

Proposed Rule Change by Municipal Securities Rulemaking Board
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input type="checkbox"/>	Amendment <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>		Date Expires <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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Description
Provide a brief description of the proposed rule change (limit 250 characters).

Contact Information
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Ernesto"/>	Last Name	<input type="text" value="Lanza"/>
Title	<input type="text" value="General Counsel"/>		
E-mail	<input type="text" value="elanza@msrb.org"/>		
Telephone	<input type="text" value="(703) 797-6600"/>	Fax	<input type="text" value="(703) 797-6700"/>

Signature
Pursuant to the requirements of the Securities Exchange Act of 1934,
Municipal Securities Rulemaking Board
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By (Name) (Title)
Corporate Secretary

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Ronald Smith, rsmith@msrb.org

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (the “MSRB”) is hereby filing with the Securities and Exchange Commission (the “Commission”) this Amendment No. 1 (the “amendment”) to File No. SR-MSRB-2009-09, originally filed on July 14, 2009 (the “original proposed rule change”). This amendment amends and restates the original proposed rule change relating to Rule G-32, on disclosures in connection with primary offerings, Form G-32, and the primary market disclosure and primary market subscription services of the MSRB’s Electronic Municipal Market Access system (“EMMA”) (as amended, the “proposed rule change”). The proposed rule change would require brokers, dealers and municipal securities dealers (“dealers”) acting as underwriters, placement agents or remarketing agents for primary offerings of municipal securities (“underwriters”) to provide to EMMA, and to make available on the EMMA web portal and through the EMMA primary market subscription service, information about whether the issuer or other obligated person has undertaken to provide continuing disclosures, the identity of any obligated persons other than the issuer, and the timing by which such issuers or obligated persons have agreed to provide annual financial and operating data. The MSRB requests an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than nine months after Commission approval of the proposed rule change and shall be announced no later than sixty (60) days prior to the effective date.

The text of the proposed rule change is set forth below:¹

* * * * *

PROPOSED AMENDMENT TO RULE G-32

Rule G-32. Disclosures In Connection With Primary Offerings

(a) No change.

(b) Underwriter Submissions to EMMA.

(i)-(v) No change.

(vi) Procedures for Submitting Documents and Form G-32 Information.

(A)-(B) No change.

¹ Underlining indicates additions; brackets indicate deletions. Revisions to Form G-32 are indicated in Exhibit 3. The text of the proposed rule change will be available on the MSRB Web site at www.msrb.org/msrb1/sec.asp.

(C) The underwriter in any primary offering of municipal securities for which a document or information is required to be submitted to EMMA under this section (b) shall submit such information in a timely and accurate manner as follows:

(1) Form G-32 information submissions pursuant to paragraph (b)(i)(A) hereof with respect to a primary offering shall be:

(a) initiated on or prior to the date of first execution with the submission of CUSIP numbers (except if such CUSIP numbers are not required under Rule G-34 and have not been assigned), initial offering prices or yields (including prices or yields for maturities designated as not reoffered), if applicable, [and] the expected closing date, and whether the issuer or other obligated persons have agreed to undertake to provide continuing disclosure information as contemplated by Securities Exchange Act Rule 15c2-12, together with such other items of information as set forth in Form G-32 and the EMMA Dataport Manual; and

(b) No change.

Specific items of information required by Form G-32 shall be submitted at such times and in such manners as set forth in the EMMA Dataport Manual.

(2)-(4) No change.

(D) No change.

(c) No change.

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

(i)-(xii) No change.

(xiii) The term “obligated person” shall mean an obligated person defined in Securities Exchange Act Rule 15c2-12(f)(10).

(e) No change.

* * * * *

PROPOSED AMENDMENT TO PRIMARY MARKET DISCLOSURE SUBSCRIPTION

EMMA SUBSCRIPTION SERVICES

EMMA Primary Market Disclosure Subscription Service

No change.

Submission Data: No change

Offering Data: No change

Issue Data: issue type; security type; issuer name; issue description; state; closing date; dated dates; remarketing/commercial paper identifiers; continuing disclosure status; obligated person; annual filing deadline for financial information

Security Data: No change

Document Data: No change

File Data: No change

Limited Offering

Contact Data: No change

No change

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was adopted by the MSRB on July 17, 2008 and this amendment was adopted by the MSRB on December 3, 2009. Questions concerning this filing may be directed to Leslie Carey, Associate General Counsel, or Justin R. Pica, Director, Uniform Practice Policy, at (703) 797-6600.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) This amendment makes certain modifications to the original proposed rule change based on comments received on the original proposed rule change, as described below.

The proposed rule change would amend Rule G-32 and Form G-32 to require underwriters of primary offerings of municipal securities to submit to the MSRB's EMMA system, as part of their primary offering submission obligation under Rule G-32(b), certain key items of information relating to continuing disclosure undertakings made by issuers and other obligated persons in connection with such primary offerings. These items of information would be made available to the public through the EMMA web portal and are intended to inform investors in advance whether continuing disclosures will be made available with respect to a particular municipal security, from and about whom such continuing disclosures are expected to be made, and the timing by which such disclosures should be made available.

The items of information regarding continuing disclosure undertakings to be provided by underwriters through Form G-32 would include:

- whether the issuer or other obligated persons have agreed to undertake to provide continuing disclosure information as contemplated by Securities Exchange Act Rule 15c2-12
- the name of any obligated person, other than the issuer of the municipal securities, that has or will undertake, or is otherwise expected to provide, continuing disclosure as identified in the continuing disclosure undertaking²
- the timing set forth in the continuing disclosure undertaking, pursuant to Rule 15c2-12(b)(5)(ii)(C) or otherwise, for the submission of annual financial information each year by the issuer and/or any obligated persons to the EMMA system, either as a specific date or as the number of days or months after a specified end date of the issuer's or obligated person's fiscal year³

² In response to the comments received on the original proposed rule change, as discussed below, this amendment modifies the original proposed rule change by conforming the definition of obligated person more closely with the definition used in Rule 15c2-12 and by making clear that the obligated persons to be identified are those that are specifically identified in the continuing disclosure undertaking.

³ In response to comments previously received by the MSRB, as discussed below, this amendment modifies the original proposed rule change by permitting this information to be provided as the number of days or months after the end of the fiscal year, if the fiscal

This amendment modifies the original proposed rule change by eliminating the proposed requirement to submit contact information for a representative of the issuer and/or any obligated persons for purposes of establishing continuing disclosure submission accounts for such issuer and/or obligated persons in connection with their submissions to the EMMA system. Underwriters currently are able to provide contact information for issuer or obligated person representatives with respect to current and past primary offerings through EMMA on a voluntary basis and the MSRB believes that this process has been effective.

The name or names of obligated persons to be provided would be of the entity acting as an obligated person identified in the continuing disclosure undertaking, not an individual at such entity, unless the obligated person is in fact an individual. The timing for submission of annual financial information could be provided either as a specific date each year (*i.e.*, month and day, such as June 30) or the number of days or months after the end of the fiscal year (*i.e.*, 120 days after the end of the fiscal year). The underwriter could use the day/month count alternative only if the underwriter also submits the day on which the issuer's or obligated person's fiscal year ends (*i.e.*, month and day, such as June 30). If annual financial information is expected to be submitted by more than one entity and such information is expected to be submitted by different deadlines, each such deadline would be provided matched to the appropriate issuer and/or obligated person.

The underwriter would be required to provide information regarding whether the issuer or other obligated persons have agreed to undertake to provide continuing disclosure information as contemplated by Rule 15c2-12 by no later than the date of first execution of transactions in municipal securities sold in the primary offering. The remaining items of information would be required to be provided by the closing date of the primary offering. Until closing, the underwriter would be required to update promptly any information it has previously provided on Form G-32 which may have changed or to correct promptly any inaccuracies in such information, and would be responsible for ensuring that such information provided by it is accurate as of the closing date. So long as the underwriter has provided such information accurately as of the closing date, it would not be obligated to update the information provided if there are any subsequent changes to such information, such as additions, deletions or modifications to the identities of obligated persons or changes in the timing for providing annual financial information. Issuers and obligated persons will be able to make changes to such information through their submission accounts established in connection with EMMA's continuing disclosure service.

