will have on municipal advisors, their clients and the public.

Sincerely,

Jeanine Rodgers Caruso, CIPFA
President, National Association of Independent Public Finance Advisors

cc: The Honorable Mary Jo White, Chairman
The Honorable Kara Stein, Commissioner
The Honorable Luis A. Aguilar, Commissioner
The Honorable Michael Piwowar, Commissioner
The Honorable Daniel M. Gallagher, Commissioner
Lynnette Kelly, Executive Director, Municipal Securities Rulemaking Board

New Albany Capital Partners, LLC
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May 14, 2014

Ronald W. Smith
Corporate Secretary
MSRB
1900 Duke St
Suite 600
Alexandria, VA 22314

Re: MSRB Regulatory Notice 2014-08/Establishing Professional Qualifications for Municipal Advisors

Dear Mr. Smith

I appreciate the opportunity to comment on the MSRB's draft proposal for qualification requirements for municipal advisors.

Uniform Testing Requirement – Grandfathering

The MSRB should establish a set of requirements for municipal advisors to ensure the advisor has a required level of market and regulatory knowledge in order to ensure market integrity and to protect issuers. However, as currently proposed, testing requirement could be an economic hardship and would not acknowledge certification that the MSRB and other regulatory agencies already acknowledge.

Fees to take the test as currently proposed would unnecessarily add to a firm's expenses. Because the MSRB proposal does not recognize any other certification, paying to take the proposed test would force firms to pay for something that has already been paid for. This approach would also increase an Advisor's workload by spending time to study and take duplicative and unnecessary parts of the proposed test.

It would be more efficient if the MSRB adopted a modular exam, one that recognizes certifications that have already been earned. For example, the exam could be structured to be a series of exams that test the municipal advisor's knowledge of regulations, finance and ethics. Advisors who have passed the FINRA Series tests related to the municipal bond market would be given credit for market knowledge and not have to take the module that tests for the same knowledge. Advisors who hold the CFA designation would not have to take the modules that test financial knowledge or ethics because being awarded the CFA designation shows that one has mastered a body of knowledge that encompasses

finance, ethics, analysis, and portfolio management. If the CFA Charterholder has not passed the existing FINRA Series tests for municipal markets, then they would need to pass that module of the MSRB exam for Municipal Advisors. Advisors could have the option to take all modules at one sitting or in stages.

Grace Period

A one year grace period to ***start*** taking the exam after the format has been finalized is reasonable, but there are three problems with the current proposal. First, the current proposal requires all Municipal Advisors to pass the test within the first year after the effective date. This could create an undue stress on the MSRB systems if all the existing Advisors are taking the exam and trying to pass within the first year. Second, the proposal does not address time limits after the first year. Third, the proposal requires passing the all-inclusive exam within one year but it also adopts the existing re-testing time line which could stretch beyond 12 months. Under the existing time line three fails (3 months) requires a six month hiatus before trying again. This would leave just 3 months to pass the test. This is not a big window if the test is as robust and detailed as the CFA exams. I would recommend allowing 12 months after the effective date as the period to start the process and use the existing re-testing timelines with a deadline of 2 years after the first test.

Summary

In summary, I support the effort to establish an exam that ensures that Advisors have the requisite knowledge of finance, ethics, the municipal bond market and regulations. The exam should consist of modules to recognize the tests that the Advisor has already passed and avoid the unnecessary time and expenses that comes with redundant testing. Advisors must start taking the test within the first year after the effective date and successfully pass all the modules within a specified reasonable period (i.e. 18-24 months) and use existing re-testing timelines.

Sincerely,
Rick Wayman, CFA, CTP

Oyster River Capital LP
45 School Street, 2nd Floor
Boston, MA 02108

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

Oyster River Capital LP ("ORC") is an affiliate of a FINRA member and ORC specializes in outsource marketing services for investment managers and ORC markets exclusively to institutional investors. ORC is also currently registered as a Municipal Advisor with the SEC and MSRB. ORC markets to and refers institutional investors exclusively to ORC's investment manager clients. ORC's affiliate, North Bridge Capital, is also a member of the Third Party Marketer's Association (3PM). I have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Thank you for your consideration.

Sincerely,

Richard A. Murphy
Richard A. Murphy

Enclosure: 3PM Comment to Reg Notice 1014-08

Perkins Fund Marketing

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

Perkins Fund Marketing (PFM) has been a FINRA member since October of 1998. We are also currently registered as a Municipal Advisor with the SEC and MSRB, and we are a founding member of the Third Party Marketer's Association (3PM).

PFM provides professional alternative investment marketing services to fund managers including hedge and private equity funds. We employ ten professionals, seven of which are Series 7, 82 and/or 63 registered representatives and three of which are Series 24 registered principals.

PFM's professional marketing representatives bring broad and deep experience in the financial services sector. Some of the benefits we provide to fund managers include:

- PFM's full service approach which allows fund managers the ability to devote their immediate and limited resources to portfolio management rather than marketing and sales.

- Access to deep and trusting investor relationships built through years of quality service provided by our professionals. PFM's investor contacts expect us to bring to them high quality, pre-screened opportunities on which significant due diligence has been performed with an understanding that we are only introducing the investment opportunity, and that the prospective investor must perform their own due diligence and not rely solely on our work.

- Creating/enhancing marketing materials (which includes ensuring all material is FINRA compliant) and working with fund managers on presentation skills to best articulate their strategy, investment philosophy and risk management process to potential investors.

- Defining the target market, streamlining the marketing process and providing ongoing communication with prospective and current investors.

I have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Respectfully yours,

Gilman C. Perkins
Principal and Managing Member
Perkins Fund Marketing LLC
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Southport, Connecticut 06890
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May 16, 2014

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

Subject: Comments on Regulatory Notice 2014-08 on Establishing Professional Qualification Requirements for Municipal Advisors

Dear Mr. Smith:

Thank you for the opportunity to comment on Regulatory Notice 2014-08 related to establishing professional qualification requirements for Municipal Advisors. We have already provided commentary on other aspects of the proposed MSRB rules for Municipal Advisors and how they may impact our firm given the specialized nature of the services we provide that fall within the definition of municipal advisory services. Our comments related to the contents of Regulatory Notice 2014-08 have to do with the following general areas:

- The types of materials and information to be covered in the qualification examination, and;
- Whether or not the qualification examination would be required for every person providing consulting services in our firm.

To provide some context for the comments to follow, our firms provides financial planning and rate consulting services primarily for government-owned water, wastewater and stormwater utilities. One of our primary service areas is the development of utility financial planning and rate models that provide forecasts of utility revenues and expected financial results, particularly as these results are impacted by various capital planning alternatives and debt financing strategies. The objective of these studies is to provide the information necessary to adjust utility rates and charges to ensure the financial sufficiency of the utility operations, which is typically operated as a separate government enterprise fund. This information often includes general assumptions related to funding sources to meet capital investment needs, including various forms of borrowing. However, this information is not represented as a recommendation to undertake a particular course of action or borrowing. Almost every professional consultant in our firms is involved in providing this type of assistance to our clients. This includes staff consultants working under the direction of a project manager, more senior personnel functioning in the project manager role, and other senior personnel (vice presidents and executive officers) who function as project managers, technical reviewers, or project directors.

In addition, our firms also provide assistance to government-owned utilities to develop financial forecasts and related documentation to support a specific debt issue or loan for the utility. This assistance may be in the form of a formal financial feasibility study report included as a component of the Official Statement for revenue bonds, or may take the form of a financial forecast included as part of the application and documentation required for private placement loans, State Revolving Fund Loans, or other types of borrowing. We do not provide the type of advice and expertise typically provided by an independent financial advisor (FA) and/or underwriter that address the specific parameters and terms for issuing debt. In the case of revenue bonds, we typically function as one member of a team of financial advisors (including the FA, underwriter, bond counsel, underwriter's counsel, and consulting engineers) engaged by a municipal entity to assist in issuing debt. Most of our professional consultants also provide this type of assistance, although not on a consistent basis, since only a relatively small portion of our projects address a specific bond issue or borrowing. Again, our firm provides services and assistance almost exclusively to government-owned utilities, which is a highly specialized and focused area of knowledge and expertise that does not have a lot in common with other areas of municipal finance and municipal advisory services.

Related to the proposed qualification examination, the information provided in Regulatory Notice 2014-08 only states that this test will "measure a candidate's knowledge of the business activities, as well as regulatory requirements, including MSRB rules, rule interpretations and federal laws applicable to a particular registration category". Since our firm is now, and plans to remain, registered only as a Municipal Advisor, and not as a broker/dealer, this language would seem to suggest that our personnel would be tested on their knowledge of the business activities applicable to a Municipal Advisor. This statement is so general and vague that it provides no guidance on the material that may be included.

Will the examination cover all the business activities associated with assisting a government entity with issuing debt, including the functions and services provided by a Financial Advisor or underwriter? If so, why should we have to know this information when it has no relevance to the services we provide? We rely on other professionals engaged by our clients to provide these services and this type of expertise, just as these other professionals rely on our firm to provide specific expertise and advice related to water and wastewater utility rate setting, associated rate structures, and forecasts of water, wastewater and stormwater revenues to support a proposed bond issue.

Will the examination cover specific areas of expertise that other Municipal Advisors may provide related to different types of government activities and services, such as borrowing to fund schools, hospitals or airports? Will the consultants who provide advice on revenue forecasts for airports also be tested on the business activities associated with government-owned water and wastewater utilities? We understand that the information provided in Regulatory Notice 2014-08 is preliminary and will be revised and enhanced, but the information provided to date raises more questions than it answers and, as a result, may serve to undermine the credibility and effectiveness of the MSRB and SEC in their efforts to produce rules and regulations that will actually help protect the interests of municipal entities seeking to borrow funds and individuals interested in purchasing municipal debt. If we have misinterpreted the intent and meaning of this

statement, then I apologize, but clearly significant clarification and additional information will be needed going forward.

The reality is that the current definition of Municipal Advisor and the criteria used to determine what constitutes "advice" as defined in the Final Rule adopted by the SEC amending Section 15B of the Securities Exchange Act ("Act") covers a very broad range of services and expertise. Some of these areas of expertise may have nothing to do with other areas, depending on the particular type of financing under consideration. Developing a qualifications examination that treats all Municipal Advisors fairly, and that does not add a significant cost that will ultimately be passed on to the municipal entity, will be a challenging exercise. The more relevant question is whether the benefits provided to borrowers (municipal entities) and lenders (the public) are greater than these costs.

As to the second general area of concern, there has been little guidance provided to date to help our firms determine how many of our personnel may be required to take and pass a qualifications examination. We have provided comments and questions in previous correspondence addressing Draft Rule G-42 and Draft Rule G-44 expressing similar concerns. Almost all of our personnel provide some level of advice to municipal water and wastewater utilities related to funding of future capital investments, including the use of debt to fund various projects. This advice may or may not relate to a specific bond issue, and we do not make recommendations for a utility to pursue a specific course of action to borrow funds. We provide information to show the potential impacts of borrowing money, under a range of assumption, compared to using cash generated from utility rates or other funding sources to pay for future capital needs. The utility then uses that information, and advice from a Financial Advisor or underwriter, to determine the amount and timing of specific loans. It is unclear whether this type of assistance qualifies as "advice" under Section 15B of the Act.

Once a determination has been made to issue debt, our firms may then be engaged to provide a forecast and/or bond feasibility report based on the specific conditions of the proposed loan, as determined by the municipality and its other advisors. This type of assistance is typically entered into as a separate project or engagement, independent of more general rate consulting and financial planning services. We believe that this level of support and assistance does constitute municipal advisory services, as defined under Section 15B of the Act. The question is whether every professional consultant in our firms who provides assistance to municipal entity that issues debt, or may issue debt in the future (which essentially means all of our clients), is considered to be a Municipal Advisor and must be certified as such and pass the qualification examination. Or can we rely on a more narrow interpretation and comply with the regulations by ensuring that the personnel responsible for project management and supervision, plus any senior personnel who may be assigned as a technical reviewer, for each project that supports a specific bond or debt issues is certified as a Municipal Advisor and has passed the qualification examination? The first interpretation would impose a significant cost and administrative burden and our firms, and provide minimal additional benefit to our clients at a significant cost. The second interpretation is significantly more manageable and, in our opinion, is more consistent with the intent and purpose of the regulations for Municipal Advisors. Again, our conclusion is that this process and the rules and regulations affecting specialized firms like ours are currently inadequate, and have the potential to impose significant costs and constraints that will limit the effectiveness of certain

types of firms in providing useful, and necessary, advice to municipal entities seeking to borrow money.

We appreciate the opportunity to provide comments to the MSRB as you develop the rules and regulations affecting Municipal Advisors. We understand that our comments and concerns are very specific and address how the proposed rules and regulation may affect our business and our ability to continue to provide certain services to our clients, and that these services are highly specialized for a particular industry. If we can be of assistance in providing further information about the services we provide to government-owned water and wastewater utilities, please do not hesitate to contact me.

We have also shared our comments with another firm that is affiliated with ours and provides similar services as an independent sole proprietor, Woodcock and Associates, Inc. Mr. Woodcock is also registered as a Municipal Advisor and has reviewed and supports the comments we have provided and is added as a signatory to this letter.

