

2017-10

**Publication Date**

May 17, 2017

**Stakeholders**

Municipal Advisors,  
Issuers

**Notice Type**

Approval Notice

**Effective Date**

May 16, 2017

**Implementation Date**

January 1, 2018

**Category**

Professional  
Qualification

**Affected Rules**

[Rule G-3](#), [Rule G-8](#)

## SEC Approves Continuing Education Requirements for Municipal Advisors

### Overview

The Municipal Securities Rulemaking Board (MSRB) received approval from the Securities and Exchange Commission (SEC) on May 16, 2017 to amend MSRB Rule G-3, on professional qualification requirements, and amend MSRB Rule G-8, on books and records to be made by brokers, dealers, and municipal securities dealers and municipal advisors, to establish continuing education requirements for municipal advisors and related recordkeeping requirements.<sup>1</sup>

The adoption of continuing education (CE) requirements for municipal advisors represents an important milestone in developing professional standards and CE requirements as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”).<sup>2</sup> The adoption of the amendments to establish CE requirements for municipal advisors furthers the MSRB’s mandate to protect investors, municipal entities, obligated persons and the public interest. The amendments to Rule G-3 help to ensure that those individuals engaging in municipal advisory activities on behalf of a municipal advisor, as well as those individuals that directly engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons, remain current in their industry knowledge. The accompanying amendments to Rule G-8 promote compliance with a municipal advisor’s recordkeeping requirements related to the administration of its CE program.

The rule amendments have an implementation date of January 1, 2018. A municipal advisor will have until December 31, 2018 to complete a needs

<sup>1</sup> See [Exchange Act Release No. 80699 \(May 16, 2017\), File No. SR-MSRB-2017-02 \(Mar. 22, 2017\)](#).

<sup>2</sup> See 15 U.S.C. 78o-4(b)(2)(L)(ii) and (iii) as amended by the Dodd-Frank Act. Pub. Law No. 111-203, 124 Stat. 1376.



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analysis, develop a written training plan and deliver training to comply with the annual CE requirements for 2018.

Questions about this notice may be directed to Gail Marshall, Associate General Counsel, or Bri Joiner, Manager, Professional Qualifications, at 202-838-1500.

## Summary of Rule Changes

### **Rule G-3, on Professional Qualification Requirements**

The amendments to Rule G-3 require municipal advisors to develop a CE program for their “covered persons”<sup>3</sup> and for every covered person of a municipal advisor to participate in CE training. More specifically, municipal advisors must, at least annually, conduct a needs analysis that evaluates and prioritizes their applicable training needs, develop a written training plan, and deliver CE training in accordance with the needs analysis. Municipal advisors must also maintain records documenting the completion of a needs analysis, content of their training programs and a record that each covered person has completed the applicable training. A municipal advisor’s training plan should be appropriate for the firm’s business taking into consideration the municipal advisor’s size, organizational structure and scope of municipal advisory activities, as well as regulatory developments. A municipal advisor’s CE program must, at a minimum, cover training on the applicable regulatory requirements and the fiduciary duty obligations owed to municipal entity clients. The minimum training standards specified in Rule G-3 are not intended to be, and should not be interpreted to be, the sole subject matter to be contained in a CE training program. It is prudent for each municipal advisor to consider, based on its needs analysis, the additional training applicable to its municipal advisory activities that is appropriate for its covered persons.

Importantly, municipal advisors are required to administer their CE training programs in accordance with their developed written training plan. This affords municipal advisors great flexibility to determine, beyond the minimum standards, their firm-specific training needs and the content and scope of the training appropriate for their covered persons. For example, a municipal advisor that only provides advice to municipal entities on swap transactions would be permitted to design its annual training plan based upon the rules and practices applicable to its limited business model.

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<sup>3</sup> Under Rule G-3(i)(ii)(A), “covered person” means “any person qualified as either a municipal advisor representative or a municipal advisor principal with a municipal advisor.”