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year end date is also submitted, as an alternative to submission of the specific deadline date as provided in the original proposed rule change.

Information regarding whether an offering is subject to a continuing disclosure undertaking, the names of obligated persons and the deadlines for providing annual financial information would be displayed on the EMMA web portal and also would be included in EMMA's primary market disclosure subscription service. These items are intended to provide investors and others with information on the expected availability of disclosures following the initial issuance of the securities. In particular, users of the EMMA web portal would be able to determine which obligated persons are expected to submit annual financial information, audited financial statements and material event notices on an on-going basis, as well as the date each year by which they should expect to have access to the annual financial information.

As noted above, the MSRB has requested an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than nine months after Commission approval of the proposed rule change and shall be announced no later than sixty (60) days prior to the effective date.

(b) The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Exchange Act, which provides that MSRB's rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Exchange Act in that it serves to remove impediments to and help perfect the mechanisms of a free and open market in municipal securities and would serve to promote the statutory mandate of the MSRB to protect investors and the public interest. The information that underwriters would provide and that would be made available to the public with regard to the continuing disclosure undertakings of issuers and obligated persons would assist investors to understand whether and when they should expect to have access to key continuing disclosure information in the future. Investors and other market participants would be able to include such assessment of on-going access to information in the mix of factors upon which they may evaluate their investment decisions.

4. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The additional items of information submitted by underwriters to the EMMA system for public dissemination would be available to all persons simultaneously. In addition to making such information available for free on the EMMA web portal to all members of the public, the MSRB would make such documents and information available by subscription on an equal and non-

discriminatory basis. Further, the proposed rule change would apply equally to all underwriters. Specifically, the addition of these items of information to the existing EMMA primary market submission process would not compete with other information providers and, to the extent other information providers were to seek to make such information available to the public, such providers could obtain the information from the MSRB through the subscription service on an equal and non-discriminatory basis. The proposed rule change also would not impose any additional burdens on competition among issuers of municipal securities since the proposed rule change does not impose any direct or indirect obligations on issuers but merely provides for disclosure of information by underwriters regarding continuing disclosure undertakings entered into under Rule 15c2-12.

5. Self-Regulatory Organization’s Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others

In a notice published by the MSRB on January 31, 2008, the MSRB described its plan for implementing a continuing disclosure service that would be integrated into other services to be offered through EMMA (the “MSRB Notice”).⁴ In particular, the MSRB stated its plan to institute the continuing disclosure service to accept submissions of continuing disclosure information in a designated electronic format directly from issuers, obligated persons and their designated agents acting on their behalf. Among other things, the notice sought comment on whether underwriters for new issues should be required to submit to the MSRB information about (i) whether a continuing disclosure undertaking exists, (ii) the identity of any obligated persons other than the issuer, and (iii) the date identified in the continuing disclosure undertaking by which annual financial information is expected to be disseminated. Such information would be provided by underwriters through the same information submission process as, and simultaneously with, the information to be provided in connection with official statement submissions. The notice also asked whether other items of information should be required, such as the identify of designated agents for submitting continuing disclosure or the criteria for identifying obligated persons subject to the continuing disclosure obligations.

In addition, the original proposed rule change was published by the Commission for comment in the Federal Register and the Commission received comments from six commentators.⁵

⁴ See MSRB Notice 2008-05 (January 31, 2008).

⁵ See Exchange Act Release No. 60314 (July 15, 2009) (File No. SR-MSRB-2009-09), 74 FR 36300 (July 22, 2009). The Commission received comments from the Connecticut State Treasurer (“Connecticut”); Investment Company Institute (“ICI”); National Association of Bond Lawyers (“NABL”); Regional Bond Dealers Association (“RBDA”); Securities Industry and Financial Markets Association (“SIFMA”); and Virginia Government Finance Officers’ Association (“VGFOA”). The comment letters

(continued . . .)

General

Four commentators on the MSRB Notice provided comments on the issue of underwriter submission of information relating to the issuer's continuing disclosure obligations.⁶ First Southwest supported requiring the submission of the three items of information identified in the MSRB Notice and stated that no other information in addition to the three items listed in the notice should be required. NABL, NAHEFFA and SIFMA provided comments on the items relating to identification of obligated persons and the date on which annual financial information is expected to be disseminated.

In connection with the original proposed rule change, Connecticut, ICI and VGFOA were generally supportive. Connecticut stated that the original proposed rule change would make municipal disclosure more transparent, efficient, consistent, comparable and accessible to investors, including individual investors in particular. ICI stated that the original proposed rule change would ensure the accessibility and improve the utility of continuing disclosure information for investors and would further enhance transparency in the municipal securities market.

RBDA was supportive of the goal of the original proposed rule change but suggested that underwriters be required to submit a copy of the continuing disclosure undertaking rather than to input fielded information. SIFMA opposed the original proposed rule change. Both RBDA and SIFMA expressed concern that requiring underwriters to extract information from documents could result in the admission of erroneous information to EMMA and would be an undue burden and risk on underwriters. ICI stated, however, that it believes that the benefits to investors stemming from the original proposed rule change would outweigh the perceived costs and risks. RBDA distinguished the type of fielded information currently required to be submitted by underwriters to EMMA, characterized as data necessary to create the basic record of the new issue, from the type of information proposed to be collected through the original proposed rule change, which RBDA characterized as unnecessary for creating such record in EMMA. SIFMA stated that the continuing disclosure undertaking is already required to be summarized in the official statement available through EMMA and that extracting information from the official statement would effectively discourage investors from having to read the official statement itself. SIFMA further stated that, if the MSRB wants to highlight issuers' continuing disclosure obligations, this can be done by creating a best practices standard. Finally, SIFMA urged the MSRB to commit to making EMMA compatible with information underwriters are providing to

(. . . continued)

received by the Commission are posted on the Commission's Web site at <http://www.sec.gov/comments/sr-msrb-2009-09/msrb200909.shtml>.

⁶ National Association of Health and Educational Facilities Finance Authorities ("NAHEFFA"); First Southwest Company ("First Southwest"); NABL; and SIFMA.

the Depository Trust and Clearing Corporation's New Issue Information Dissemination System ("NIIDS").

NABL did not state a position regarding the original proposed rule change but cautioned that the "reasonable determination" standard of Rule 15c2-12 with regard to whether a continuing disclosure undertaking in conformity with the rule has been entered into should not be altered by the original proposed rule change. NABL also suggested that a more complete analysis of the MSRB's statutory authority for adopting the original proposed rule change be provided.

The MSRB continues to believe that collecting and displaying on the EMMA web portal the existence of a continuing disclosure obligation, the names of any obligated persons other than the issuer, and the deadline for submission of annual financial and operating data, all as fielded information rather than merely as information provided within documents, would provide significant benefits to investors and other market participants. The close proximity of this information to the links to posted continuing disclosure documents on the EMMA web portal would assist investors with understanding whether and when they should expect to have access to key continuing disclosure information in the future and about whom such information is expected to be provided. Investors and other market participants would be able to include an assessment of on-going access to information along with other factors upon which they may evaluate their investment decisions. The MSRB is firmly of the belief that the proposed rule change is within its statutory authority and notes that an MSRB rule change or system requirement would not have the effect of altering any obligations or standards under Rule 15c2-12 or any other Commission rule.

Existence of Continuing Disclosure Obligation

The original proposed rule change would require the underwriter to provide, on amended Form G-32, information on whether the issuer or other obligated persons have agreed to undertake to provide continuing disclosure information as contemplated by Rule 15c2-12. None of the commentators expressly opposed disclosure of whether a continuing disclosure undertaking has been entered into in connection with a primary offering, although RBDA preferred that such information be conveyed through a filing of the document by the underwriter and SIFMA preferred that EMMA users determine this information by reading the official statement.