Sincerely,
RAFTELIS FINANCIAL CONSULTANTS, INC.

Alexis F. Warmath
Vice President

WOODCOCK & ASSOCIATES, INC.

Christopher P.N. Woodcock
President

sifma
Invested in America

May 16, 2014

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

Re: MSRB Regulatory Notice 2014-08; Request for Comment on Establishing Professional Qualification Requirements for Municipal Advisors

Dear Mr. Smith:

The Securities Industry and Financial Markets Association ("SIFMA")[1] appreciates the opportunity to provide comments on the Municipal Securities Rulemaking Board ("MSRB") Regulatory Notice 2014-08 (the "Regulatory Notice") containing a draft proposal for amendments to MSRB Rules G-1, G-2, G-3 and D-13 ("Draft Amendments") setting professional qualification standards for municipal advisor professionals and requiring municipal advisors and their associated persons engaging in municipal advisory activities to be qualified in accordance with MSRB rules.

I. Executive Summary

SIFMA supports the MSRB's efforts to set professional qualification standards for municipal advisor professionals and requiring municipal advisors and their associated persons engaging in municipal advisory activities to be qualified in accordance with MSRB Rules. However, SIFMA has concerns regarding the Draft Amendments. In particular:

- Persons currently qualified to perform municipal securities activities should also be qualified to perform municipal advisor activities, if they so choose. After the effective date of the Draft Amendments, the Series 52 qualification

[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. For more information, visit www.sifma.org.

examination should be sufficient for municipal securities representatives and municipal advisor representatives alike.

- If the MSRB proceeds with developing a new qualification examination for municipal advisor representatives, then associated persons that currently qualify to perform municipal securities activities should be grandfathered as also qualifying as municipal advisor representatives.

- A full cost-benefit analysis should be completed prior to the approval of the Draft Amendments.

II. Qualification to Perform Municipal Securities Activities Should be Sufficient for Qualification to Perform Municipal Advisor Activities

Four years have passed since the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank" or "the Dodd-Frank Act")[2] was passed into law in 2010. A key reason for the passage of Section 975 of the Dodd-Frank Act was to bring previously unregulated municipal advisors under a regulatory regime, which would level the regulatory playing field for all firms providing municipal advice and ensure all associated persons providing advice were registered, tested and subject to similar regulatory standards.[3] SIFMA and its members are very concerned that the development of a new municipal advisor qualification examination, and having associated persons take the qualification examination, will take an additional 2 to 3 years. Dealer municipal advisors have always needed to pass qualification exams, either the Series 7 or now the Series 52.[4] Additionally, dealer advisors have been subject to regulatory continuing education requirements in order maintain the eligibility of their registrations. Although municipal advisors have a statutory fiduciary duty to their clients, non-dealer municipal advisors are still untested on their basic knowledge of municipal securities. There is a faster, more cost efficient and narrowly tailored alternative than the one proposed in the Draft Amendments.

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[2] Pub. L. No. 111-203, 124 Stat. 1376 (2010).

[3] We strongly feel that all municipal advisor representatives should either have passed a qualification exam in the past or pass a qualification examination in the future. If a person has qualified as a municipal securities representative, is not currently at a broker dealer but still within the 2 year period of the validity of their license if they become associated with a firm, we feel that they should be able to qualify as a municipal advisor representative.

[4] Some firms have voluntarily registered as broker dealers and their associated persons are all licensed by having passed the Series 7 or Series 52 qualification exam, even though their only business is as a municipal advisor. This election shows a willingness to hold themselves to the same qualification standards as municipal securities representatives.

As a general matter, SIFMA feels that any person that currently, or in the future, qualifies to perform municipal securities activities,[5] should also automatically qualify to perform municipal advisor activities, if they so desire. The knowledge base for these two functions is largely the same and there is substantial overlap in the subject matters necessary for professionals to master; both require knowledge about the municipal securities market, credit, interest rates, regulation and legal issues related to the municipal securities market. These topics are already covered by the Series 52 qualification examination, which is a basic competency examination that tests baseline knowledge of municipal securities.[6] The key difference in these two functions, municipal advisor representative and municipal securities representative, is their duty to their clients; a difference which is easily tested by potentially adding questions to the content of the Series 52 qualification examination for professionals who would like to newly qualify as either a municipal securities representative or municipal advisor representative. Alternatively, these types of role and rule changes can be covered by firms' continuing education programs.

As a result of the Dodd-Frank Act, the MSRB now has the authority to protect municipal securities issuers, in addition to municipal securities investors. SIFMA and its members can think of no better way to protect municipal securities issuers than by ensuring that those persons that advise issuers pass a basic qualification test. As the Series 52 qualification examination is the current test for associated persons newly qualifying as a municipal securities representative, if this test is deemed sufficient for municipal advisor representatives as well, then municipal advisor representatives could begin taking the test immediately. The Series 52 qualification examination currently exists and there would be no unnecessary delay in developing test material and administering the test, if it were to be used for municipal advisor representatives, which is not the case if a new qualification examination needs to be created for municipal advisor representatives. SIFMA believes that issuers would be best served by having their advisors qualify as municipal securities representatives or municipal advisor representatives as soon as practicable. Additionally, having the same process for qualification as a municipal securities representative and municipal advisor representative will particularly aid small dealers, many of whom serve both functions, that are very sensitive to compliance costs.

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[5] Not all associated persons currently qualified to perform municipal securities activities have taken and passed the Series 52 examination. Some associated persons qualified to perform municipal securities activities as a result of having taken and passed the general securities registered representative examination (the "Series 7") before November 7, 2011. These municipal securities representatives were grandfathered , and did not need to take the Series 52 Examination when FINRA restructured the Series 7 examination. MSRB Rule G-3(a)(ii)(B).

[6] See MSRB Study Outline for Municipal Securities Representative Qualification Examination at: http://www.msrb.org/Rules-and-Interpretations/~/media/Files/Prof-Qualifications/Series52OutlineOct2010Notice.ashx.

The creation of another test adds costs for the MSRB to support a separate Professional Qualifications Advisory Committee ("PQAC") to draft questions for the new test, and the Financial Industry and Regulatory Authority ("FINRA") to administer the test. The costs then multiply exponentially as potentially thousands of people who are or will be dually registered as municipal securities representatives and municipal advisor representatives, or will be moving from one classification to another, will not only need to take an additional professional qualifications exam, but they and/or their firms will also need to pay for a multitude of expenses.

Cost/Fee Type	Cost/Fee for Each Municipal Advisor Seeking Qualification
Annual Fee (includes one test)	$300 each fiscal year per MSRB Rule A-11 ($180 for test)[7]
Study Materials	Approximately $150[8] to $325[9] per person
Training Classes	$395[10] to $1,000 per person
Time to Study and Take Exam	Assuming 43.5[11] hours, at approximately $100/hour
Recordkeeping	Unknown
Compliance Surveillance	Unknown.

[7] See: http://www.finra.org/Industry/Compliance/Registration/QualificationsExams/Qualifications/p011096.

[8] See: http://www.kfeducation.com/securities/series-52 and https://solomonexamprep.com/series52.

[9] See: http://www.stcusa.com/Content/CourseView.aspx?s=52.

[10] Id.

[11] Id..

These costs are not insignificant with respect to one representative, but are monumental when aggregated across the 902 currently registered municipal advisor firms, many of whom are also broker dealers who intend to serve both functions.

III. Alternatively, Grandfather Current Municipal Securities Representatives as Municipal Advisor Representatives

If the MSRB decides to continue with the development of a new test for qualification as a municipal advisor representative, then SIFMA and its members feel strongly that associated persons currently qualified as municipal securities representatives should be grandfathered in as municipal advisor representatives, if they so choose. This methodology would be consistent with other major changes to qualifications examinations, including the 2011 restructuring of the Series 7 qualification examination, which grandfathered in as municipal securities representatives those associated persons who took the Series 7 without having taken the Series 52 qualification examination prior to the implementation date of the rule change,[12] and the implementation of the Series 79 qualification examination in 2009.[13]

IV. Continuing Education Requirement for Municipal Advisor Representatives

The MSRB, in current Rule G-3(h), prescribes requirements regarding the continuing education of certain registered persons with a broker, dealer or municipal securities dealer. Continuing education and day to day training are critical parts of the core training of a firm's employees. Regulations change frequently, and firms need to ensure their associated persons are appropriately informed about such changes. SIFMA and its members feel strongly that municipal advisor representatives should be similarly subject to a continuing education requirement. Not only would this requirement level the regulatory playing field for similarly situated groups of regulated persons, but it would also ensure that municipal advisor representatives receive periodic training to stay abreast of issues and changes in the industry.

V. Proposed Grace Period is Sufficient

The MSRB, in its Draft Amendments has proposed a one-year grace period for municipal advisor representatives to study for, take and pass the municipal advisor representative qualification examination. SIFMA feels that this allows sufficient time for municipal advisor representatives to take, and if necessary retake, the applicable qualification examination. If a municipal advisor representative cannot pass the

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[12] 76 Fed. Reg 70207 (Nov. 10, 2011); Exchange Act Release No. 34–65679.

[13] See: http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p119461.pdf.

qualification examination in a one-year time period, then they should not be permitted to hold themselves out as a municipal advisor representative.

VI. Apprenticeship Period is Unnecessary

The MSRB, in its Draft Amendments, has proposed to eliminate the current 90-day apprenticeship requirement for municipal securities representatives. The municipal securities representative license is the only securities license that still requires an apprenticeship. SIFMA members feel that this apprenticeship requirement is unnecessary, Dealers have an obligation to supervise their personnel, and this includes the responsibility to make sure employees are experienced and educated regarding the products they are discussing with clients.. Most new and inexperienced personnel spend the first couple months of their employment studying for their qualification exam(s), learning about the industry, and learning about their firm. SIFMA members feel that there are no negative consequences in eliminating the current municipal securities representative apprenticeship requirement. Dealers would likely realize certain cost savings, attributable to a reduction in recordkeeping and surveillance costs, if the current municipal securities representative apprenticeship requirement were eliminated.

VII. Economic Analysis is Insufficient

SIFMA's members feel strongly that a full cost-benefit analysis should be completed prior to the approval of the Draft Amendments. SIFMA briefly outlined some of the costs created by the Draft Amendments in Section II above. SIFMA has also described more cost efficient, quicker to implement and more narrowly tailored alternatives to the Draft Amendments, none of which were analyzed in the Regulatory Notice. While SIFMA applauds the MSRB's new policy on the use of economic analysis in its rulemaking,[14] and its general request for comment in the Regulatory Notice on how an economic analysis should apply to the Draft Amendments, SIFMA is disappointed that the MSRB did not prepare an economic analysis of the Draft Amendments. The lack of such cost-benefit analysis fails to meet the MSRB's statutory mandate and its own stated policy.

VIII. PQAC Nomination Process Should Be Revisited

SIFMA and its members feel that the process for nomination to the MSRB's PQAC should be fully transparent and the members of PQAC listed on the MSRB's website. If a new test is developed, then it is in the best interest of every industry member to ensure that the test questions that are developed are fair, even-handed and suitable for a basic competency examination.

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[14] See: http://msrb.org/About-MSRB/Financial-and-Other-Information/Financial-Policies/Economic-Analysis-Policy.aspx.

IX. Series 53 Examination Should be Used for Qualification as a Municipal Advisor Principal

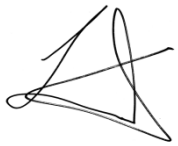
Although discussion of the qualification examination for municipal advisor principals is not covered by this Regulatory Notice, our position is similar with respect to currently qualified municipal securities principals. SIFMA and its members feel that when the issue of qualification examinations for municipal advisor principals is addressed, that the process should be the same as qualification as a municipal securities principal. For associated persons looking to qualify as either a municipal advisor principal or a municipal securities principal after the implementation date of the Draft Amendments, the Series 53 qualification examination should be deemed to be the appropriate qualification examination.

X. Conclusion

SIFMA sincerely appreciates this opportunity to comment upon the MSRB's Draft Amendments. SIFMA supports the MSRB's efforts to set professional qualification standards for municipal advisor professionals and requiring municipal advisors and their associated persons engaging in municipal advisory activities to be qualified in accordance with MSRB Rules. As previously discussed above, we have concerns about certain aspects of the proposal. SIFMA and its members believe that persons currently qualified to perform municipal securities activities should also be qualified to perform municipal advisor activities, if they so choose. After the effective date of the Draft Amendments, the Series 52 examination should be sufficient for municipal securities representatives and municipal advisor representatives alike. If the MSRB does proceed with developing a new qualification examination for municipal advisor representatives, then associated persons that currently qualify to perform municipal securities activities should be grandfathered as also qualifying as municipal advisor representatives. Finally, SIFMA feels strongly that a full cost-benefit analysis should be completed prior to the approval of the Draft Amendments.

SIFMA members and staff would be happy to meet with the MSRB to discuss these comments further. Please do not hesitate to contact me with any questions by phone at (212) 313-1130, or by email at lnorwood@sifma.org.