Moreover, municipal advisors are permitted to determine the method(s) for delivering their CE training programs, including utilizing multiple methods of delivery, such as seminars, computer-based training, webcasts or dissemination of materials. All covered persons of a municipal advisor must participate in the municipal advisor's CE program, but a municipal advisor may determine, based on an evaluation of its training needs, that only certain covered persons should receive particularized training (*e.g.*, covered persons who have been designated with supervisory responsibilities under Rule G-44, on supervisory and compliance obligations of municipal advisors, or those covered persons who are new to the municipal advisory business).<sup>4</sup>

In an effort to reduce regulatory overlap for dealer-municipal advisors,<sup>5</sup> a dealer-municipal advisor is permitted to deliver CE training that would satisfy its training needs for the firm's dealer and municipal advisor activities. Each dealer-municipal advisor may develop a single written training plan if the training plan is consistent with each needs analysis that is conducted of the firm's municipal advisory activities and municipal securities activities. In addition, each dealer-municipal advisor can conduct a comprehensive training for its covered persons and covered registered persons,<sup>6</sup> which would satisfy the comparable CE requirements for dealers as well as the CE requirements for municipal advisors.

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<sup>4</sup> With respect to the provision on specific training requirements, as established under the amendments to Rule G-3, an appropriate examining authority may require a municipal advisor to provide specific training to its covered persons in areas the appropriate examining authority deems suitable; additionally, it may also specify the actual training content and time period for completion. For purposes of Rule G-3(i)(ii)(D), "appropriate examining authority" means "a registered securities association with respect to a municipal advisor that is a member of such association, or the Commission, or the Commission's designee, with respect to any other municipal advisor." This provision is consistent with similar authority provided under current Rule G-3(i)(ii)(D) with respect to the CE requirements for brokers, dealers and municipal securities dealers (collectively "dealers").

<sup>5</sup> A member of the Financial Industry Regulatory Authority that is a municipal securities dealer and municipal advisor is commonly referred to as a "dealer-municipal advisor." The term "dealer" is defined collectively as a broker, dealer or municipal securities dealer.

<sup>6</sup> As renumbered, Rule G-3(i)(i)(B), defines a "covered registered person" to mean "any person registered with a broker, dealer or municipal securities dealer and qualified as a representative or principal in accordance with this rule or as a general securities principal and who regularly engages in or supervises municipal securities activities."

**Rule G-8 on Books and Records to be Made by Brokers, Dealers, and Municipal Securities Dealers and Municipal Advisors**

The amendments to Rule G-8 promote compliance with the requirements under Rule G-3 related to the administration of a municipal advisor's CE program. Fundamentally, new Rule G-8(h)(vii) requires a municipal advisor to make and maintain copies of the municipal advisor's needs analysis, written training plan and documentation of the content of the training programs and completion by each covered person identified in the municipal advisor's training plan.<sup>7</sup> For example, if a municipal advisor is having covered persons attend a seminar as part of the training program, the municipal advisor should retain documentation regarding the content of the seminar and evidence that the covered person attended the seminar. Similarly, if, for example, a municipal advisor is delivering training by disseminating materials to covered persons for independent study, the municipal advisor should retain a copy of the materials circulated and a written acknowledgement that the materials have been received and read.

**Technical Amendments**

The rule amendments also make a number of minor conforming and technical revisions by adding paragraph headers, renumbering of subparagraphs and updating of rule cross-references to Rule G-3(i)(i) and Rule G-3(i)(ii).

**Implementation Guidance**

The MSRB intends to provide guidance to municipal advisors in understanding their obligations to develop a CE program before the January 1, 2018 implementation date. As part of such guidance, the MSRB intends to provide a sample needs analysis, a sample training plan and a non-exhaustive list of delivery mechanisms that a municipal advisor could consider in delivering and documenting its training. The MSRB anticipates publishing the guidance at least 90 days prior to the rule's implementation date. As a reminder, municipal advisors have until December 31, 2018 to complete a needs analysis, develop a written training plan and deliver the appropriate training to comply with the annual requirements for 2018.

May 17, 2017

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<sup>7</sup> MSRB Rule G-9, on preservation of records, requires each municipal advisor to preserve the books and records described in Rule G-8(h) for a period of not less than five years. Rule G-9(e) addresses the method of record retention for books and records that must be made and maintained by a broker, dealer, municipal securities dealer and municipal advisor.