This amendment does not modify this proposed requirement.

Identification of Obligated Persons

With respect to identification of obligated persons, NABL and SIFMA noted in their comments on the MSRB Notice that only those obligated persons for whom financial or operating data is provided in the official statement are relevant. NABL suggested only requiring underwriters "to identify those persons expressly specified in the continuing disclosure

undertaking who will be required to make continuing disclosure filings or to state that such persons will be determined by the functional descriptions contained in the continuing disclosure undertaking.” SIFMA stated that a requirement for the underwriter to provide such information is “unnecessarily complicated since the official statement itself, which is on the portal, has a summary paragraph stating who will be filing continuing disclosure and where it will be filed.”

The original proposed rule change would require the underwriter to provide, on amended Form G-32, the name of any obligated person, other than the issuer of the municipal securities, that has or will undertake, or is otherwise expected to provide, continuing disclosure pursuant to the continuing disclosure undertaking. The original proposed rule change made clear that underwriters would be required to provide the name of only those obligated persons that would be providing continuing disclosures pursuant to the continuing disclosure undertaking, rather than all obligated persons regardless of whether such obligated persons will be providing disclosure information. Connecticut noted that, for some issues, obligated persons can change over time and that it is unclear whether the original proposed rule change accommodates this possibility. NABL supported the MSRB’s formulation that the rule would require only that underwriters provide the name of any obligated person (other than the issuer) that would be providing continuing disclosures pursuant to the continuing disclosure undertaking, rather than all obligated persons regardless of whether such obligated persons will be providing disclosure information. NABL recommended that this requirement be viewed as a mechanical reporting provision requiring the underwriter to report which persons are identified in the continuing disclosure agreement as being responsible for providing continuing disclosures (or that such persons will be determined by the functional descriptions in the continuing disclosure undertaking) and that underwriters not be required to make a legal determination as to whether any such person is an obligated person within the meaning of Rule 15c2-12. NABL also recommended that the definition of obligated person more closely mirror the definition thereof in Rule 15c2-12.

The MSRB believes that collecting the identity of obligated persons in a fielded manner that permits automated indexing and search functions is an important feature that would make the EMMA web portal considerably more useful for users. Such indexed information would assist EMMA web users in finding some or all of the offerings for a particular obligated person, thereby allowing the user to review the continuing disclosure undertakings that more fully spell out how the continuing disclosure obligations will be fulfilled.

The MSRB has determined to modify the definition of obligated person in proposed Rule G-32(d)(xiii) to more closely conform to the definition thereof in Rule 15c2-12(f)(10) to avoid any definitional ambiguity. Furthermore, this amendment would modify Form G-32 to explicitly provide that the obligated persons to be identified are those that are specifically identified in the continuing disclosure undertaking. The MSRB emphasizes that the underwriter’s obligation is solely to provide the identities of those obligated persons who have a specific commitment under the continuing disclosure agreement to provide continuing disclosures. Underwriters would not be required to undertake any independent analysis of what other persons might be covered, to

submit descriptions of bases for determining future obligated persons, or to maintain the currency of the list of obligated persons beyond the closing date.⁷

Deadline for Annual Filing and End of Fiscal Year

With respect to the expected date of filing of annual financial information as described in the MSRB Notice, NABL and SIFMA questioned the value of providing this information. NABL noted that the information is already provided in the official statement's description of the continuing disclosure undertaking and can become confusing if several obligated persons are required to file annual filings on different dates, while SIFMA noted that the information can be vague, often based on a stated period of time following the end of a fiscal year, and will become readily apparent based on the pattern of posting over time. NAHEFFA sought clarification of the purpose for requiring this date and requested that the data entry be flexible enough to reflect a deadline measured from the end of a fiscal year or other milestone, rather than a date certain.

The original proposed rule change would require the underwriter to provide, on amended Form G-32, the date or dates identified in the continuing disclosure undertaking, pursuant to Rule 15c2-12(b)(5)(ii)(C) or otherwise, by which annual financial information is expected to be submitted each year by the issuer and/or any obligated persons to the EMMA system. Other than RBDA's and SIFMA's concerns about extraction of information from the continuing disclosure undertaking or the official statement, none of the commentators on the original proposed rule change expressly opposed disclosure of the submission date for the filing of annual financial information.

The MSRB believes that there is considerable value in providing the deadline for submission of annual financial information in a manner that is extracted from the official statement. This would permit investors and the general public to readily identify when such disclosures should become available from each issuer or obligated person expected to provide the annual filings. Issuers and obligated persons would be able to update the timing requirement, as well as the identity of any obligated persons, through EMMA as appropriate.

The MSRB has further considered the comments on the MSRB Notice with respect to potential difficulties in specifying a date certain for the filing of annual financial information in certain circumstances. As a result, the MSRB has determined to modify this provision to provide a new alternative method for reporting the deadline for submissions of annual financial and operating data based on the disclosed end of fiscal year, so that underwriters could disclose as the submission deadline either a specific date each year (*i.e.*, month and day, such as June 30) or the number of days or months after the end of the fiscal year (*i.e.*, 120 days after the end of the

⁷ Issuers and obligated persons will be able to make changes to such information through their submission accounts established in connection with EMMA's continuing disclosure service.

fiscal year). The underwriter could use the day/month count alternative only if the underwriter also submits the day on which the issuer's or obligated person's fiscal year ends (*i.e.*, month and day, such as June 30). Form G-32 would be modified to allow for submission of this new data element.

Issuer/Obligated Person Contact Information

The original proposed rule change would require the underwriter to provide, on amended Form G-32, contact information for a representative of the issuer and/or any obligated persons for purposes of establishing continuing disclosure submission accounts for such issuer and/or obligated persons in connection with their submissions to the EMMA system. Connecticut requested that the current voluntary process for providing contact information for representatives of the issuer or obligated person for purposes of establishing EMMA submission accounts not be made mandatory.

The MSRB believes that its current voluntary process has been effective and therefore this amendment would eliminate from Form G-32 the requirement that underwriters provide the contact information for a representative of the issuer and/or any obligated person.

6. Extension of Time Period for Commission Action

The MSRB declines to consent to an extension of the time period specified in Section 19(b)(2) of the Exchange Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

1. Federal Register Notice.
2. Notices requesting comment and comment letters.
3. Form G-32.
4. Changes to original proposed rule change.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34- ; File No. SR-MSRB-2009-09)

Revised Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G-32, on Disclosures in Connection with Primary Offerings, Form G-32, and the Primary Market Disclosure and Primary Market Subscription Services of the MSRB's Electronic Municipal Market Access System (EMMA[®])

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 18, 2009, the Municipal Securities Rulemaking Board (the "MSRB") filed with the Securities and Exchange Commission (the "Commission") Amendment No. 1 (the "amendment") to a proposed rule change previously filed with the Commission.³ The amendment is described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB has filed with the Commission the amendment to File No. SR-MSRB-2009-09, originally filed on July 14, 2009 (the "original proposed rule change"). The amendment amends and restates the original proposed rule change relating to Rule G-32, on disclosures in connection with primary offerings, Form G-32, and the primary market

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ File No. SR-MSRB-2009-09. *See* Exchange Act Release No. 60314 (July 15, 2009) (File No. SR-MSRB-2009-09), 74 FR 36300 (July 22, 2009).

disclosure and primary market subscription services of the MSRB's Electronic Municipal Market Access system ("EMMA") (as amended, the "proposed rule change"). The proposed rule change would require brokers, dealers and municipal securities dealers ("dealers") acting as underwriters, placement agents or remarketing agents for primary offerings of municipal securities ("underwriters") to provide to EMMA, and to make available on the EMMA web portal and through the EMMA primary market subscription service, information about whether the issuer or other obligated person has undertaken to provide continuing disclosures, the identity of any obligated persons other than the issuer, and the timing by which such issuers or obligated persons have agreed to provide annual financial and operating data. The MSRB requests an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than nine months after Commission approval of the proposed rule change and shall be announced no later than sixty (60) days prior to the effective date.