Sincerely yours,



Leslie M. Norwood
Managing Director and
Associate General Counsel

cc: Lynnette Kelly, Executive Director, MSRB
Lawrence P. Sandor, Deputy General Counsel, MSRB
Michael Cowart, Associate General Counsel, MSRB

Comment on Notice 2014-08

from Sonja Sullivan,

on Friday, May 16, 2014

Comment:

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

I am a CPA. I do occasional research for a small FINRA regulated firm. I have had an opportunity to review 3PM’s comprehensive
comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB’s Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Respectfully yours,

Regards,

Sonja Sullivan, CPA

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3PM
THIRD PARTY MARKETERS ASSOCIATION

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

The Third Party Marketers Association ("3PM") supports MSRB's initiative to establish a separate professional requirement for the recently created market participant profile of Municipal Advisor, which is outlined in the MSRB's Regulatory Notice 2014-08.

While we understand the need for comprehensive and current registration requirements, we caution that there is a critical disconnect in the initial approach of MSRB's Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. Primarily, we believe the definition of Municipal Advisor extends beyond what is necessary because as written it would effectively require certain professionals who are already licensed, to be subject to another, duplicative, regime. Placement Agents who introduce alternative investment managers to public pensions are already required to be registered with FINRA as registered representatives of broker-dealers. These placement agents are already properly registered in the scope of their business activities as General Securities Representatives because they are participating in private securities transactions. The scope of their qualifications and training includes municipal securities.

According to the SEC's Final Rule regarding Release No. 34-70462; File No. S7-45-10, "As discussed in the Proposal, until the passage of the Dodd-Frank Act, the activities of municipal advisors were largely unregulated, and municipal advisors were generally not required to register with the Commission or any other federal, state, or self-regulatory entity with respect to their municipal advisory activities.", it is clear to see the identification of municipal market participants which the MSRB is targeting for these professional qualification requirements. These municipal market participants are involved with the issuance of municipal securities and related matters.

The placement agents serving the U.S. alternative asset management industry are registered with broker-dealers regulated by the SEC and FINRA, and all of the placement agent firms operate in an environment of rigorous compliance oversight and controls. All U.S. placement agents must be registered with FINRA as General Securities Representatives by passing the Series 7 exam which contains a significant amount of content on municipal securities and related rules. In addition, all General Securities Representatives are required to complete Continuing Education requirements on a recurring

frequency which tests foundational and updated content knowledge.

As outlined in FINRA's General Securities Representative Qualification Examination – Content Outline, the municipal securities content for the Series 7 examination is one of the top 2 focus topics for questions accounting for approximately 20% of the exam:

Subject area	**Approximate number of**	**Percentage of exam**
Options	50	20%
Municipal Securities	50	20%
Packaged Securities	20	8%
Direct participation programs	15	6%
Corporate Securities	15	6%
Securities industry regulations	15	6%
Exchange operation / NYSE	15	6%
Economics and securities analysis	15	6%
Margins	10	4%
US government securities	15	6%
Retirement plans and taxation	15	6%
Customer Accounts	15	6%

This data clearly supports the historical framework of proper qualification requirements being in place for placement agents who introduce alternative investment managers to public pensions. These market participants should not be required to meet additional professional qualification requirements which are not relevant to their business activities.

To overcome this disconnect, we strongly recommend that the MSRB focus on the relevant regulatory precedent set by FINRA in 2009 regarding the Series 79 – Limited Representative Investment Banking. Following the SEC's approval, Rule 1032 (i) effectively developed a qualification examination for this category. Individuals who were registered as General Securities Representatives (Series 7) and engaged in the member firm's investment banking business as described in Rule 1032 (i) were provisioned with a grandfathering clause to the new registration category which was given a timeframe of six months from the effective date of the Rule.

FINRA's goal of establishing a special limited license category was effectively implemented by providing market participants who were already properly licensed and conducting business activity within the scope of the special license category with a transitional "Opt-In" Period as outlined in FINRA Regulatory Notice 09-41. This transitional period applied to both General Securities Representatives and General Securities Principals in supervisory roles.

FINRA is also currently considering comments to Regulatory Notice 14-09 which would create a separate registration category for limited purpose firms, such as placement agents, that offer securities to

"Qualified Investors". Please see the appendix for a copy of 3PM's comments to FINRA Regulatory Notice 14-09. Whether as a registrant under FINRA's new regulatory scheme for limited purpose firms, or as broker-dealers who act as placement agents under the existing rules and regulations, we believe that the rule set(s) are adequately broad to encompass all broker-dealer activities, including municipal activities, and do not require redundant rules, regulations and licenses.

The MSRB's current proposal for professional qualification requirement is to be applied to the newly created profile of Municipal Advisor which parallels the aforementioned scenario. The MSRB's goal is to establish special professional qualification requirements for Municipal Advisors and those who are charged with supervising them. For those market participants, specifically General Securities Representatives and General Securities Principals, the MSRB should provide a transitional "Opt-In" period for the new professional qualifications proposed which follows the precedent and allows proper exemption to qualified and registered individuals.

The Commission rightly provides exemptive relief to market participants who are already registered with another national regulatory authority such as the SEC and the NFA, as one of the directives of the Municipal Advisor initiative is to ensure that all market participants which are conducting business activities relevant within the municipal securities industry are properly registered with a minimum of one national regulatory authority. This avoids duplicity in the layered regulatory framework which we all operate within while mitigating the practice of double-dipping market participants for fees and registration costs.

We strongly suggest that the MSRB and the Commission should extend this logical methodology to dedicated placement agents who are already registered with FINRA, the SEC and potentially other national regulatory authorities such as the NFA. This would allow the proposal of establishing professional requirements to target the specific market participants who are truly responsible for attaining and maintaining these professional proficiencies in knowledge and practice in the municipal securities arena, while ensuring that properly registered placement agents are not unfairly burdened with additional examination requirements which are not testing the proficiency of their skill sets which is in selling Reg D investment opportunities.

Placement agents who interface with public pensions have been incorrectly bucketed into the category of Municipal Advisors based on the fact that they may introduce pre-vetted investment managers and opportunities to these public pensions. Placement agents do not act in any fiduciary capacity to these public pensions, but rather serve as an informational channel that assists public pensions in identifying potential allocation targets. This construct is materially distinct from the description that the MSRB publically acknowledges on their website regarding the role of municipal advisors which reads as follows:

Municipal advisors act in a fiduciary capacity for issuers.

- Placement Agents do not act in a fiduciary capacity for issuers.

The strategic services offered by municipal advisors may include development of comprehensive financing plans; analysis and monitoring of client portfolios; advice on potential financing solutions and new financial products; and recommendations for tracking and achieving on-budget performance.

- Placement Agents do not offer these services.

Municipal advisors also provide advice on conditions of a new issue, such as structure, timing, marketing, fairness of pricing, terms and bond ratings.

- Placement Agents do not provide advice of any nature to prospective investors.

During the transaction, municipal advisors represent the interests of state and local governments in negotiations with underwriters, rating agencies, banks and others involved. Municipal advisors also assist state and local governments with preparing disclosure documents, including official statements and continuing disclosure documents.

- Placement Agents do not represent or engage in negotiations with underwriters or the other aforementioned counterparties.

It is critical that the MSRB consider that the SEC's final rule, as aforementioned, **provides exemptions provided under the rule which are based on the activities of the [Municipal] advisor *rather than the type of market participant*.** Placement Agents do not interface with public pensions regarding municipal securities, and do not advise public pensions or municipalities regarding portfolio construction, and do not need to have a specific level of understanding of municipal securities instruments as they do not directly relate to a placement agent's activities.

In addition to an examination for Municipal Advisor Representatives, the MSRB is also adding a new registration classification for Municipal Advisor Principals. We once again refer you to the arguments stated above and remind the MSRB that all Municipal Advisors that are already registered as representatives with FINRA are also supervised by the appropriately registered FINRA Principal.

Given that most placement agents who are also MAs are small firms, it is important to recognize the additional burdens the MSRB's proposed rules would place on these small firms. Not only will individuals in our firms have to sit for an examination, but sometime in the future, supervisors will also be required to sit for a MA Principal examination. We believe that this is unnecessary given the fact that we are already registered with FINRA, as both Representatives and Principals, for all of our private placement activities. Those of us who conduct municipal activities carry a specific municipal license, a general securities license, and (or are supervised by someone with) a principal license.

In addition to the registration examinations, it is unreasonable to believe that the MSRB will also be implementing new continuing education requirements for MAs which will further burden small firms who are already registered and subject to continuing education requirements. While this is not covered in Notice 2014-08, we believe that the entire picture must be taken into account to judge the addition impact on small firms.

We further believe that the MSRB's decision to design only one examination that would cover material relevant to all Municipal Advisors is faulty. As articulated earlier in this letter, the definition of Municipal Advisor is extremely broad in that it covers a number of constituencies whose business models vary dramatically from one another. Given this reality, Municipal Advisors will be required to learn material relating to one another's businesses that will be used solely for the purpose of passing the MA qualification examination and never in the course of our day-to-day business operations. This

requirement is time consuming and irrelevant to the MSRBs mission of investor protection is putting an undue burden on the small firms that are already licensed through FINRA.

Questions posed by the MSRB

The MSRB requested comment concerning the following issues:

- **Should all individuals engaged in municipal advisory activities demonstrate a minimum level of competence by taking and passing a general qualification examination?**

  While we believe that all individuals engaged in municipal advisory activities demonstrate a minimum level of competence by taking and passing a qualification examination, we do not believe that this necessary entails that a new examination be written or administered. We believe that the MSRB has the responsibility to understand the specific activities undertaken by different types of Municipal Advisors, such as placement agents, and then to assess whether or not there are any existing examinations that cover these activities. We are confident that the MSRB will determine that placement agents are adequately licensed under the FINRA examination regime. Unless a gap exists, we do not believe a new examination should be required. In this instance, 3PM firmly believes that any of its members offering securities to Municipalities are already covered by FINRA's rules and their qualifying examinations. As such it is unnecessary for the MSRB to write a new examination for placement agents and subject our members to yet another qualifying examination. We believe that the MSRB's efforts should be focused on those Municipal Advisors that currently do not fall under the purview of existing regulatory authorities and that have not passed any type of qualifying examination.

- **Is the one-year grace period sufficient time for municipal advisor representatives to study and take (and, if necessary retake) the municipal advisor representative qualification examination?**

  Given the fact that placement agents who are required to sit for the municipal advisor representative examination will need to learn a great deal of material that is irrelevant to our business activities, and the fact that most of our constituents are small businesses and require all of their representatives focused of generating new business, we do not feel that one year is sufficient time for representatives to study and take and if necessary retake the qualification examination.

- **Do dealers believe the current 90-day apprenticeship requirement for municipal securities representatives is beneficial?**

  Since all of our members have been conducting business for several years, we do not believe that a 90-day apprenticeship requirement is necessary. An apprenticeship might be worthwhile for individuals that have never before worked in the industry, however, 3PM members are seasoned professionals with experience working in the financial services arena.

- **Would there be any negative consequences if the current municipal securities representative apprenticeship requirement were eliminated?**

No. It is the responsibility of each firm to ensure that their employees are properly trained to carry out their roles and are supervised in their activities.

- **Would dealers realize any cost savings if the current municipal securities representative apprenticeship requirement were eliminated?**

  Yes, it is likely that firms will realize some cost savings although we are not experienced in this area to specifically comment on how this would be achieved.

- **Is there a benefit to having an apprenticeship period for municipal advisor representatives?**

  No.

- **How should economic analysis apply to proposed new registration classifications and the establishment of a basic qualification examination?**

  Economic analysis should be used on a firm level to assess the time required for individuals to learn, study and sit for (and re-take if necessary) the new qualifying examination. It should also be used to quantify the lost opportunities firms will face while their employees are focusing on the qualification examination rather than on new business generation. The analysis should also take into account the Principal examination which will be forth coming as well as any new continuing education requirements that will be proposed in subsequent rules.

  We also believe that economic cost-benefit analysis should be performed because of the anticipated high costs to MSRB for implementation of what we believe to be, with respect to placement agents, a redundant or worse an irrelevant examination. Costs the MSRB will likely experience include convening industry groups to assess the need for qualification exams, the cost of MSRB staff to establish qualifying examinations and to test their efficacy as well as the time and effort of other MSRB staff such as the Office of General Counsel and senior staff members such as Lynnette Kelly who have taken the time to seek industry input on the examination. The time and effort taken up by this comment process and the time of the Board of Directors to debate this proposal is also, very likely, a significant expense.

  Costs such as the implementation of the examination process should also be considered and applied not only to the regulatory perspective, but to the firm assessment as well since a portion of these costs will be passed on the firms whose employees will have to take a Representative and Principal examination and will likely have continuing education requirements as well.

  Once the cost is determined, it should be then compared to the benefit the industry will gain – i.e. investor protection - by having MAs take the qualification examinations.

  We believe that in the case of placement agents, who are already covered by FINRA rules and examinations, the benefit will be little. As such, the cost of this undertaking for constituents who are already registered with other Regulatory Authorities will far out-weigh any possible benefits that will be achieved through this process.