## Text of Amendments\*

### Rule G-3: Professional Qualification Requirements

(a) – (h) No change.

#### (i) Continuing Education Requirements

(i) Continuing Education Requirements for Brokers, Dealers, and Municipal Securities Dealers — This ~~paragraph section (i)~~ 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)(A) Regulatory Element

~~(A)(1)~~ Requirements — No broker, dealer or municipal securities dealer shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person, unless such person has complied with the requirements of subparagraph (i)(i)(A) ~~section (i)~~ hereof.

Each registered person shall complete the Regulatory Element on the occurrence of their second registration anniversary date and every three years thereafter or as otherwise prescribed by the Board. On each occasion, the Regulatory Element must be completed within 120 days after the person's registration anniversary date. A person's initial registration date, also known as the "base date," shall establish the cycle of anniversary dates for purposes of this subparagraph (i)(i)(A) ~~section (i)~~. The content of the Regulatory Element shall be determined by the Board for each registration category of persons subject to the rule.

~~(B)(2)~~ Failure to Complete — Unless otherwise determined by the Board, any registered persons who have not completed the Regulatory Element within the prescribed time frames will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under this ~~section~~ clause (i)(i)(A)(2) shall cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is

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\* Underlining indicates new language; strikethrough denotes deletions.

inactive for a period of two years will be administratively terminated. A person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of this rule. The appropriate enforcement authority may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

~~(C)~~(3) **Disciplinary Actions** — Unless otherwise determined by the appropriate enforcement authority, a registered person will be required to retake the Regulatory Element and satisfy all of its requirements in the event such person:

~~(1)~~(a) becomes subject to any statutory disqualification as defined in Section 3(a)(39) of the ~~Securities Exchange Act of 1934~~;

~~(2)~~(b) becomes subject to suspension or to the imposition of a fine of \$5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, the appropriate enforcement authority or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or

~~(3)~~(c) is ordered as a sanction in a disciplinary action to retake the Regulatory Element by any securities governmental agency, the appropriate enforcement authority or securities self-regulatory organization.

The retaking of the Regulatory Element shall commence with participation within 120 days of the registered person becoming subject to the statutory disqualification, in the case of ~~(1)~~ clause (a) above, or the completion of the sanction or the disciplinary action becomes final, in the case of ~~(2)~~ clause (b) or ~~(3)~~ clause (c) above. The date that the disciplinary action becomes final will be deemed the person's new base date for purposes of ~~this section (i) subparagraph (i)(A)~~.

~~(D)~~(4) **Reassociation** — Any registered person who has terminated association with a broker, dealer or municipal securities dealer and who has, within two years of the date of termination, become reassociated in a registered capacity with a broker, dealer or municipal securities dealer shall participate in the Regulatory Element at such intervals that apply (second registration anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

~~(E)~~ Any former registered person who becomes reassociated in a registered capacity with a broker, dealer or municipal securities dealer more than two years after termination as such will be required to satisfy the program's requirements in their entirety (second registration anniversary and every three years thereafter), based on the most recent registration date.

~~(F)~~(5) Definition of ~~Registered Person~~ — For purposes of this subparagraph ~~section~~, the term "registered person" means any person registered with the appropriate enforcement authority as a municipal securities representative, municipal securities principal, municipal securities sales principal or financial and operations principal pursuant to this rule.

~~(G)~~(6) Delivery of the Regulatory Element. — The continuing education Regulatory Element program will be administered through Web-based delivery or such other technological manner and format as specified by the Board.

~~(ii)~~(B) Firm Element

~~(A)~~(1) Persons Subject to the Firm Element — The requirements of this ~~section~~ subparagraph shall apply to any person registered with a broker, dealer or municipal securities dealer and qualified as a representative or principal in accordance with this rule or as a general securities principal and who regularly engages in or supervises municipal securities activities (collectively, "covered registered persons").