The text of the proposed rule change is available on the MSRB's web site at www.msrb.org/msrb1/sec.asp, at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This amendment makes certain modifications to the original proposed rule change based on comments received on the original proposed rule change, as described below.

The proposed rule change would amend Rule G-32 and Form G-32 to require underwriters of primary offerings of municipal securities to submit to the MSRB's EMMA system, as part of their primary offering submission obligation under Rule G-32(b), certain key items of information relating to continuing disclosure undertakings made by issuers and other obligated persons in connection with such primary offerings. These items of information would be made available to the public through the EMMA web portal and are intended to inform investors in advance whether continuing disclosures will be made available with respect to a particular municipal security, from and about whom such continuing disclosures are expected to be made, and the timing by which such disclosures should be made available.

The items of information regarding continuing disclosure undertakings to be provided by underwriters through Form G-32 would include:

- whether the issuer or other obligated persons have agreed to undertake to provide continuing disclosure information as contemplated by Securities Exchange Act Rule 15c2-12
- the name of any obligated person, other than the issuer of the municipal securities, that has or will undertake, or is otherwise expected to provide, continuing

disclosure as identified in the continuing disclosure undertaking⁴

- the timing set forth in the continuing disclosure undertaking, pursuant to Rule 15c2-12(b)(5)(ii)(C) or otherwise, for the submission of annual financial information each year by the issuer and/or any obligated persons to the EMMA system, either as a specific date or as the number of days or months after a specified end date of the issuer's or obligated person's fiscal year⁵

This amendment modifies the original proposed rule change by eliminating the proposed requirement to submit contact information for a representative of the issuer and/or any obligated persons for purposes of establishing continuing disclosure submission accounts for such issuer and/or obligated persons in connection with their submissions to the EMMA system. Underwriters currently are able to provide contact information for issuer or obligated person representatives with respect to current and past primary offerings through EMMA on a voluntary basis and the MSRB believes that this process has been effective.

The name or names of obligated persons to be provided would be of the entity acting as an obligated person identified in the continuing disclosure undertaking, not an

⁴ In response to the comments received on the original proposed rule change, as discussed below, this amendment modifies the original proposed rule change by conforming the definition of obligated person more closely with the definition used in Rule 15c2-12 and by making clear that the obligated persons to be identified are those that are specifically identified in the continuing disclosure undertaking.

⁵ In response to comments previously received by the MSRB, as discussed below, this amendment modifies the original proposed rule change by permitting this information to be provided as the number of days or months after the end of the fiscal year, if the fiscal year end date is also submitted, as an alternative to submission of the specific deadline date as provided in the original proposed rule change.

individual at such entity, unless the obligated person is in fact an individual. The timing for submission of annual financial information could be provided either as a specific date each year (*i.e.*, month and day, such as June 30) or the number of days or months after the end of the fiscal year (*i.e.*, 120 days after the end of the fiscal year). The underwriter could use the day/month count alternative only if the underwriter also submits the day on which the issuer's or obligated person's fiscal year ends (*i.e.*, month and day, such as June 30). If annual financial information is expected to be submitted by more than one entity and such information is expected to be submitted by different deadlines, each such deadline would be provided matched to the appropriate issuer and/or obligated person.

The underwriter would be required to provide information regarding whether the issuer or other obligated persons have agreed to undertake to provide continuing disclosure information as contemplated by Rule 15c2-12 by no later than the date of first execution of transactions in municipal securities sold in the primary offering. The remaining items of information would be required to be provided by the closing date of the primary offering. Until closing, the underwriter would be required to update promptly any information it has previously provided on Form G-32 which may have changed or to correct promptly any inaccuracies in such information, and would be responsible for ensuring that such information provided by it is accurate as of the closing date. So long as the underwriter has provided such information accurately as of the closing date, it would not be obligated to update the information provided if there are any subsequent changes to such information, such as additions, deletions or modifications to the identities of obligated persons or changes in the timing for providing annual financial information. Issuers and obligated persons will be able to make changes to such

information through their submission accounts established in connection with EMMA's continuing disclosure service.

Information regarding whether an offering is subject to a continuing disclosure undertaking, the names of obligated persons and the deadlines for providing annual financial information would be displayed on the EMMA web portal and also would be included in EMMA's primary market disclosure subscription service. These items are intended to provide investors and others with information on the expected availability of disclosures following the initial issuance of the securities. In particular, users of the EMMA web portal would be able to determine which obligated persons are expected to submit annual financial information, audited financial statements and material event notices on an on-going basis, as well as the date each year by which they should expect to have access to the annual financial information.

As noted above, the MSRB has requested an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than nine months after Commission approval of the proposed rule change and shall be announced no later than sixty (60) days prior to the effective date.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Exchange Act, which provides that MSRB's rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open

market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Exchange Act in that it serves to remove impediments to and help perfect the mechanisms of a free and open market in municipal securities and would serve to promote the statutory mandate of the MSRB to protect investors and the public interest. The information that underwriters would provide and that would be made available to the public with regard to the continuing disclosure undertakings of issuers and obligated persons would assist investors to understand whether and when they should expect to have access to key continuing disclosure information in the future. Investors and other market participants would be able to include such assessment of on-going access to information in the mix of factors upon which they may evaluate their investment decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. The additional items of information submitted by underwriters to the EMMA system for public dissemination would be available to all persons simultaneously. In addition to making such information available for free on the EMMA web portal to all members of the public, the MSRB would make such documents and information available by subscription on an equal and non-discriminatory basis. Further, the proposed rule change would apply equally to all underwriters. Specifically, the addition of these items of information to the existing EMMA primary market submission process would not compete with other information providers and, to the extent other information providers were to seek to make such information available to the public, such

providers could obtain the information from the MSRB through the subscription service on an equal and non-discriminatory basis. The proposed rule change also would not impose any additional burdens on competition among issuers of municipal securities since the proposed rule change does not impose any direct or indirect obligations on issuers but merely provides for disclosure of information by underwriters regarding continuing disclosure undertakings entered into under Rule 15c2-12.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

In a notice published by the MSRB on January 31, 2008, the MSRB described its plan for implementing a continuing disclosure service that would be integrated into other services to be offered through EMMA (the “MSRB Notice”).⁶ In particular, the MSRB stated its plan to institute the continuing disclosure service to accept submissions of continuing disclosure information in a designated electronic format directly from issuers, obligated persons and their designated agents acting on their behalf. Among other things, the notice sought comment on whether underwriters for new issues should be required to submit to the MSRB information about (i) whether a continuing disclosure undertaking exists, (ii) the identity of any obligated persons other than the issuer, and (iii) the date identified in the continuing disclosure undertaking by which annual financial information is expected to be disseminated. Such information would be provided by underwriters through the same information submission process as, and simultaneously with, the information to be provided in connection with official statement submissions. The notice also asked whether other items of information should be required, such as the identify of

⁶ See MSRB Notice 2008-05 (January 31, 2008).

designated agents for submitting continuing disclosure or the criteria for identifying obligated persons subject to the continuing disclosure obligations.

In addition, the original proposed rule change was published by the Commission for comment in the Federal Register and the Commission received comments from six commentators.⁷

General

Four commentators on the MSRB Notice provided comments on the issue of underwriter submission of information relating to the issuer's continuing disclosure obligations.⁸ First Southwest supported requiring the submission of the three items of information identified in the MSRB Notice and stated that no other information in addition to the three items listed in the notice should be required. NABL, NAHEFFA and SIFMA provided comments on the items relating to identification of obligated persons and the date on which annual financial information is expected to be disseminated.