Overall, 3PM applauds the thoughtful approach the MSRB has taken towards rulemaking. From the outset, the MSRB has been sensitive to constituencies that are already subject to regulatory oversight and whenever possible has taken the steps to harmonize their new rules with existing rules. Furthermore, given that most of 3PM's constituents are small firms, we also truly appreciate the MSRB's sensitivity to the burdens faced by small firms and that where ever possible you have worked to minimize the impact any new rules have on small firms. We ask only that you take these initiatives one step further and apply them to this rule proposal.

3PM strongly believes that the current regulatory qualification framework in place regarding the specific business activity of placement agents satisfies the regulatory qualification standards which apply directly to a placement agent's business activity, and as such that any new and additional professional qualification requirements would be unduly applied to placement agents who currently satisfy several professional qualification requirements and are required to maintain these levels of professional qualification through continuing education. As such, we strongly recommend that the MSRB seeks to reconcile to current disconnect by reconsidering their position on the grandfathering provision for General Securities Representatives and General Securities Principals who are only focused on private securities transactions and NOT focused on municipal securities transactions.

If you have any questions or comments regarding any of the information contained in this letter or would like to discuss any of these comments in further detail, please feel free to contact me directly by phone at (585) 203-1480 or by email at donna.dimaria@tesseracapital.com.

Thank you in advance for your consideration.
Regards,

Donna DiMaria
Chairman of the Board of Directors
3PM Association

Appendix

3PM is an association of independent, outsourced sales and marketing firms that support the investment management industry worldwide.

3PM Members are properly registered and licensed organizations consisting of experienced sales and marketing professionals who come together to establish and encourage best practices, share knowledge and resources, enhance professional standards, build industry awareness and generally support the growth and development of professional outsourced investment management marketing.

Members of 3PM benefit from:

- Regulatory Advocacy
- Best Practices and Compliance
- Industry Recognition and Awareness
- Manager Introductions
- Educational Programs
- Online Presence
- Conferences and Networking
- Service Provider Discounts

3PM began in 1998 with seven member-firms. Today, the Association has more than 35 member organizations, as well as significant number of prominent firms that support 3PMs and participate in the Association as 3PPs, Industry Associates, Member Benefit Providers, Media Partners and Association Partners.

A typical 3PM member-firm consists of two to five highly experienced investment management marketing executives with, on-average, more than 10 years' experience selling financial products in the institutional and/or retail distribution channels. The Association's members run the gamut in products they represent. Members work with traditional separate account managers covering strategies such as domestic and international equity, as well as fixed income. In the alternative arena, members represent fund products such as mutual funds, hedge funds, private equity, fund of funds and real estate. Some firms' business is comprised of both types of product offerings. The majority of 3PM's members are currently registered with FINRA or affiliated with a broker-dealer that is a member of FINRA.

For more information on 3PM or its members, please visit www.3pm.org

Comment on Notice 2014-08

from Stacy Havener,

on Friday, May 16, 2014

Comment:

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

As a member serving on the Board of Directors of the Third Party Marketer's Association (3PM). I have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Respectfully yours,
Stacy Havener

STONEHAVEN

May 16, 2014

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street – Suite 600
Alexandria, VA 22314-3412

RE: Establishing Professional Qualification Requirements for Municipal Advisors
Regulatory Notice 2014-08

Dear Mr. Smith:

My firm is a FINRA member specializing in placement agent services. I am also currently registered as a Municipal Advisor with the SEC and MSRB. Stonehaven partners with alternative investment managers offering capital raising services as well as offering alternative investments to institutional investors and financial intermediaries. I also serve as a member and committee head of the Third Party Marketer's Association (3PM). I have had an opportunity to review 3PM's comprehensive comments regarding the rules proposed by Regulatory Notice 2014-08 - Establishing Professional Qualification Requirements for Municipal Advisors. I urge the MSRB's Board to carefully consider 3PM's thoughtful and informed commentary, which has earned my strong support.

Respectfully yours,

Steven Jafarzadeh
Managing Director & Partner

TESSERA
Capital Partners

Member FINRA / SIPC, MA Registered with the SEC and MSRB

May 16, 2014

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Municipal Securities Rulemaking Board
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Respectfully yours,

Donna DiMaria
CEO / CCO

3PM
THIRD PARTY MARKETERS ASSOCIATION

May 16, 2014

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Questions posed by the MSRB

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  Costs such as the implementation of the examination process should also be considered and applied not only to the regulatory perspective, but to the firm assessment as well since a portion of these costs will be passed on the firms whose employees will have to take a Representative and Principal examination and will likely have continuing education requirements as well.

  Once the cost is determined, it should be then compared to the benefit the industry will gain – i.e. investor protection - by having MAs take the qualification examinations.

  We believe that in the case of placement agents, who are already covered by FINRA rules and examinations, the benefit will be little. As such, the cost of this undertaking for constituents who are already registered with other Regulatory Authorities will far out-weigh any possible benefits that will be achieved through this process.

Overall, 3PM applauds the thoughtful approach the MSRB has taken towards rulemaking. From the outset, the MSRB has been sensitive to constituencies that are already subject to regulatory oversight and whenever possible has taken the steps to harmonize their new rules with existing rules. Furthermore, given that most of 3PM's constituents are small firms, we also truly appreciate the MSRB's sensitivity to the burdens faced by small firms and that where ever possible you have worked to minimize the impact any new rules have on small firms. We ask only that you take these initiatives one step further and apply them to this rule proposal.

3PM strongly believes that the current regulatory qualification framework in place regarding the specific business activity of placement agents satisfies the regulatory qualification standards which apply directly to a placement agent's business activity, and as such that any new and additional professional qualification requirements would be unduly applied to placement agents who currently satisfy several professional qualification requirements and are required to maintain these levels of professional qualification through continuing education. As such, we strongly recommend that the MSRB seeks to reconcile to current disconnect by reconsidering their position on the grandfathering provision for General Securities Representatives and General Securities Principals who are only focused on private securities transactions and NOT focused on municipal securities transactions.

If you have any questions or comments regarding any of the information contained in this letter or would like to discuss any of these comments in further detail, please feel free to contact me directly by phone at (585) 203-1480 or by email at donna.dimaria@tesseracapital.com.

Thank you in advance for your consideration.
Regards,

Donna DiMaria
Chairman of the Board of Directors
3PM Association

Appendix

3PM is an association of independent, outsourced sales and marketing firms that support the investment management industry worldwide.

3PM Members are properly registered and licensed organizations consisting of experienced sales and marketing professionals who come together to establish and encourage best practices, share knowledge and resources, enhance professional standards, build industry awareness and generally support the growth and development of professional outsourced investment management marketing.

Members of 3PM benefit from:

- Regulatory Advocacy
- Best Practices and Compliance
- Industry Recognition and Awareness
- Manager Introductions
- Educational Programs
- Online Presence
- Conferences and Networking
- Service Provider Discounts

3PM began in 1998 with seven member-firms. Today, the Association has more than 35 member organizations, as well as significant number of prominent firms that support 3PMs and participate in the Association as 3PPs, Industry Associates, Member Benefit Providers, Media Partners and Association Partners.

A typical 3PM member-firm consists of two to five highly experienced investment management marketing executives with, on-average, more than 10 years' experience selling financial products in the institutional and/or retail distribution channels. The Association's members run the gamut in products they represent. Members work with traditional separate account managers covering strategies such as domestic and international equity, as well as fixed income. In the alternative arena, members represent fund products such as mutual funds, hedge funds, private equity, fund of funds and real estate. Some firms' business is comprised of both types of product offerings. The majority of 3PM's members are currently registered with FINRA or affiliated with a broker-dealer that is a member of FINRA.

For more information on 3PM or its members, please visit www.3pm.org

3PM
THIRD PARTY MARKETERS ASSOCIATION

April 28, 2014

Marcia E. Asquith
Office of the Corporate Secretary FINRA
1735 K Street, NW
Washington, DC 20006-1506

Re: Regulatory Notice 14-09

Dear Ms. Asquith,

The Third Party Marketers Association ("3PM") supports FINRA's initiative to issue a separate rule set for limited purpose firms such as third party marketers, placement agents, investment bankers and other financial advisors that advise companies on mergers and acquisitions, advise issuers on raising debt and equity capital in private placements with institutional investors, or provide advisory services on a consulting basis to companies that need assistance analyzing their strategic and financial alternatives (Limited Corporate Financing Broker or "LCFB").

While we applaud the steps that FINRA has taken to move this initiative forward by establishing a working group of industry participants and undertaking a revised rule set, we believe that the proposed rule set requires amendments and changes in order to effectively address the nuances related to the constituency of LCFBs, in order to provide a clear roadmap for regulators, including regulatory examiners in their oversight efforts, and to afford appropriate investor protections.

To that end, this letter we will set forth our comments, suggestions and proposed amendments as applicable in the hope that we can participate in the forward-moving momentum of this initiative.

Rule 016. Definitions

Because the LCFB does not engage individual consumers in the same manner as full service BDs, the term "customer" does not fit in the vernacular of an LCFB. For regulators, regulatory field examiners and industry participants seeking to draft internal working procedures that both conform to regulations and address their business and operating needs, use of the term presents a fundamental obstacle.

In discussion with FINRA staff members we have ascertained that point (f) in the definition of a "LCFB" is intended to bring the institutional investors we work with into the definition of "customers". We feel, however that the way in which point (f) is written is unclear and leaves room for interpretation. Point (f) states that a LCFB is any broker that engages in any one or more of the following activities - qualifying,

identifying or soliciting potential institutional investors. FINRA asserts that this clause should be read to mean that an "institutional investor" is receiving corporate financing services from a LCFB and is thus a "customer". The definition, however, could be interpreted to mean that qualifying, identifying or soliciting potential institutional investors is a service that benefits the manager, fund sponsor or issuer not the "institutional investor". Rather than force the definition into existing terms, we believe a more sound approach involves clear new definitions tailored to the business of an LCFB.

We propose that the term "customer" be eliminated from the LCFB rules. In its place, we recommend the following terms:

- **"Issuer"** – A Manger, Fund Sponsor, GP, Offerer or other similar person or organization that engages the services of a LCFB.

- "**Investor**" – any person, whether a natural person, corporation, partnership trust, family office or otherwise, that commits or is solicited to commit money or capital to the Issuer.

- **"Qualified Investor"** – We propose substituting the term "Qualified Investor" for "Institutional Investor" and utilizing the current definition of "Institutional Investor" as defined in FINRA Rule 2210 with some modifications. One such modification should include allowing Qualified Purchasers, as defined in section 2(a)(51)(A) of the Investment Company Act of 1940 [15 U.S.C. 80a–2 (a)(51)(A)], to be included in the definition of "Qualified Investors". While we recognize FINRA's concerns with lowering the threshold of "Institutional Investor" to "accredit investors", we see Qualified Purchasers as a prudent and reasonable standard for the following reasons:

    - It would provide a standard consistent with the highest requirements of alternative investment funds themselves mandated by the SEC - (3(c)(7) funds versus 3(c)(1) funds – and by extension other private placements and alternative investments; and

    - It would reduce ambiguity and inconsistency with SEC rules both where third party marketers and placement agents conduct business directly with Investors and indirectly through consultants, wealth managers and other investment advisors who serve as Intermediaries for the actual legal and beneficial investors.

- **Intermediary** – a Federally regulated entity that is compensated by an Investor to act on its behalf by engaging in any one of the following activities:

    - Advise the investor regarding its investment policy
    - Determine a target asset allocation

- Provide education on new investment opportunities
- Qualify, identify and select investment managers to handle mandates consistent with the Investors target allocations and risk tolerance

We believe these definitions clearly describe the counterparties involved in LCFB and provide a meaningful foundation and common vernacular for industry participants, regulators, regulatory examiners and investors alike. We believe these definitions effectively remove ambiguity and ensure the consistent application of rules as they are intended. Furthermore, by using terminology that more accurately reflects the business of a LCFB, we would eliminate any inconsistencies or uncertainty that currently exists in the proposed definitions.

Rule 116. Application for Approval of Change in Ownership, Control, or Business Operations

While FINRA has eliminated the need for members changing their status to a LCFB to file a CMA /NMA, firms would still be required to file a request to amend to their membership agreement. We believe that any firm opting into the LCFB category should be permitted to do so without a fee. We further believe that firms should have the ability to change their status back to that of a full broker dealer without the expense of transition or the need to file a CMA for at least the first year of the category's availability. We believe by making the transition period less complex and costly, FINRA will help to facilitate a broader adoption of the new rule set while allowing LCFB's to put these resources towards the revision of their compliance program.

Rule 123. Categories of Registration

3PM proposes that FINRA waive the S99 examination requirement for small firms who have a registered principal assigned to the covered functions outlined in the rule. We believe that the requirements of Rule 1230 should only apply to unregistered individuals handling any of the covered functions outlined.

Rule 125. Continuing Education Requirements

FINRA is waiving the RE requirement for LCFB, but is reserving the right to require firms to take educational courses if mandated. We would not be opposed to the requirement for additional training so long as the training is applicable to the LCFB's business and relevant from an industry perspective. In general, we support the requirement for CE testing to keep licensure active, but propose a two-year frequency which we believe to be more reasonable.

Rule 209. Know Your Customer

We encourage FINRA to consider redrafting the Know Your Customer requirements in the context of our proposed definitions to reinforce clarity and consistency.