~~(B)~~(2) Standards for the Firm Element

~~(1)~~(a) Each broker, dealer and municipal securities dealer must maintain a continuing and current education program for its covered registered persons to enhance their securities knowledge, skill, and professionalism. At a minimum, each broker, dealer and municipal securities dealer shall at least annually evaluate and prioritize its training needs, develop a written training plan, and conduct training annually on municipal securities for covered registered persons. The plan must take into consideration the broker, dealer and municipal securities dealer's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of covered registered persons in the Regulatory Element.

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

~~(a)~~(i) General investment features and associated risk factors;

~~(b)~~(ii) Suitability and sales practice considerations;

~~(c)~~(iii) Applicable regulatory requirements.

~~(3)~~(c) Administration of Continuing Education Program — A broker, dealer or municipal securities dealer must administer its continuing education

programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by covered registered persons.

~~(C)~~(3) Participation in the Firm Element — Covered registered persons included in a broker, dealer or municipal securities dealer's plan must participate in continuing education programs as required by the broker, dealer or municipal securities dealer.

~~(D)~~(4) Specific Training Requirements — The appropriate enforcement authority may require a broker, dealer or municipal securities dealer, individually or as part of a larger group, to provide specific training to its covered registered persons in such areas the appropriate enforcement authority deems appropriate. Such a requirement may stipulate the class of covered registered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

#### (ii) Continuing Education Requirements for Municipal Advisors

(A) Persons Subject to Continuing Education Requirements — The requirements of this paragraph shall apply to any person qualified as either a municipal advisor representative or a municipal advisor principal with a municipal advisor in accordance with this rule (collectively, "covered persons").

#### (B) Standards for a Continuing Education Program

(1) Each municipal advisor must maintain a continuing and current education program for its covered persons to enhance their municipal advisory knowledge, skill, and professionalism. At a minimum, each municipal advisor shall at least annually evaluate and prioritize its training needs, develop a written training plan, and conduct training annually on municipal advisory activities for covered persons.

The plan must take into consideration the municipal advisor's size, organizational structure, and scope of municipal advisory activities, as well as regulatory developments.

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

(a) Fiduciary duty obligations owed to municipal entity clients; and

(b) Applicable regulatory requirements.



(3) Administration of Continuing Education Program — A municipal advisor must administer its continuing education program in accordance with its annual evaluation and written training plan and must maintain records documenting the content of the programs and completion of the programs by covered persons.

(C) Participation in the Continuing Education Program — Covered persons included in a municipal advisor’s plan must participate in continuing education programs as required by the municipal advisor.

(D) Specific Training Requirements — A registered securities association with respect to a municipal advisor that is a member of such association, or the Commission, or the Commission’s designee, with respect to any other municipal advisor (“the appropriate examining authority”), may require a municipal advisor, individually or as part of a larger group, to provide specific training to its covered persons in such areas the appropriate examining authority deems appropriate. Such a requirement may stipulate the class of covered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

(E) Each municipal advisor that is also subject to the Standards for the Firm Element as required by Rule G-3(i)(i)(B)(2) is permitted to satisfy the requirements of Rules G-3(i)(i)(B) and G-3(i)(ii), if the municipal advisor:

(1) Develops a single written training plan, if such training plan is consistent with the separate evaluations of the training needs as required under subparagraphs (i)(i)(B)(2)(a) and (i)(ii)(B)(1); and

(2) Conducts annual training for both covered persons and covered registered persons, if such training is consistent with the written training plan(s) and such training meets the minimum standards for training programs required by subparagraphs (i)(i)(B)(2)(b) and (i)(ii)(B)(2).

## Supplementary Material

.01 - .02 No change.

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## Rule G-8: Books and Records to be Made by Brokers, Dealers, and Municipal Securities Dealers and Municipal Advisors

(a) – (g) No change.

(h) Municipal Advisor Records. Every municipal advisor that is registered or required to be registered under §Section 15B of the Act and the rules and regulations thereunder shall make and keep current the following books and records:

(i) – (vi) No change.

(vii) Records Concerning Compliance with Continuing Education Requirements

(A) Copies of the municipal advisor’s needs analysis and written training plan as required by subparagraphs (i)(ii)(B)(1) and (i)(ii)(E)(1) of Rule G-3; and

(B) Records documenting the content of the training programs and completion of the programs by each covered person as required by Rule G-3(i)(ii)(B)(3).