In connection with the original proposed rule change, Connecticut, ICI and VGFOA were generally supportive. Connecticut stated that the original proposed rule

⁷ See Exchange Act Release No. 60314 (July 15, 2009) (File No. SR-MSRB-2009-09), 74 FR 36300 (July 22, 2009). The Commission received comments from the Connecticut State Treasurer ("Connecticut"); Investment Company Institute ("ICI"); National Association of Bond Lawyers ("NABL"); Regional Bond Dealers Association ("RBDA"); Securities Industry and Financial Markets Association ("SIFMA"); and Virginia Government Finance Officers' Association ("VGFOA"). The comment letters received by the Commission are posted on the Commission's Web site at <http://www.sec.gov/comments/sr-msrb-2009-09/msrb200909.shtml>.

⁸ National Association of Health and Educational Facilities Finance Authorities ("NAHEFFA"); First Southwest Company ("First Southwest"); NABL; and SIFMA.

change would make municipal disclosure more transparent, efficient, consistent, comparable and accessible to investors, including individual investors in particular. ICI stated that the original proposed rule change would ensure the accessibility and improve the utility of continuing disclosure information for investors and would further enhance transparency in the municipal securities market.

RBDA was supportive of the goal of the original proposed rule change but suggested that underwriters be required to submit a copy of the continuing disclosure undertaking rather than to input fielded information. SIFMA opposed the original proposed rule change. Both RBDA and SIFMA expressed concern that requiring underwriters to extract information from documents could result in admission of erroneous information to EMMA and would be an undue burden and risk on underwriters. ICI stated, however, that it believes that the benefits to investors stemming from the original proposed rule change would outweigh the perceived costs and risks. RBDA distinguished the type of fielded information currently required to be submitted by underwriters to EMMA, characterized as data necessary to create such basic record of the new issue, from the type of information proposed to be collected through the original proposed rule change, which RBDA characterized as unnecessary for creating the record in EMMA. SIFMA stated that the continuing disclosure undertaking is already required to be summarized in the official statement available through EMMA and that extracting information from the official statement would effectively discourage investors from having to read the official statement itself. SIFMA further stated that, if the MSRB wants to highlight issuers' continuing disclosure obligations, this can be done by creating a best practices standard. Finally, SIFMA urged the MSRB to commit to making EMMA

compatible with information underwriters are providing to the Depository Trust and Clearing Corporation's New Issue Information Dissemination System ("NIIDS").

NABL did not state a position regarding the original proposed rule change but cautioned that the "reasonable determination" standard of Rule 15c2-12 with regard to whether a continuing disclosure undertaking in conformity with the rule has been entered into should not be altered by the original proposed rule change. NABL also suggested that a more complete analysis of the MSRB's statutory authority for adopting the original proposed rule change be provided.

The MSRB continues to believe that collecting and displaying on the EMMA web portal the existence of a continuing disclosure obligation, the names of any obligated persons other than the issuer, and the deadline for submission of annual financial and operating data, all as fielded information rather than merely as information provided within documents, would provide significant benefits to investors and other market participants. The close proximity of this information to the links to posted continuing disclosure documents on the EMMA web portal would assist investors with understanding whether and when they should expect to have access to key continuing disclosure information in the future and about whom such information is expected to be provided. Investors and other market participants would be able to include an assessment of on-going access to information along with other factors upon which they may evaluate their investment decisions. The MSRB is firmly of the belief that the proposed rule change is within its statutory authority and notes that an MSRB rule change or system requirement would not have the effect of altering any obligations or standards under Rule 15c2-12 or any other Commission rule.

Existence of Continuing Disclosure Obligation

The original proposed rule change would require the underwriter to provide, on amended Form G-32, information on whether the issuer or other obligated persons have agreed to undertake to provide continuing disclosure information as contemplated by Rule 15c2-12. None of the commentators expressly opposed disclosure of whether a continuing disclosure undertaking has been entered into in connection with a primary offering, although RBDA preferred that such information be conveyed through a filing of the document by the underwriter and SIFMA preferred that EMMA users determine this information by reading the official statement.

This amendment does not modify this proposed requirement.

Identification of Obligated Persons

With respect to identification of obligated persons, NABL and SIFMA noted in their comments on the MSRB Notice that only those obligated persons for whom financial or operating data is provided in the official statement are relevant. NABL suggested only requiring underwriters “to identify those persons expressly specified in the continuing disclosure undertaking who will be required to make continuing disclosure filings or to state that such persons will be determined by the functional descriptions contained in the continuing disclosure undertaking.” SIFMA stated that a requirement for the underwriter to provide such information is “unnecessarily complicated since the official statement itself, which is on the portal, has a summary paragraph stating who will be filing continuing disclosure and where it will be filed.”

The original proposed rule change would require the underwriter to provide, on amended Form G-32, the name of any obligated person, other than the issuer of the

municipal securities, that has or will undertake, or is otherwise expected to provide, continuing disclosure pursuant to the continuing disclosure undertaking. The original proposed rule change made clear that underwriters would be required to provide the name of only those obligated persons that would be providing continuing disclosures pursuant to the continuing disclosure undertaking, rather than all obligated persons regardless of whether such obligated persons will be providing disclosure information. Connecticut noted that, for some issues, obligated persons can change over time and that it is unclear whether the original proposed rule change accommodates this possibility. NABL supported the MSRB's formulation that the rule would require only that underwriters provide the name of any obligated person (other than the issuer) that would be providing continuing disclosures pursuant to the continuing disclosure undertaking, rather than all obligated persons regardless of whether such obligated persons will be providing disclosure information. NABL recommended that this requirement be viewed as a mechanical reporting provision requiring the underwriter to report which persons are identified in the continuing disclosure agreement as being responsible for providing continuing disclosures (or that such persons will be determined by the functional descriptions in the continuing disclosure undertaking) and that underwriters not be required to make a legal determination as to whether any such person is an obligated person within the meaning of Rule 15c2-12. NABL also recommended that the definition of obligated person more closely mirror the definition thereof in Rule 15c2-12.

The MSRB believes that collecting the identity of obligated persons in a fielded manner that permits automated indexing and search functions is an important feature that would make the EMMA web portal considerably more useful for users. Such indexed

information would assist EMMA web users in finding some or all of the offerings for a particular obligated person, thereby allowing the user to review the continuing disclosure undertakings that more fully spell out how the continuing disclosure obligations will be fulfilled.

The MSRB has determined to modify the definition of obligated person in proposed Rule G-32(d)(xiii) to more closely conform to the definition thereof in Rule 15c2-12(f)(10) to avoid any definitional ambiguity. Furthermore, this amendment would modify Form G-32 to explicitly provide that the obligated persons to be identified are those that are specifically identified in the continuing disclosure undertaking. The MSRB emphasizes that the underwriter's obligation is solely to provide the identities of those obligated persons who have a specific commitment under the continuing disclosure agreement to provide continuing disclosures. Underwriters would not be required to undertake any independent analysis of what other persons might be covered, to submit descriptions of bases for determining future obligated persons, or to maintain the currency of the list of obligated persons beyond the closing date.⁹

Deadline for Annual Filing and End of Fiscal Year

With respect to the expected date of filing of annual financial information as described in the MSRB Notice, NABL and SIFMA questioned the value of providing this information. NABL noted that the information is already provided in the official statement's description of the continuing disclosure undertaking and can become confusing if several obligated persons are required to file annual filings on different

⁹ Issuers and obligated persons will be able to make changes to such information through their submission accounts established in connection with EMMA's continuing disclosure service.

dates, while SIFMA noted that the information can be vague, often based on a stated period of time following the end of a fiscal year, and will become readily apparent based on the pattern of posting over time. NAHEFFA sought clarification of the purpose for requiring this date and requested that the data entry be flexible enough to reflect a deadline measured from the end of a fiscal year or other milestone, rather than a date certain.