3PM believes that regulators including exam personnel and the industry alike will require an understanding of the constituents if the rulemaking is to be effective. As such, 3PM believes that the term "customer" must be removed in order for the sake of relevance. For this reason, consistent with our proposed definitions above, we propose the following general guidelines for Rule 209:

- ***"Knowing you Issuer"*** standard should require the LCFB to conduct a full and thorough risk-based, due diligence review of an entity or person (Issuer) that engages the LCFB, consistent with a reasonable basis suitability review.

- ***"Knowing your Investor or Intermediary"*** " standard should require the LCFB to conduct thorough risk-based, due diligence review of the investor or intermediary that is reviewing the offering, again consistent with the reasonable basis review. This would include ensuring that the intermediary meets all applicable licensing standards, business and experience standards, among other reviews.

Rule 211. Suitability

We believe that Rule 211 is essential to providing meaningful, defining requirements for LCFBs. Because of the unique nature in which LCFBs conduct their business, we believe that Rule 211 must be properly crafted so that regulators, including regulatory examiners, and industry personnel alike will find a common ground, and a far more effective regulatory regime. We believe that the Rule as currently drafted does not adequately capture aspects of the suitability process that are inherent to LCFBs, and, importantly, that it does not adequately provide for investor protections.

We believe the rule as proposed fails in two primary regards:

1) by requiring the suitability analyses to be performed before any recommendation, and
2) by defining suitability in terms applicable to retail investors.

To remedy these issues, we propose that the Rule be redrafted as generally described below:

Regarding the timing of the suitability analysis, we encourage FINRA to recognize that the process of diligence related to offerings ranging from private placements offered to Investors and Qualified Investors, to placements, mergers and acquisitions of businesses of all sizes is ongoing and often does not, and should not, conclude until the deal is closed. We believe incorporation of this process is

essential to Investor protections, and to the success of the rulemaking regime for LCFBs. We encourage FINRA to redraft Rule 211 to require that the suitability analysis be complete by the time the subscription agreement or relevant contract is signed in recognition of the actual ongoing work performed by a LCFB, and, most importantly, to protect Investors in the non-institutional circumstances. With regard to the suitability requirements themselves, we again revert to our proposed definitions, suggesting as follows:

- The LCFB should be required to perform reasonable basis suitability analysis regarding each "**Issuer"** by which it is engaged.

- The LCFB should be required to perform a reasonable basis suitability analysis regarding each **"Intermediary**" with which it does business. The LCFB will perform no look-through to the underlying investor so long as the suitability review of the Intermediary, demonstrates that the Intermediary is qualified to recommend suitable securities to their clients and represents that their clients are Qualified Purchasers and thus "**Qualified Investors**".

- The LCFB should be required to perform Investor-Specific suitability analysis as per FINRA Rule 2111 for every **"Investor"** with which it directly conducts business (not through an Intermediary").

- The LCFB should be required to perform a suitability analysis similar to that required by the institutional investor exemption as per Rule 2111 for every "**Qualified Investor**" for which it directly conducts business (not through an intermediary). The requirement for a "**Qualified Investor**" to provide an affirmative indication of independent judgment should be waived.

Rule 221. Communications with the Public

While the LCFB proposal did remove two of the three communication categories covered by Rule 2210, Retail Communications and Correspondence, these are categories that by definition would not apply to a LCFB who can only work with institutional investors. Accordingly, the changes to the Rule did not make the rule more relevant to the members who may decide to register as a LCFB than it was before. LCFBs are still subject to the same provisions of Rule 2210 covering institutional communications as we were before which we believe do not accurately reflect how LCFB firms operate in a real life setting.

3PM proposes that FINRA revise Rule 2210 and specifically the general content standards to meet the realities of representing Issuers. Proposed modifications should include a realistic approach to setting fair and balanced content standards for communications and marketing materials as well as an expansion of the exemptive provisions for our new definition of "**Qualified Investors**", especially those that are professional allocators or use the services of investment consultants.

Rule 240. Engaging in Impermissible Activities

As proposed, FINRA may impose severe penalties on a LCFB if the firm engages in any activities that require the firm to be registered as a broker or dealer under the Exchange Act. To ensure an evenhanded approach, modification would include explicit language outlining a defined remedial period and process for any unintentional activities of an LCFB until the practical application has played out which will likely illuminate these areas of the Rule framework which warrant additional precision. Egregious and intentional disregard of an LCFB would still fall into the enforceable realm of FINRA authority.

Rule 331. Anti-Money Laundering Compliance Program

3PM recognizes that all financial institutions play an important role in the detection and prevention of money laundering. While we believe that extending the independent test requirement from annually to bi-annually is appropriate for LCFBs, we also suggest that FINRA consider amending the Customer ID Program (CIP) requirements to conform to the business of a LCFB. Specifically, 3PM recommends that LCFB's should be required to implement a CIP as follows:

- For all Issuers and Intermediaries with which the LCFB does business
- For all Investors when there is no Intermediary involved.

Rule 411. Capital Compliance

3PM believes that proposed Rule 411 should remove the minimum net capital requirement of $5,000 currently applied to the LCFB members. Furthermore, FINRA should assist the LCFB community in working with the SEC to correct the calculation of net capital for LCFBs so that the nature of our business does not cause us have to improperly report our financial condition to the FINRA. Additionally, we suggest that FINRA overhaul the current Supplemental Statement of Income ("SSOI") content by convening a working committee of LCFBs to help write appropriate questions that accurately reflect our business model. Further details regarding specific components of the proposal are described below.

- ***Net Capital Requirement*** - The current net capital requirement thresholds of $250,000, $100,000, and $50,000 respectively for carrying members and introducing members are rather arbitrary in nature; however, the materiality of these dollar amounts at least substantively supports the spirit of these minimum net capital requirements which is in part to protect the customer should a scenario unfurl which causes damage to an investor. In theory, the broker dealer carrying or clearing that customer account would have minimally sufficient reserves to apply to a remedial solution for the customer. When applying this ideology to the $5,000 net capital requirement for LCFBs (non-carrying and non-clearing members), it is clear that $5,000

would universally be determined as an insufficient amount to apply to any hypothetical remedial solution involving a customer. One may then deduce that this specific net capital requirement remains in place to ensure that all member firms remain on the grid and adhere to the general net capital requirement apparatus, and that perhaps the intention was that a well thought out resolution would be implemented down the line. This time has now finally come, and we collectively need to implement specific rules which effectively and efficiently regulate the LCFB universe of member firms.

Countless hours and resources have been allocated to this $5,000 minimum net capital requirement by LCFBs and FINRA examiners alike. This is clearly not an effective and efficient use of our collective resources when recognizing that the minimum net capital requirement of $5,000 for LCFBs (non-carrying firm) does not deliver any type of investor protection.

- ***FOCUS Reports and Calculation of Net Capital*** **-** 3PM believes that the calculation of net capital and FOCUS reporting requirements for LCFB members need to be overhauled as the current set of calculations and data points are not directly applicable to the business conducted by LCFBs. We believe that this approach is simply another attempt by both FINRA and the SEC to standardize reporting regardless of fit rather than make the appropriate changes required for LCFBs to properly assess their financial viability and ability to protect investors.

  A specific issue that illustrates this disconnect is demonstrated through the revenue generation framework relative to private placement activity. When payment is due, a LCFB will book a receivable for the incentive fee owed to the firm. Often a corresponding payable will be established that would pass-through a portion of that fee to the registered representative who gets paid a commission on that fee. Both of these entries are in compliance with the SEC and GAP standards. A disconnect, however occurs in the firm's calculation of net capital. Under SEC rules, the current net capital calculation does not allow the accrued receivable to be offset by the payable that is directly related to it. Instead, the entire net commission payable is required to be recorded as aggregate indebtedness (AI), in effect requiring the LCFB to double count the payable. This methodology does not adhere to GAP standards which would allow for the corresponding offset to the receivable. Furthermore a significant number of PCAOB registered accountants believe that this is the improper way to record revenue or calculate AI. By following the SEC's mandated approach, the LCFB is not accurately reflecting its true capital condition.

- ***Supplemental Statement of Income ("SSOI")*** **-** In an attempt to gather new information and intelligence, FINRA implemented the SSOI. The SSOI incorporated new questions and data requests regarding the financial condition of member firms. While the goal of this exercise was worthwhile, we believe that the results FINRA receives from these forms are inaccurate due to the wide array of methods, timelines and fee structures applicable to LCFBs offering private placements

The SSOI was clearly written under the assumption that there is consistency in the method, timeframe and fee structures that applies to both private placements and publicly traded securities. This is simply an inaccurate assumption. When FINRA was made aware of the inaccuracies, the response was that they understood the shortcomings of the reports, and it was suggested that firms use their best efforts to interpret the questions. While 3PM is not against enhanced reporting for the purpose of gleaning new insights in to a firm's financial condition, we do not believe that it is acceptable for FINRA to issue reporting requirements that do not apply to a constituency or that may distort the findings because of the interpretation of an unclearly written question.

Rule 414. Audit

3PM believes that the cost of Audits, which are extremely prohibitive to small firms, need to be addressed. Given the new requirement that PCAOB Auditors must now be audited by the Board, the costs of such audits, which will be absorbed by the broker dealer community, is growing exponentially. The rule requiring PCAOB audits was initially intended to cover firms working with public entities, not small, broker dealers like those that are covered by the LCFB rule set. Furthermore, the PCAOB interim inspection program findings simply are not relevant to LCFBs, and would therefore would not be found in the audits of our firms.

We believe that FINRA should work with other Authorities and Government Agencies, in this case the PCAOB, to help carve out small broker dealers, specifically LCFBs from this new oversight requirement. Please see the Appendix for a report entitled PCAOB Audit Oversight and Small, Non-Public Non-Custodial Broker-Dealers; Attributes-Based Analysis of the Broker-Dealer Risk Profile which supports 3PM's perspective.

Rule 436. Fidelity Bonds

3PM feels that Rule 4360 is not applicable to LCFBs and should be omitted from the rule set. Continuing to subject LCFBs to this Rule does not make sense and offers no protection to the LCFB or investors.

The LCFB proposal did not make any changes to Rule 4360 and as such LCFBs are still required to obtain a fidelity bond. A fidelity bond insures a firm against intentional fraudulent and dishonest acts committed by employees and registered representatives under certain specified circumstances. In cases of theft of customer funds, a fidelity bond generally will indemnify a firm for covered losses sustained in the handling of customers' accounts. Since, by definition, an LCFB is not permitted to hold or handle customer funds or securities, this rule is irrelevant to LCFBs. Under the current rules, LCFBs are required to secure costly insurance policies that would protect us and our customers from bankruptcy. While in theory the idea is sound, in practice if an LCFB was ever sued for wrongdoing, the fidelity bond policy would not cover our firms or provide the bankruptcy protection the Rule was designed to provide. Since

this rule does offer any type of protection, LCFBs are wasting capital on premiums that could alternatively be used to support business operations.

Additional Rules Not Covered in the LCFB Rule Set

3PM believes that LCFBs should be exempt from membership in SIPC. Furthermore, while we understand that FINRA was not the authority that mandated compliance with SIPA, we do believe that FINRA is in a position to assist the LCFB community in its mission to seek relief from this irrelevant requirement.

Rule 2266. SIPC Information

The proposed rule set did not make mention about Rule 2266 and whether or not this Rule applied to LCFBs. 3PM would however like to make clear our thoughts on the relevancy of this Rule to LCFB firms.

SIPC was created under the Securities Investor Protection Act as a non-profit membership corporation. SIPC oversees the liquidation of member broker-dealers that close when the broker-dealer is bankrupt or in financial trouble, and customer assets are missing. In a liquidation under the Securities Investor Protection Act, SIPC and the court-appointed Trustee work to return customers' securities and cash as quickly as possible. Within limits, SIPC expedites the return of missing customer property by protecting each customer up to $500,000 for securities and cash (including a $250,000 limit for cash only).

SIPC is an important part of the overall system of investor protection in the United States. While a number of federal and state securities agencies and self-regulatory organizations deal with cases of investment fraud, SIPC's focus is both different and narrow: restoring customer cash and securities left in the hands of bankrupt or otherwise financially troubled brokerage firms.

In SIPC's own words, their mission directly relates to protecting customer assets. LCFB firms by definition ***"do not include any broker or dealer that carries or maintains customer accounts, holds or handles customers' funds or securities, accepts orders from customers to purchase or sell securities as a principal or as an agent for the customer".*** As such, LCFB are continually paying assessments on their revenues in to the SIPC fund to protect investors that will never require coverage from such an event from a LCFB. This rule is not properly aligned with the business of LCFB and creates significant expenses to LCFBs without providing any tangible benefit. In reality LCFBs are paying into a fund that reimburses investors for somebody else's wrongdoing which is an unfair practice.

Questions posed by FINRA

FINRA particularly requested comment concerning the following issues:

- **Does the proposed rule set provide sufficient protections to customers of an LCFB? If not, what additional protections are warranted and why?**

  We believe it is FINRA's intent and consistent with investor protections in general, to offer the greatest level of protection to the individual or entity making the capital commitment or investment. In our language, as proposed above, this is the Investor. We believe that by changing the definitions that apply to LCFBs as we have proposed, FINRA would address the fundamental confusion and inconsistencies that exist in the current rulebook and close any loopholes that are open to interpretation as to who is actually a LCFB's "customer". Further, we believe that the suitability rules must be amended to better reflect the business those firms offering private placements actually engage in. This would ensure that reasonable basis and investor level suitability are considered ongoing requirements timed to the purchase of an investment rather than to the recommendation.