The original proposed rule change would require the underwriter to provide, on amended Form G-32, the date or dates identified in the continuing disclosure undertaking, pursuant to Rule 15c2-12(b)(5)(ii)(C) or otherwise, by which annual financial information is expected to be submitted each year by the issuer and/or any obligated persons to the EMMA system. Other than RBDA's and SIFMA's concerns about extraction of information from the continuing disclosure undertaking or the official statement, none of the commentators on the original proposed rule change expressly opposed disclosure of the submission date for the filing of annual financial information.

The MSRB believes that there is considerable value in providing the deadline for submission of annual financial information in a manner that is extracted from the official statement. This would permit investors and the general public to readily identify when such disclosures should become available from each issuer or obligated person expected to provide the annual filings. Issuers and obligated persons would be able to update the timing requirement, as well as the identity of any obligated persons, through EMMA as appropriate.

The MSRB has further considered the comments on the MSRB Notice with respect to potential difficulties in specifying a date certain for the filing of annual

financial information in certain circumstances. As a result, the MSRB has determined to modify this provision to provide a new alternative method for reporting the deadline for submissions of annual financial and operating data based on the disclosed end of fiscal year, so that underwriters could disclose as the submission deadline either a specific date each year (*i.e.*, month and day, such as June 30) or the number of days or months after the end of the fiscal year (*i.e.*, 120 days after the end of the fiscal year). The underwriter could use the day/month count alternative only if the underwriter also submits the day on which the issuer's or obligated person's fiscal year ends (*i.e.*, month and day, such as June 30). Form G-32 would be modified to allow for submission of this new data element.

Issuer/Obligated Person Contact Information

The original proposed rule change would require the underwriter to provide, on amended Form G-32, contact information for a representative of the issuer and/or any obligated persons for purposes of establishing continuing disclosure submission accounts for such issuer and/or obligated persons in connection with their submissions to the EMMA system. Connecticut requested that the current voluntary process for providing contact information for representatives of the issuer or obligated person for purposes of establishing EMMA submission accounts not be made mandatory.

The MSRB believes that its current voluntary process has been effective and therefore this amendment would eliminate from Form G-32 the requirement that underwriters provide the contact information for a representative of the issuer and/or any obligated person.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The MSRB has requested an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than nine months after Commission approval of the proposed rule change and shall be announced no later than sixty (60) days prior to the effective date.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MSRB-2009-09 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC

20549-1090.

All submissions should refer to File Number SR-MSRB-2009-09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-2009-09 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Elizabeth M. Murphy
Secretary

¹⁰ 17 CFR 200.30-3(a)(12).



**MSRB Notice 2008-05
(January 31, 2008)**

**MSRB Begins Planning for Continuing Disclosure
Component of the New Electronic Municipal Market Access
System (EMMA)**

The Municipal Securities Rulemaking Board (the “MSRB”) previously filed a proposed rule change with the Securities and Exchange Commission (the “SEC”) to implement, on a pilot basis, an Internet-based portal (the “pilot portal”) to provide free public access to official statements (“OSs”) and advance refunding documents (“ARDs”) submitted to the MSRB by underwriters of new issue municipal securities, together with real-time municipal securities trade price data from the MSRB’s Real-Time Transaction Reporting System (“RTRS”).¹ The pilot portal is a necessary first step toward establishing an “access equals delivery” standard for OS dissemination in the new issue municipal securities market, based on the “access equals delivery” rule for prospectus delivery for registered securities offerings adopted by the SEC in 2005.²

In its filing for the pilot portal, the MSRB noted that it would stand ready to expand the pilot to include secondary market disclosures (consisting of annual financial information and notices of specific material events provided by issuers and other obligated persons under Exchange Act Rule 15c2-12), should the SEC determine to modify Rule 15c2-12 to provide for a centralized electronic submission and dissemination model. In view of recent indications from the SEC that it expects to consider such a rule modification,³ the MSRB has determined to take initial steps toward incorporating Rule 15c2-12 continuing disclosure submissions into its permanent on-line disclosure system, subject to final adoption of such modifications. The MSRB is seeking comment on certain basic elements relating to the incorporation of continuing disclosure into the MSRB’s new disclosure utility. **Comments on this notice are due no later than February 25, 2008.**

¹ File No. SR-MSRB-2007-06. *See* MSRB Notice 2007-33 (November 15, 2007).

² *See* Securities Act Release No. 8591 (July 19, 2005), 70 FR 44722 (August 3, 2005) and Securities Act Rule 172, on delivery of prospectus, Rule 173, on notice of registration, and Rule 174, on delivery of prospectus by dealers and exemptions under Section 4(3) of the Securities Act of 1933, as amended. The MSRB has previously sought comment on the necessary rule changes to implement the “access equals delivery” standard. *See* MSRB Notice 2007-33 (November 15, 2007); MSRB Notice 2007-05 (January 25, 2007).

³ *See* letter from Christopher Cox, Chairman, SEC, to Frank Y. Chin, Chairman, MSRB, dated November 21, 2007, available at www.msrb.org/msrb1/Press/Release/CoxLetter--11-07.pdf (the “SEC Letter”).

ELECTRONIC MUNICIPAL MARKET ACCESS (EMMA) SYSTEM

The permanent system, to be known as the MSRB's Electronic Municipal Market Access system (EMMA), will serve as a centralized Internet-based system for free real-time public access to all primary market, secondary market and trade price data for municipal securities submitted to the MSRB. EMMA will provide a free public dissemination utility for municipal securities disclosure filings to parallel the SEC's public dissemination function for the registered securities market through its Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system.⁴ In addition, EMMA will provide trade pricing information for municipal securities to parallel the price dissemination functions offered by the self-regulatory organizations for various other securities markets.⁵ All submissions to the MSRB through EMMA, including submissions of OSs and ARDs by underwriters and their agents and submissions of continuing disclosures by issuers and their agents under continuing disclosure agreements, would be made without charge solely by electronic means.

EMMA will be implemented in stages, with the initial stage consisting of the pilot portal for OSs and ARDs expected to become operational on or about March 10, 2008, subject to final approval by the SEC. This OS/ARD pilot portal is expected to operate for a limited period as the MSRB transitions to the "access equals delivery" standard for OS dissemination in the municipal securities market. EMMA's "access equals delivery" component is currently planned to become operational during the summer of 2008, subject to final rulemaking by the MSRB and SEC approval. At that time, the "access equals delivery" component will provide for free electronic submissions of all OSs and ARDs to the MSRB and free public access to such documents through the public EMMA website. The continuing disclosure component of EMMA also would be implemented in stages, with an initial pilot stage during which submissions of continuing disclosure information could be made on a voluntary basis and such voluntary submissions would be made publicly available through the EMMA website.⁶ This continuing disclosure pilot stage would operate for a limited period until the effective date of any SEC rulemaking under Rule 15c2-12 to provide for the MSRB's role as the central submission and dissemination utility

⁴ The EMMA system's disclosure function will not operate in an identical manner to the EDGAR system due to considerable differences in the two marketplaces, necessitating differing approaches to indexing of and searching for disclosure information.

⁵ See, for example, fixed-income prices provided by the Financial Industry Regulatory Authority; equity prices provided by the New York Stock Exchange, NASDAQ and others.

⁶ Such voluntary filings would not substitute for any required filings under existing continuing disclosure undertakings but would be intended to provide submitters the opportunity to gain experience with the EMMA system prior to it becoming the central submission utility for continuing disclosure information.

for continuing disclosure information. At that time, EMMA's continuing disclosure component would become fully operational, providing for free electronic submissions of all continuing disclosures under Rule 15c2-12 to the MSRB and free public access to such disclosures through the public EMMA website, as described below.

CONTINUING DISCLOSURES

Under Exchange Act Rule 15c2-12(b)(5), an underwriter for a primary offering of municipal securities subject to the rule currently is prohibited from underwriting the offering unless the underwriter has determined that the issuer or an obligated person for whom financial information or operating data is presented in the final OS, or a designated agent, has undertaken in writing to provide certain items of information to the marketplace.⁷ The items to be provided include: (A) annual financial information concerning obligated persons;⁸ (B) audited financial statements for obligated persons if available and if not included in the annual financial information; (C) notices of certain events, if material;⁹ and (D) notices of failures to provide annual financial information on or before the date specified in the written undertaking. The written agreement shall identify each obligated person or other person for whom information will be provided, either by name or by an objective criteria for selecting such person, and also shall specify (i) the type of information to be included in the annual financial information, (ii)

⁷ Rule 15c2-12(f)(10) defines "obligated person" as any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all or part of the obligations on the municipal securities sold in a primary offering (other than providers of bond insurance, letters of credit, or other liquidity facilities). The rule provides for more limited disclosures for obligated persons with no more than \$10 million of outstanding municipal securities. *See* Rule 15c2-12(d)(2).

⁸ Rule 15c2-12(f)(9) defines "annual financial information" as financial information or operating data, provided at least annually, of the type included in the final OS with respect to an obligated person, or in the case where no financial information or operating data was provided in the final OS with respect to such obligated person, of the type included in the final OS with respect to those obligated persons that meet the objective criteria applied to select the persons for which financial information or operating data will be provided on an annual basis.

⁹ Such events consist of principal and interest payment delinquencies; non-payment related defaults; unscheduled draws on debt service reserves reflecting financial difficulties; unscheduled draws on credit enhancements reflecting financial difficulties; substitution of credit or liquidity providers, or their failure to perform; adverse tax opinions or events affecting the tax-exempt status of the security; modifications to rights of security holders; bond calls; defeasances; release, substitution, or sale of property securing repayment of the securities; and rating changes.

the accounting principles pursuant to which financial statements will be prepared and whether such financial statements will be audited, and (iii) the date on which the annual financial information will be provided.

If the SEC amends Rule 15c2-12 to provide that issuers file their continuing disclosures under the rule centrally with the MSRB in electronic form, the MSRB would expand EMMA's functionalities to also serve as the central electronic submission system for filing of all secondary market disclosures under amended Rule 15c2-12, at no charge to the submitter. The MSRB would integrate this collection of secondary market disclosure information with the MSRB's OS/ARD collection and RTRS data to provide a free comprehensive centralized public access portal for primary market disclosure information, secondary market disclosure information and transaction price information. EMMA would accept submissions of continuing disclosure information directly from issuers, obligated persons and their designated agents acting on their behalf. Continuing disclosures would be submitted to EMMA solely by electronic means in the same designated electronic format as will be required for submissions of OSs and ARDs by underwriters.¹⁰ EMMA would be designed to accept such electronic submissions, including basic indexing information, either through a web-based interface or by computer-to-computer upload or data stream. In addition to making continuing disclosures available publicly through the EMMA public web site, such disclosures would be available on a real-time basis through paid subscriptions to the complete EMMA document collection for re-dissemination or other use by subscribers.

The MSRB expects to collect key indexing information for secondary market disclosures both at the time of the initial issuance of the securities and when such disclosures are submitted to the MSRB. At initial issuance, underwriters of new issue municipal securities would be required to provide the following items of information: (i) whether a continuing disclosure undertaking exists; (ii) the identity of any obligated persons other than the issuer; and (iii) the date identified in the undertaking by which annual financial information is expected to be disseminated. ***The MSRB seeks comments on these additional items of information to be submitted in connection with new issues. In addition, the MSRB seeks comments on whether other additional items of information should be required to be submitted by underwriters at the time of initial issuance, such as (among other things) the identity of any agents designated to provide continuing disclosure information or any criteria set out in the continuing disclosure undertaking for identifying obligated persons subject to the disclosure obligations pursuant to such undertaking.***

¹⁰ The MSRB has proposed that submissions must be in an electronic format acceptable to the MSRB, must be word-searchable, and must permit the document to be saved, viewed, printed and retransmitted by electronic means using software generally available for free or on a commercial basis to non-business computer users. Documents in portable document format that are word-searchable and may be saved, viewed, printed and retransmitted by electronic means would be deemed to be in a designated electronic format. See MSRB Notice 2007-33 (November 15, 2007).

At the time of submission of an item of continuing disclosure, specific indexing information relating to such item would be collected from the submitter. Such information would be designed to accurately identify the category of information being provided, such as annual financial information, audited financial statements, material event notice (including designation of which category or categories of events), or failure to make timely filing of annual financial information. In addition, such information would be designed to accurately identify the issues or specific securities, as well as the obligated person (if applicable), to which such disclosure applies. Such information could be provided either through data files submitted to EMMA's computer-to-computer interface or through data-entry screens on the EMMA web interface.

Many issuers currently allow continuing disclosure information to be provided through designated agents. The MSRB intends on providing an issuer with the ability to control through EMMA who may act as a submission agent on its behalf. ***The MSRB seeks comments on whether the MSRB should accept submissions from a third party with respect to an issuer's securities only if the issuer has affirmatively designated to EMMA that such third party is authorized to act as its agent, or whether submissions from any registered EMMA user should be accepted on behalf of an issuer unless the issuer has affirmatively indicated that it wishes to take control over which parties can submit on its behalf.***

SUBMISSION PROCESS AND EMMA SUBSCRIPTIONS

The MSRB previously stated that EMMA would be designed to permit underwriters to designate third-party submission agents to act on their behalf with respect to their document and related information submission requirements.¹¹ In addition to using an upgraded version of the MSRB's current web-based electronic submission interface for individual documents, underwriters and their agents will be able to establish computer-to-computer data connections with EMMA to submit the documents and/or related information directly to EMMA. This direct document and data submission feature also would be available with respect to submissions of continuing disclosure information on behalf of issuers and obligated persons. In addition, the MSRB has noted that it will offer real-time subscriptions to EMMA's document collection and related information, which will be designed to provide real-time access to such documents and information as they are submitted and processed. The MSRB's goal is to ensure an efficient process for submission of documents and information to EMMA while making available real-time subscription products at a reasonable cost with a view to promoting broad dissemination of the EMMA information collection and encouraging market-based approaches to value-added services designed to meet the needs of investors and other market participants. The MSRB expects to begin soliciting feedback from potential submitters and subscribers to EMMA in the near future.

¹¹ See MSRB Notice 2007-5 (January 25, 2007).

* * * * *

Comments should be submitted by no later than February 25, 2008, and may be directed to Ernesto A. Lanza, Senior Associate General Counsel. Written comments will be available for public inspection at the MSRB's public access facility and also will be posted on the MSRB web site.¹²

January 31, 2008

¹² All comments received will be made publicly available without change. Personal identifying information, such as names or e-mail addresses, will not be edited from submissions. Therefore, commentators should submit only information that they wish to make available publicly.

**Alphabetical List of Comment Letters on MSRB Notice 2008-05 (January 31, 2008)
relating to underwriter submission of information relating to issuer's continuing disclosure obligations**

1. First Southwest Company: Letter from Jack Addams, Managing Director, dated February 25, 2008
2. National Association of Bond Lawyers: Letter from J. Foster Clark, President, dated February 25, 2008
3. National Association of Health and Educational Facilities Finance Authorities: Letter from Robert Donovan, Executive Director, Rhode Island Health and Educational Building Corporation, Stephen M. Fillebrown, Director of Research, Investor Relations and Compliance, NJ Health Care Facilities Financing Authority, and Charles A. Samuels & Meghan B. Burke, Mintz Levin Cohn Ferris Glovsky and Popeo PC, dated February 28, 2008
4. Securities Industry and Financial Markets Association: Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, dated February 25, 2008



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214-953-4102 Direct
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Jack Addams
Managing Director
Public Finance

jaddams@firstsw.com

February 25, 2008

Mr. Ernesto A. Lanza
Senior Associate General Counsel
Municipal Securities Rulemaking Board
1900 Duke Street Suite 600
Alexandria, VA 22314

Re: MSRB Notice 2008-05 (January 31, 2008) – MSRB Begins Planning for Continuing Disclosure Component of the New Electronic Municipal Market Access System (EMMA)

Dear Mr. Lanza:

On behalf of First Southwest Company (First Southwest), we appreciate the opportunity to comment on the Municipal Securities Rulemaking Board's (MSRB) Notice 2008-05. First Southwest compliments the MSRB on its work to make the municipal marketplace more transparent and efficient.