- **Does the proposed rule set appropriately accommodate the scope of LCFB business models? If not, what other accommodations are necessary and how would customers be protected?**

  We do not believe that the current rule set as written is relevant to the LCFB business model for the reasons articulated above is our discussion on the proposed rule set for LCFBs.

- **Is the definition of "limited corporate financing broker" appropriate? Are there any activities in which broker-dealers with limited corporate financing functions typically engage that are not included in the definition? Are there activities that should be added to the list of activities in which an LCFB may not engage?**

  We believe that definition of LCFB is appropriate.

- **Are there firms that would qualify for the proposed rule set but that would choose not to be treated as an LCFB? If so, what are the reasons for this choice?**

  We believe that firms may forego the new registration category until details regarding the NMA/CMA process are better defined. In particular, the cost of switching registration types and potential enforcement may outweigh the benefits gained by changing categories. For this reason, we request that consideration be given to preliminarily offering the LCFB registration as a category (in lieu of "Other") subjecting the relevant portion of a firm's business to the new rules, as opposed to requiring an all-or-none decision. This would facilitate an orderly transition

for firms, lessen the learning curve for examiners, and generally reduce the margin for unintended consequences.

- **What is the likely economic impact to an LCFB, other broker-dealers and their competitors of adoption of the LCFB rules?**

  3PM does not believe that this rule will have a meaningful economic impact on the LCFBs that are eligible to operate under this proposed rule set. We are not convinced that firms will adopt the rules unless and until LCFB registration eliminates costly and, we would argue irrelevant, financial audits and reporting, AML Independent Testing, and SIFMA registration.

- **FINRA welcomes estimates of the number of firms that would be eligible for the proposed rule set.**

  The below information was excerpted from a report presented to PCAOB in early 2013. While the data may not be as current as we would like, we believe numbers reflect a viable estimate of the firms that would be eligible to register as a LCFB.

  FINRA, defines a small firm is any firm with 150 or fewer licensees, or registered representatives. FINRA is comprised of approximately 4400 firms of which 85% are categorized as small firms. A significant percentage of small broker-dealers that have only 2 or fewer business lines, have less than $1mm in annual revenue, and/or engage in business lines such as private placements, mergers and acquisitions, and other such business lines which would fall under the category of LCFB.

  These types of small broker-dealers are readily identifiable using BrokerCheck, FINRA's public resource for broker-dealer background reviews, or through its central data depository (CRD) with the following acronyms:

    - Other
    - PLA – Private Placement
    - PLA and Other

  Of the 4400 FINRA broker-dealers registered, the statistics reveal the following:

  - 191 broker-dealers report that private placement activity is their only business line;
  - 174 broker-dealers do not fall into any of the customary FINRA business lines and disclose "Other" as their only line of business. Most of these describe their business as mergers and acquisitions;
  - 541 broker-dealers disclose that they engage solely in private placement agent and "other"

activities, again describing the other activity as mergers, acquisitions and placement agent or third party marketing services.

Cumulatively, these 906 firms represent a class of broker-dealer that does not open securities or investment accounts, does not carry or introduce assets or securities, and does not have customers in the retail sense. The business activities of these firms are governed by contract and are not 'transactional.' As such, we would conclude that they would fall under the definition of a LCFB.

It is important to note that the majority of these firms are also very small firms, and many have revenue of less than $1mm/year. Of the 457 firms reporting only one line of business (private placements or "other") all but 13 are small firms (fewer than 50 employees). Of those reporting two business lines private placements and "other", 98% have fewer than 50 employees.

Attributes	# Firms	# with Fewer than 50 RRs	As %
PLA	191	188	98%
Other	174	164	94%
PLA and Other	541	528	98%
Total or Average	**906**	**880**	**97%**

- **Proposed LCFB Rule 123 would limit the principal and representative registration categories that would be available for persons associated with an LCFB. Are there any registration categories that should be added to the rule? Are there any registration categories that are currently included in the proposed rule but that are unnecessary for persons associated with an LCFB?**

  3PM does not believe that the Rule 123 should limit the principal and registration categories that would be available for persons associated with a LCFB. We believe that there are other registration categories that could apply to a LCFB that are not included in the proposed rule set. For example,

  - LCFB firms that are registered as a broker dealer with the ability to engage in investment advisory services would also need to hold the Series 65 or 66 registrations.
  - Some LCFBs may be required under state requirements to hold the Series 63 registration
  - LCFB firms that are distributing mutual funds may have associated persons holding the Series 6 and 26 registrations
  - LCFB firms may be acting as a solicitor for direct participation programs and may have associated persons holding the Series 22 and 39 registrations

- LCFB firms offering private placements whereby the Issuer is a CTA may be required to have associated person who hold the Series 3, 30, 31 or 32 registrations
- LCFB firms offering private placements whereby the Issuer's strategy involves options may hold the Series 4 and 42
- LCFB firms may have associated persons holding the Series 14 examination

As such we believe that FINRA should not restrict the principal and representative registration categories for persons associated with a LCFB.

- **Should principals and representatives that hold registration categories not included within LCFB Rule 123 be permitted to retain these registrations?**

  3PM believes that principals and representatives should be able to continue to retain their registrations so long as they continue to stay current with their CE requirements. We believe that prohibiting a principal or representative from maintaining a registration because it was not within LCFB 123 would be penalizing a professional for choosing to engage in a regulatory scheme that was more relevant to their current business operations. The financial industry has long been categorized by inventive and driven people who often change firms or focus several times throughout their careers. We believe allowing a LCFB to maintain additional registrations would be no different than someone who changed roles in a firm and continued to maintain registrations used in a previous role.

- **Does an LCFB normally make recommendations to customers to purchase or sell securities? Should an LCFB be subject to rules requiring firms to know their customers (LCFB Rule 209) and imposing suitability obligations (LCFB Rule 211) to an LCFB?**

  We believe that there are firms that would otherwise qualify as a LCFB that make recommendations to customers. We believe that our recommendations regarding the fundamental definitions of counterparties and their respective roles in suitability address concerns that may exist or arise from recommendations of this type.

- **Does the SEC staff no-action letter issued to Faith Colish, et al., dated January 31, 2014,9 impact the analysis of whether a firm would become an LCFB? Is it likely that some limited corporate financing firms will not register as a broker consistent with the fact pattern set forth in the no-action letter, or will they register as an LCFB?**

In general, 3PM members conduct a business that is very different than the business conducted by Faith Colish et al. As such we do not believe that this would be a reason for any of our constituents to choose not to register as a LCFB.

3PM does not believe that many FINRA members meeting the definition of this rule will convert their registration to this category. Our reasoning is that there are just not enough meaningful changes to the rule which would make it more conducive to the business of LCFBs. LCFBs are currently spending a great deal of time and resources following rules that are not appropriate or applicable to our businesses. These are resources that can alternatively be applied to making meaningful enhancements to our business and compliance operations.

While we are pleased that FINRA took on this initiative and convened a working industry group to address the issue, the feedback solicited from this group was only related to the definition of an LCFB not the underlying rule set. We believe that FINRA should have taken the initiative at least one step further and worked together with the industry to write a meaningful and relevant rule set rather than the one presented which did little more than remove the sections of rules that already did not apply to us. We only hope that all of the industry feedback received will not dissuade FINRA from revisiting this proposal and this time listening to what the industry has to say. 3PM stands ready to participate in any further initiatives regarding this proposal and looks forward to a day when LCFBs have a rule set that appropriately addresses our business model.

If you have any questions or comments regarding any of the information contained in this letter or would like to discuss any of these comments in further detail, please feel free to contact me directly by phone at (212) 209-3822 or by email at donna.dimaria@tesseracapital.com.

Thank you in advance for your consideration.

Regards,

Donna DiMaria
Chairman of the Board of Directors
3PM Association

Appendix

3PM is an association of independent, outsourced sales and marketing firms that support the investment management industry worldwide.

3PM Members are properly registered and licensed organizations consisting of experienced sales and marketing professionals who come together to establish and encourage best practices, share knowledge and resources, enhance professional standards, build industry awareness and generally support the growth and development of professional outsourced investment management marketing.

Members of 3PM benefit from:

- Regulatory Advocacy
- Best Practices and Compliance
- Industry Recognition and Awareness
- Manager Introductions
- Educational Programs
- Online Presence
- Conferences and Networking
- Service Provider Discounts

3PM began in 1998 with seven member-firms. Today, the Association has more than 35 member organizations, as well as significant number of prominent firms that support 3PMs and participate in the Association as 3PPs, Industry Associates, Member Benefit Providers, Media Partners and Association Partners.

A typical 3PM member-firm consists of two to five highly experienced investment management marketing executives with, on-average, more than 10 years' experience selling financial products in the institutional and/or retail distribution channels. The Association's members run the gamut in products they represent. Members work with traditional separate account managers covering strategies such as domestic and international equity, as well as fixed income. In the alternative arena, members represent fund products such as mutual funds, hedge funds, private equity, fund of funds and real estate. Some firms' business is comprised of both types of product offerings. The majority of 3PM's members are currently registered with FINRA or affiliated with a broker-dealer that is a member of FINRA.

For more information on 3PM or its members, please visit www.3pm.org

PCAOB Audit Oversight and Small, Non-Public Non-Custodial Broker-Dealers

Attributes-Based Analysis of the Broker-Dealer Risk Profile

January 2013

Report Objectives

Since its inception, the PCAOB has exerted diligent efforts to carry out its mission of investor protection. When Dodd Frank expanded the scope of PCAOB authority to include oversight of the audits and auditors of broker-dealers, the broker-dealer community responded with recommendations for exclusions of certain types of broker-dealers. While forging ahead with an interim audit program, Board members have continued to express their interest in identifying and understanding trends related to broker-dealer attributes, facilitating a meaningful dialogue regarding risk, and possibly leading to exclusions.

This brief report will present data and information to support exemption of certain classes of small and limited purpose broker-dealers from the PCAOB audit requirement. It presents an update to data previously shared in March 2011, and asserts that broker-dealers of limited size and/or with limited business purposes present little or no risk relative to the scope of PCAOB responsibilities to protect investors. To best ensure that risk is adequately considered, the report includes an analysis of SIPC distributions through 2012 based on dollar amount and broker-dealer attributes.

Data presented in this report may lead to other useful trend analyses, including the consideration of excluding other types of firms, such as introducing firms, firms with minimum net capital of $5,000, or firms with less than $1mm in annual revenue.

Background

To FINRA, a small firm is any firm with 150 or fewer licensees, or registered representatives. FINRA is comprised of approximately 4400 firms of which approximately 85% are categorized as small firms. But 'small' is relative. To a research analyst, a small cap company is one with $300 million to $2 billion in market capitalization. The JOBS Act, designed to lower the regulatory burdens for small companies intending to go public applies to companies with less than $1billion in revenues. By stark contrast, many of the smallest broker-dealers are scattered along a broad spectrum of characteristics and attributes much smaller than any of these standards.

Low Risk Broker-Dealers Based on FINRA Data

Significant percentages of small broker-dealers have only 2 or fewer business lines, have less than $1mm in annual revenue, and/or engage in business lines that do not inherently indicate high percentages of risk, such as 'application way' mutual funds, variable annuities,

private placements, mergers and acquisitions, and other such business lines. Many of these firms operate under a minimum net capital requirement of $5,000.

Small broker-dealers characterized by business lines are readily identifiable using BrokerCheck, FINRA's public resource for broker-dealer background reviews, or through its central data depository (CRD) with the following acronyms:

- MFR – Mutual Funds Retailer
- MFR and VLA
- Other
- PLA – Private Placement
- PLA and Other
- VLA – Variable life insurance or annuities

Of the 4400 FINRA registered broker-dealers, the statistics reveal the following:

- **191** broker-dealers report that private placement activity is their only business line;
- **174** broker-dealers do not fall into any of the customary FINRA business lines and disclose "Other" as their only line of business. Most of these describe their business as mergers and acquisitions;
- **541** broker-dealers disclose that they engage solely in private placement agent and "other" activity, again describing the other activity as mergers, acquisitions and placement agent or third party marketing services.

Cumulatively, these **806** firms represent a class of broker-dealer that does not open securities or investment accounts, does not carry or introduce assets or securities, and which does not have customers in the retail sense. The business activities of these firms are governed by contract, and are not 'transactional.'

Consider also the following approximate number of firms that only engage in retail sales to customers by application:

- **39** broker-dealers report that their only business line is retail sales of mutual funds. Out of these 39 firms, **all but 3 have fewer than 25 employees**;
- **21** broker-dealers offer only variable annuities. **16 of the 21 report having fewer than 50 employees**;
- **87** broker-dealer firms disclose having only two business lines, mutual funds and variable annuities. **82% of these companies have fewer than 10 employees**.

The **147** broker dealers described above engage solely in 'application-way' business, which means that their business is limited to purchases and sales of funds and/or annuities accomplished through direct paper-based application to the mutual fund or annuity companies. These companies do not have custody of customer funds or securities, and also do not have clearing arrangements (they are not 'introducing'). Rather they operate through selling agreements with mutual fund and annuity companies, which are themselves regulated by the SEC.

It is important to note that the majority of these firms are also very small firms, and many have revenue of less than $1mm/year. (see the chart below). Of the 457 firms reporting only one line of business (private placements, "other", mutual funds, or variable annuities) all but 20 are small firms (fewer than 50 employees). Of those reporting two business lines (Private placements and "other"), 98% have fewer than 50 employees.

Attributes	**# Firms**	**No. with Fewer than 50 RRs**	**As %**
PLA	191	188	98%
Other	174	164	94%
PLA and Other	541	528	98%
MFR	39	37	95%
VLA	21	16	76%
MFR and VLA	87	82*	94%
Total or Average	**1,053**	**1,015**	**96%**

* Nearly 80% of 87 BD firms with combination of only two attributes MFR and VLA have fewer than 10 employees.

Low Risk Broker-Dealers Based on SIPC Data

SIPC weighed in against a statutory exemption for broker-dealers during Congressional deliberations regarding the PCAOB's scope of authority over broker-dealer audits. Later, in response to the request by broker-dealer trade associations and others encouraging PCAOB to carve out introducing broker-dealers from its audit scope, SIPC again wrote to PCAOB in favor of an all-inclusive audit program, citing statistics regarding its payouts related to introducing broker-dealer liquidations in particular.

While SIPC payouts may be used as a measure of risk, even SIPC has never undergone consideration of liquidation coverage for the types of small broker-dealers discussed in this report.

In this context, a review of SIPC distributions for the past 5 years demonstrates that companies with only 1 or 2 business types or attributes in the following combinations present little or no risk of insolvency for investors. In fact, no broker-dealer with 2 or fewer business lines, including those listed below has every been represented on SIPC bankrolls:

- MFR – Mutual Funds Retailer
- MFR and VLA
- Other
- PLA – Private Placement
- PLA and Other
- VLA – Variable life insurance or annuities

Low Risk Broker-Dealers Based on PCAOB Data

PCAOB's interim audit program preliminary results, reported August 2012, reveal certain material weaknesses in BD audit programs. While the findings appear proportionately significant, the results are less worrisome in the context of small broker-dealers as summarized in the table below:

Finding	Description	Application to Small and Limited Purpose Broker-Dealers
Supplemental Report on Material Inadequacies	21 of 23 did not adequately test for controls related to safeguarding securities	Not applicable to non-custodial broker-dealers
Exemption from Provisions of Customer protection Rule	All 14 audits of BDs claiming exemptions to 15c3-3 did not fully comply with conditions of the exemption	Not applicable to non-custodial broker-dealers
Customer Protection Rule	2 of the 9 audits of BDs required to maintain a customer reserve failed to properly verify and disclosure the appropriate restrictive provisions	Not applicable to non-custodial broker-dealers
Net Capital Rule	7 of 23 audits failed to sufficiently test the minimum net capital computation	Not materially significant to broker-dealers with $5,000 minimum net capital
Consideration of Risks of Material Misstatements Due to Fraud	13 of 23 audits did not incorporate adequate assessments of risks of material misstatement	Subject to FINRA reviews, requirements
Related Party Transactions	10 of 23 audits did not adequately test existence and/or sufficiency of procedures related to material third party transactions	Subject to FINRA reviews, requirements
Revenue Recognition	15 of 23 audits did not adequately test occurrence, accuracy and completeness of revenue	Not materially applicable to firms with <$1mm annual revenue
Establishing a Basis for Reliance on Records and Reports	12 of 23 audits did not evidence adequate procedures for reliance on third parties used in the audit process	Not applicable to the accounting firms most likely to perform the audits of small broker-dealers
Fair Value	6 of 9 audits involving valuations did not adequately test valuation	Not applicable to non-custodial

Finding	Description	Application to Small and Limited Purpose Broker-Dealers
measurements	practices	broker-dealers
Evaluation of Control Deficiencies	4 of 23 audits did not evidence sufficient evaluation of identified errors for determination of control weakness	Subject to FINRA reviews, requirements
Financial Statement Disclosures	7 of 23 audits did not evidence adequate tests of accuracy and completeness of financial statement disclosures	Subject to FINRA reviews, requirements
Auditor Independence	2 audits revealed inadequate procedures to test auditor independence	Subject to discussion

This summary data can be interpreted to mean that many of the PCAOB interim inspection program findings simply are not relevant, and therefore would not be found, in the audits of small broker dealers. Of those with a degree of relevance, most would be apparent as a result of the regulatory initiatives carried out by FINRA, which incorporate considerable depth in routine inspections of broker-dealer financial data. FINRA reviews include ongoing assessments of FOCUS filings carried out at both the district and national levels, and FINRA performs routine onsite inspections according to a risk-based cycle. These inspections include reviews of financial data, and cover all registered broker-dealers.

Summary

In its November 2012 Standing Advisory Group (SAG) meeting, the PCAOB SAG members considered important current initiatives, including the auditor's reporting model, PCAOB's standard setting agenda, and consideration of outreach or research regarding the auditor's approach to detecting fraud. In each discussion, in small group settings, audits of broker-dealers were considered and discussed as a specific agenda item. When PCAOB staffers reported summaries from their breakout groups in the large public meeting session, it was apparent that SAG members were receptive to the exclusion of certain types of broker-dealers based on risk. Among other comments, SAG members recommended excluding:

- Wholly owned non-public BDs
- BDs deemed to be low risk based on business model, net capital or ownership structure
- Small, non-public, non-custodial BDs
- BDs that are not issuers

Each of these considerations is consistent with the recommendation of this paper that broker-dealers in any of the following categories should be excluded:

- Non-custodial, non-public BDs with 2 or fewer business lines, including but not limited to the following:
    - MFR
    - VLA
    - PLA
    - 'Other'

Important to the practical implementation of this recommendation, each of the attributes listed above is based on data and information routinely reported to FINRA and/or the SEC. As such, this data is readily available from a reliable regulatory source.

By excluding BDs based on these attributes, the PCAOB will have trimmed its auditor oversight by a measurable degree (approximately 1,400 firms) without compromising its mission.

Comment on Notice 2014-08

from william johnston, Tibor partners inc

on Tuesday, March 18, 2014

Comment:

A single member advisor with more than 15 years experience with his one and only client (by choice) shold be granfathered in and exempt from all this. The cost is prohibitive and unnecesary.

My name is Timothy D. Wasson and I am the Chief Compliance Officer ("CCO") for an investment banking firm located in Columbus, Ohio. I want to thank the MSRB for allowing me the opportunity to comment on the proposed rule as identified in Regulatory Notice 2014-08 ("the Notice"). Please be advised that the comments I will share are entirely my own and do not necessarily reflect the opinions of the firm I am currently associated with. I would like to briefly comment on my background in the securities industry in an effort to establish myself as an experienced securities compliance professional, especially as it relates to licensing / registration.

I am in my 30th year in the securities industry and all of that time has been spent in securities compliance. I began my career with two different securities regulators and thereafter transitioned to the firm-side, and every single position I have held since I left the regulator-side has been at a senior-level. I have either passed and / or currently hold eleven different securities licenses / registrations.

I want to begin my comments about the proposed rule by first going to the "Request for Comment" section of the Notice. I found it puzzling that in the list of six proposed questions that not one question dealt with what many believe to be the most onerous burden identified in the proposed rule, which deals with the proposal to not permit any grandfathering. The presumption I deduced from the six questions was that it took somewhat of a fait accompli approach in that the fiat of no-grandfathering had already been determined. If my presumption is indeed correct I find that most troubling.

By not having any sort of reasonable consideration given to grandfathering places a very large undue burden on the entire industry. This burden is not only the direct costs associated with examinations but the additional costs of time away from work to both take and study for examinations. There is the additional administrative cost to firms to monitor and track the related testing. In an industry that continues to be squeezed by tighter profit margins and cost containment, the question that must be asked is whether this is a reasonable and prudent expense to force on the entire industry.

In my three decades in securities compliance there have been myriad new securities licenses / registrations introduced. As I anecdotally understood early-on in my career from some of my then veteran colleagues was that even when the Series 1 began to be required in the mid-1950s (which I believe was the first securities license / registration introduced), that grandfathering was used. Even securities licenses / registrations that have been introduced over the past few years have had grandfathering e.g. the Series 79 and 99. I do not understand any either theoretical or practical reason(s) that the MSRB would deviate from the longstanding practice of grandfathering certain individuals e.g. those with either a current Series 7 or Series 52 license / registration from being required to pass any sort of Municipal Advisor Representative examination. Suffice it to say that these same arguments hold true for grandfathering a Municipal Advisor Principal examination e.g. a Series 53 license / registration should be appropriately grandfathered.

In my career in securities compliance I have spoken with many representatives who have taken both securities license / registration examinations as well as regulatory-element continuing education. The preponderance of those individuals have told me that they learned more (and retained more) from firm-element continuing education and annual compliance meetings and related firm-compliance communications than they ever learned from taking a securities license / registration examination or regulatory-element continuing education. If MSRB's bona fide goal is to ensure that appropriately licensed / registered individuals that may be grandfathered are knowledgeable about the relevant

municipal advisory rules and regulations, then proffer measures to ensure that affected municipal advisory firm-element continuing education is included in firms' plans going forward. Similarly include measures to ensure that firms address municipal advisory rules and regulations in their respective annual compliance meeting curricula.

In conclusion, I want to re-affirm that not permitting appropriate grandfathering is clearly not warranted by the facts or circumstances that led to the proposed rule. Furthermore, I am not aware of any demonstrable harm that has been caused by the municipal advisor industry that is currently regulated by MSRB that would now cause such a draconian approach so as to not consider appropriate grandfathering. Thank you again for the opportunity to submit my comments and I look forward to an outcome that is favorable to appropriate grandfathering as described above.

Regards,

Timothy D. Wasson

The Yuba Group LLC

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April 28, 2014

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

Re: MSRB Notice 2014-04 Request for Comment on Draft Rule G-44 on Supervisory and Compliance Obligations of Municipal Advisors and 2014-08 Request for Comment on Establishing Professional Requirements for Municipal Advisors

The Yuba Group appreciates the opportunity to provide comments in response to the Municipal Securities Rulemaking Board ("MSRB") Request for Comments ("ROC") on Proposed Rule G-44 on Supervisory and Compliance Obligations of Municipal Advisors, as well as MSRB Request for Comment on Establishing Professional Qualifications for Municipal Advisors. The Yuba Group commends the MSRB's continued efforts in working with and listening to market participants as new MSRB Municipal Advisor ("MA") rules are drafted. We have participated in the three webinars that have been offered on the new MA rules and previously submitted comments earlier this year on Draft Rule G-42 on Duties of Non-Solicitor Municipal Advisors.

Background

As stated in our comment letter on Draft Rule G-42, the Yuba Group is a seven-person advisory firm formed in 2010. Our work is focused solely on higher education and not-for-profit institutions. In addition to assisting with tax-exempt and taxable debt transactions, as well as interest rate swaps, we provide on-going services related to capital financing, debt policy/capacity and rating strategies.

Our clients include a range of public and private colleges and universities, as well as research, cultural and other types of not-for-profit institutions. Current clients include several Ivy League institutions and other major research universities – both public and private- as well as liberal arts schools and "niche" institutions. We do not advise any issuing authorities. Our partners and other personnel have many years of prior experience at investment banks, rating agency and other financial services and swap advisory firms.

Comments

Although the 2014-04 and 2014-08 ROCs were published separately, we are submitting a combined response to both since there are many overlapping issues included in the draft rules.

Although the MSRB has indicated on many occasions that it has taken into account small Municipal Advisor firms for all of the proposed rules, it is our view that the approach to the supervisory provisions and the professional requirements are still quite biased toward larger firms and do not make adequate accommodations for smaller and single-person firms. Simply put, larger firms are able to spread all of the actual and "opportunity" costs of compliance over a larger number of clients and employees. As stated in our comment letter on draft Rule G-42, the financial model of small MA firms is fairly straightforward; the "opportunity cost" of the time we spend on compliance issues is time that is not available to spend on client matters and directly impacts our "bottom line" negatively. With fewer people and no other business lines than our advisory work, smaller firms are impacted much more than larger ones by the proposed MA regulations. Below are some examples as well as some suggestions on how the MSRB might consider accommodating smaller and single person advisors by making the compliance process more efficient and less time-consuming.

1. Combine the MA tests. The two-tiered approach to initially imposing a requirement to pass a municipal advisor representative test in 2015 followed in the future by a municipal advisor principal test requires anyone who is engaged in a management or supervisory role to take two separate tests, effectively doubling both the fees and the time needed to prepare and take such tests. A few suggestions:
   - Roll out the supervisor test first, and if supervisor passes, then the individual test would be waived. Imposing a test first on supervisors would also be consistent with the MSRB's proposed requirement for written supervisory procedures and the importance of adequate supervision. Additionally, one could argue that in a smaller firm, junior people are supervised more closely due to the more intimate nature of the work environment.
   - Consider eliminating the need for a representative and/or replace it by an apprenticeship period and self-imposed professional standards. If an advisor is being supervised adequately, a qualifying test for representatives would not be necessary.

   We recommend that the MSRB make the supervisor test available before, or simultaneously with the representative test and eliminate the need for a supervisor to take both tests. For smaller firms, the MSRB could also consider eliminating the need for non supervisors to take the representative test if supervised closely or serving an apprentice period.

2. Reconsider "grandfathering" and/or developing a shorter test for previously registered supervisors and representatives. Although the MSRB has indicated that it is not permitting any individuals to be grandfathered, we continue to be concerned that the requirements unfairly impact smaller firms. Since many advisors were formerly investment bankers who may have been registered previously, could there be an abbreviated test which just deals with the regulatory issues and not fundamentals of municipal bonds?

   We recommend that the MSRB reconsider the approach against grandfathering.

3. Combine proposed rules in fewer ROCs. Arguably, the proposed supervisor and professional qualifications could have been included in a single ROC publication since there are many overlapping issues and implications. Instead, two separate ROCs and webinars for such ROCs essentially have required twice the amount of time for all firms to review and participate. Even for those of us that may have engaged external compliance advisors, we still need to review all of the proposed rules, discuss them with our advisors and incorporate them into our practices. This has been an extremely time-consuming effort which in a smaller firm is felt more dramatically than larger ones. For example, the fees charged by a compliance consultant to a small firm are no less than those charged to a larger one, except for the number of MA-I forms that need to be reviewed, and the time spent in analyzing rules and establishing regulatory practices is also no less than for the larger ones. In addition, the actual costs and "opportunity costs" associated with our time are spread over a much smaller number of employees and clients.

   We recommend the MSRB better accommodate smaller firms by consolidating regulatory communications and rules into fewer publications and webinars.

During the MSRB webinar on the professional qualifications, a MSRB representative stated that the test structure was deliberately designed to mirror that for the broker-dealers, which by nature are large firms. **We urge the MSRB to abandon the "mindset" of imposing the approach to broker-dealer regulations to MAs and consider more closely the perspective of a small firm and its time constraints and fee structure. In order to minimize the impact of the MA regulations on the fees we charge our clients, we are hopeful that the MSRB's approach to regulating MAs will be done in the most efficient manner possible. Reducing the number of ROCs, tests, proposed rules and webinars involved in the implementation of the SEC and MSRB rules would certainly be a great start.**

Economic Analysis

In our comment letter on Proposed Rule G-42, we provided an estimate of approximately $50,000 for the first six months of 2014 for our small firm, which included:

- Registration fees, time allocated to training staff, issuers;

- Outside consultant assistance for new rules and advice;
- Time allocation internally to learn the rules, discuss the rules, create internal documents, and prepare registration documents; and
- Time allocation for client education.

We would like to increase this estimate by an additional $40,000 to reflect the following time and expenses associated with the actual implementation:

- Selection of outside consultant;
- Participation in three MSRB webinars and a Bond Buyer webinar;
- Review of additional MSRB ROCs;
- Preparation of MSRB comment letters;
- Drafting and review of draft written supervisory procedures ("WSP");
- Drafting and review of revisions to engagement letters to reflect additional disclosures;
- Drafting and review of revisions to Employee Handbook to reflect regulatory issues;
- Preparing individual amendments to existing engagements;
- Firm training regarding content of WSP;
- Increase in email server fees to be able to comply with five-year record retention requirements;
- IT consultant fees to implement email server change; and
- Employee time required to implement computer changes to migrate email server.

This results in an estimated $90,000 cost of implementation for the first six months of 2014 due to regulatory issues, or over $12,000 per employee.

In addition, our comment letter on Rule G-42 included an estimate of $89,000 for the future cost of the expected professional tests, time studying, and lost wages to the firm. Since at least three of us will also be required to take a supervisory test, the two-tiered approach to professional requirements increases our estimate by another $38,000 to over $125,000 just for the professional requirements.

We encourage the MSRB to continue considering the potential impact and costs of compliance on small firms as it develops professional standards and requirements, both with respect to increased out-of-pocket costs and the opportunity cost of our time.

In closing, we recognize the challenges of drafting rules that will impact advisors, bankers and issuers with varying degrees of expertise and resources, and appreciate the opportunity to respond to the MSRB. We are hopeful that the MSRB will take our comments into consideration.

Thank you.
Linda Fan
Managing Partner

ZIONS BANK

May 16, 2014

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

Re: Request for Comment on Establishing Professional Qualification Requirements for Municipal Advisors: MSRB Regulatory Notice 2014-08

Dear Mr. Smith:

Zions First National Bank ("Zions Bank") appreciates this opportunity to provide comments to the Municipal Securities Rulemaking Board ("MSRB") pertaining to proposed changes to Rules G-1 and G-3 regarding establishing professional qualification requirements for municipal advisors (the "Proposed Rules").

We note that the Proposed Rules delete the following text from current Rule G-1(b)(2) and current Rule G-3(b)(i)(B):

> "financial advisory and consultant services for issuers in connection with the issuance of municipal securities".

With respect to Rule G-1, the language that has been proposed to be deleted currently defines permitted dealer activities of a separately identifiable department or division of a bank ("SID"). With respect to Rule G-3, the language that has been proposed to be deleted currently defines the activities of a "municipal securities principal." The justification provided in the Proposed Rules for removal of the referenced language from the Proposed Rules is that the activities described in the referenced language "may not be performed by a broker, dealer or municipal securities dealer (dealer) without registering as a municipal advisor." We would like to comment on the possible ramifications of these deletions.

We reiterate our appreciation and support for efforts to ensure that municipal issuers are dealt with fairly and competently in all of their financial transactions. We reject the notion that each segment of a municipal finance transaction is separate and distinct from all other segments and is therefore best serviced separately by participants who have experience and expertise only in that particular segment. The reality is that all segments of a municipal finance transaction are interrelated and are best handled by participants having a breadth of experience and knowledge in all of them.

Thus we believe that municipal clients are served more adequately and competently by participants who have a breadth of knowledge and experience in every aspect of municipal finance. Accordingly, we believe that the proposed changes to Rule G-1 and Rule G-3 should not be interpreted or applied in any way that would preclude a bank with a breadth of experience in providing a broad range of financial and banking services to its municipal banking clients, from serving those municipal clients as a bank, as an underwriter, as a municipal securities dealer, or as a registered municipal advisor, either through a separately identifiable department or division of the bank ("SID"), or through an affiliate, provided that the bank and its affiliates comply with Rule G-23 by not serving as municipal advisor and also performing any underwriting activity in the same transaction.

We believe this position is consistent with, and reflected in, the language of the adopting release of the Securities and Exchange Commission ("SEC") relating to its final municipal advisor registration rules (SEC Sec. Rel. 34-70462) (the "MA Release"), which clearly permits "a SID that meets the requirements of the rule [Rule 15Ba1-1(d)(4)] to register as a municipal advisor instead of the bank" (page 247 of the MA Release). The MA Release states that the SEC "believes that permitting SIDs to register instead is in the public interest in that it will ensure that municipal entities and obligated persons receive the regulatory protection intended by the statute while not imposing the burdens of the municipal advisor regulatory regime (i.e., the programmatic, registration, and recordkeeping costs discussed throughout the economic analysis) on the bank as a whole" (page 562, fn 1903 of the MA Release). Rule 15Ba1-1(d)(4) specifically provides for SID designation and registration as a municipal advisor.

A municipal securities principal should be able to choose to engage in "financial advisory and consultant services for issuers in connection with the issuance of municipal securities" in connection with its business model and the services it may determine to offer to its clients if it registers as a municipal advisor.

We would welcome an opportunity to discuss this issue further. We hope our comments will provide additional context and insight into an important and challenging issue.

If you have any questions concerning this letter or would like to discuss these observations further, please feel free to contact Gary Hansen at Zions First National Bank, Investment Division, One South Main, 17th Floor, Salt Lake City, Utah 84133; Telephone: 801-844-7762; E-Mail: Gary.Hansen@zionsbank.com. We would welcome the opportunity to talk with you.

Very truly yours,

ZIONS FIRST NATIONAL BANK

By _____
W. David Hemingway
Executive Vice President

cc: Lynnette Kelly, Executive Director, MSRB
Ernesto A. Lanza, Deputy Executive Director, MSRB
Michael L. Post, Deputy General Counsel, MSRB
Kathleen Miles, Associate General Counsel, MSRB
John Cross, Director, Office of Municipal Securities, SEC
John Kandaris, Examiner Manager, Federal Reserve
Michael Brosnan, Examiner in Charge, OCC
Barbara Miller, National Bank Examiner, OCC
Margaret Leslie, Acting Assistant Regional Director, FDIC
Richard K. Ellis, Utah State Treasurer

ZIONS BANK®

May 16, 2014

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

Re: Request for Comment, MSRB Notice 2014-08

Dear Mr. Smith:

Zions First National Bank ("Zions Bank") appreciates this opportunity to provide comments to the Municipal Securities Rulemaking Board ("MSRB") pertaining to the proposed amendments to its professional qualification rules. The amendments set professional qualification standards for municipal advisor professionals (Regulatory Notice 2014-08, "Notice"). We will focus our comments in this letter on the "Uniform Requirement – Grandfathering" section of the Notice.

We agree with the MSRB that a qualification exam should be used to ensure a "minimum level of competency" by those individuals acting as municipal advisors (MA). However, in our opinion, under limited, specific circumstances, grandfathering should be allowed.

Grandfathering Permitted

Persons who are, or have been within the last two years, associated with a dealer and who have previously taken and passed a municipal securities qualification examination (i.e. Series 52, 53, or Series 7 prior to November 2011) and who are currently or have been during the last two years serving as financial advisors to municipalities and/or serving as municipal securities principals responsible for the financial advisor activities of a firm.

Those individuals who have previously taken and passed a municipal securities qualification examination (i.e. Series 52, 53, or Series 7 prior to November 2011), and who are currently, or have been during the last two years, serving as financial advisors to municipalities and/or serving as municipal securities principals responsible for the financial advisor activities of a firm, should be grandfathered and should not be required to take the MA test. These currently registered Municipal Securities Representatives/Principals (serving as financial advisors and/or municipal principals over financial advisor activities) have already passed an applicable qualification examination, have been subject to all applicable MSRB rules, have completed continuing education requirements, and already have a fiduciary duty to their municipal issuer clients. They have been subject to compliance programs, regulatory exams and firm and regulatory

element continuing education requirements, as per existing MSRB rules. This is sufficient to "ensure a minimum level of competency," which the MSRB notes is the reason for requiring an exam for all persons considered municipal advisors.

Requiring these individuals who have clearly demonstrated a minimum and ongoing level of competency to take the MA exam would cause them and their firm to incur additional and unnecessary costs, including additional time taken out of the representative's day to study for the new exam. We are not confident that much would be gained by having the individual take an additional exam in an effort to achieve a "minimum level of competency," which we believe is already well established.

Grandfathering Not Permitted

Persons who have never taken a municipal securities qualification examination (i.e. Series 52, 53, or Series 7 prior to November 2011).

Any person who has not taken and passed a municipal securities qualification examination (i.e. Series 52, 53, or Series 7 prior to November 2011) **should** be required to take the new municipal advisor qualification examination if that person is to serve as a municipal advisor. Even if a person has been functioning independently (not associated with a dealer) as a financial advisor to municipalities, there has thus far, been no measurable way to determine that a "minimum level of competency" has been satisfied. Those individuals have not typically been subject to MSRB rules nor have they been subject to the continuing education requirements of G-3.

Persons associated with a dealer who have previously taken a municipal securities qualification examination but whose registration has lapsed, which would generally require re-testing.

Those individuals who have previously taken a municipal securities qualification examination but whose registration has lapsed because they have not been associated with a dealer for a two or more year period (as discussed in current rule G-3), no matter what their experience, should be required to take the MA exam if they are to function as an MA in order to ensure the "minimum level of competency." It is important for registered municipal advisors to stay current on new developments in the industry and rulemaking. Those in our recommended grandfathering category will be up to date on new developments through various continuing education requirements while those whose registration has lapsed will not. Thus, it is important that they re-establish that they meet the minimum level of competency in order to serve as an MA.

Persons associated with a dealer who are not and have not been serving as financial advisors or municipal securities principals over the financial advisor activities of a firm

> Those individuals who have previously taken a municipal securities qualification examination, but during the last two years have not been functioning as a financial advisor (i.e. underwriters, sales and traders) or as a municipal securities principal over the financial advisor activities of a firm (i.e. principal supervising underwriting, sales and/or trading) should be required to take the MA examination if they are now to function as an MA. This would be similar to the two year limitation currently imposed in G-3, which indicates that if a person has not been associated with a dealer for a two or more year period at any time, after having qualified as a municipal securities representative/principal, that person would need to re-test to be qualified.

The other topics in the 2014-09 Request for Comment concerning the one-year grace period for taking the exam and the elimination of the apprenticeship period are reasonable and we are in agreement with the proposal on those points.

If you have any questions concerning our comments or would like to discuss them further, please feel free to contact me at 801-844-8680 or James.Livingston@zionsbank.com.

Sincerely,

ZIONS FIRST NATIONAL BANK

James G. Livingston
Senior Vice President