With regard to the proposed notice as referenced above and the online EMMA system, First Southwest supports the MSRB's endeavors to make municipal disclosure easier for underwriters of municipal bonds to comply with SEC Rule 15c2-12, as amended (the Rule). In addition, as a broker dealer with a substantial financial advisory practice, we support technological initiatives that assist issuers with submission of annual disclosure documents as well as material events.

First, the MSRB has asked whether the items underwriters are required to report to the EMMA system upon initial issuance of bonds, "(i) whether a continuing disclosure undertaking exists; (ii) the identity of any obligated persons other than the issuer; and (iii) the date identified in the undertaking by which annual financial information is expected to be disseminated" is sufficient or whether additional items of information should be submitted. First Southwest believes that these three pieces of information are the impetus for the undertaking; and therefore, no additional items need to be reported. In addition, underwriters are already responsible for these items prior to buying or trading municipal bonds; and therefore, are inline with existing obligations under the Rule.

Second, First Southwest would encourage the MSRB to define real-time as "such disclosures would be available on a real-time basis through paid subscriptions to the complete EMMA document collection for re-dissemination or other use by subscribers." Would real-time be defined as sending batches of information at the end of the day, or would real-time be defined as an alternate timeframe, such as that required for reporting trades?

Third, although the EMMA system will be designed to replace the four nationally recognized municipal securities information repositories (NRMSIRs), the notice does not indicate whether EMMA will also replace the State Information Depositories (SIDs). The SIDs are useful



reference tools for issuers and underwriters of municipal bonds in states where they exist. First Southwest would support their continued existence.

In addition, although one central repository for filing of continuing disclosure documents would be more efficient than filing this information with four NRMSIRs, would historical documents be brought over from these repositories or would EMMA only contain documents filed beginning at a certain date in the future?

Finally, the MSRB seeks comment on whether the issuer has to affirmatively designate to EMMA whether a third party is authorized to act as the issuer's agent or if any registered EMMA user could submit disclosure documents on behalf of the issuer. First Southwest would agree that an issuer must make this designation to ensure only applicable and appropriate documentation related to an issuer's securities is provided.

Again, we appreciate the opportunity to provide comments on this important issue facing the municipal bond market.

Respectively,

Jack Addams
Managing Director
Public Finance



**National Association
of Bond Lawyers**

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February 25, 2008

Ernesto A. Lanza
Senior Associate General Counsel
Municipal Securities Rulemaking Board
1900 Duke Street
Suite 600
Alexandria, VA 22314

Re: **MSRB Notice 2008-05 (January 31, 2008)**
**MSRB Begins Planning for Continuing Disclosure Component of
the New Electronic Municipal Market Access System (EMMA)**

Dear Mr. Lanza:

The National Association of Bond Lawyers (“NABL”) respectfully submits the enclosed response to the Municipal Securities Rulemaking Board (“MSRB”) solicitation of comments on MSRB Notice 2008-05, dated January 31, 2008 (the “Notice”), regarding MSRB’s planning for the continuing disclosure component of the new electronic municipal market access system (“EMMA”). The comments were prepared by an *ad hoc* subcommittee of NABL’s Securities Law and Disclosure Committee, as listed in Exhibit I.

In the Notice, the MSRB requests specific comments regarding the continuing disclosure component of EMMA, and NABL has provided comments in response to certain of these requests.

NABL exists to promote the integrity of the municipal market by advancing the understanding of and compliance with the law affecting public finance. A professional association incorporated in 1979, NABL has approximately 3,000 members and is headquartered in Chicago.

If you have any questions concerning the comments, please feel free to contact me at 202/226-3482 (fclark@balch.com) or Elizabeth Wagner, Director of Governmental Affairs at 202/682-1498 (ewagner@nabl.org).

Ernesto A. Lanza
RE: MSRB Notice 2008-05
Page 2 of 2



Thank you in advance for your consideration of these comments with respect to this important development in the municipal securities industry.

Sincerely,



J. Foster Clark

Enclosures

cc: Teri M. Guarnaccia
Curt Gwathney
William L. Hirata
Michael T. Kersten
Andrew Kintzinger
John M. McNally
Jeffrey C. Nave
Rebecca J. Olsen
Joseph E. Smith
Walter J. St. Onge III
Fredric A. Weber



National Association of Bond Lawyers

COMMENTS
OF THE
NATIONAL ASSOCIATION OF BOND LAWYERS
REGARDING
MSRB NOTICE 2008-05

MSRB BEGINS PLANNING FOR CONTINUING DISCLOSURE COMPONENT OF THE
NEW ELECTRONIC MUNICIPAL MARKET ACCESS SYSTEM (EMMA)

The following comments are submitted to the Municipal Securities Rulemaking Board (“MSRB”) on behalf of the National Association of Bond Lawyers (“NABL”) relating to the MSRB Notice 2008-05—MSRB Begins Planning for Continuing Disclosure Component of the New Electronic Municipal Market Access System (EMMA), dated January 31, 2008 (the “Notice”). The comments were prepared by an *ad hoc* subcommittee of the NABL Securities Law and Disclosure Committee.

NABL welcomes this opportunity to respond to the MSRB’s continuing initiative to develop an electronic system for dissemination of municipal securities disclosure documents and focuses its comments on those particular questions to which it believes it has relevant expertise. NABL has two general comments about the Notice as well as several specific comments. The headings shown below under NABL’s specific comments correspond to the MSRB’s requests in the Notice.

1. General Comment—Availability of Continuing Disclosure Filings on EMMA.

NABL asks that the MSRB clarify its plans regarding the availability of continuing disclosure filings on EMMA. Will all content be free? Will only portions of the content be free? In the Notice, the MSRB makes several statements about the availability of continuing disclosure filings on EMMA. The Notice states that “EMMA’s continuing disclosure component would . . . [provide] for free electronic submissions of all continuing disclosures under Rule 15c2-12 to the MSRB and free public access to such disclosures through the public EMMA website” The Notice also states that “[i]n addition to making continuing disclosures available publicly through the EMMA public web site, such disclosures would be available on a real-time basis through paid subscriptions to the complete EMMA document collection for re-dissemination or other use by subscribers.” Further, the Notice states that “[i]n addition, the MSRB has noted that it will offer real-time subscriptions to EMMA’s document collection and related information, which will be designed to provide real-time access to such documents and information as they are submitted and processed. The MSRB’s goal is to ensure an efficient process for submission of documents and information to EMMA while making available real-time subscription products at a reasonable cost with a view to promoting broad dissemination of the EMMA information collection and encouraging market-based approaches to value-added services designed to meet the needs of investors and other market participants.” When read together, these statements seem to indicate that only paid subscribers would have immediate access to all of EMMA’s documents. Is this the MSRB’s intent? Or is the MSRB’s intent that all would have immediate

access, but that paid subscribers would have immediate receipt of the information (through an RSS technology or otherwise)?

2. General Comment—Continuing Disclosure Filings for Previously Issued Municipal Securities on EMMA.

NABL also asks that the MSRB clarify its plans regarding continuing disclosure filings with respect to previously issued municipal securities. In the Notice, the MSRB indicates that it expects to collect information relating to “new issue municipal securities,” which suggests the MSRB will not accept continuing disclosure filings with respect to previously issued municipal securities. Will the MSRB accept filings with respect to previously issued municipal securities either because they are submitted voluntarily by an issuer or because an issuer is required to submit them pursuant to a continuing disclosure agreement?

3. Specific Comments.

The MSRB seeks comments on these additional items of information to be submitted in connection with new issues. In addition, the MSRB seeks comments on whether other additional items of information should be required to be submitted by underwriters at the time of initial issuance, such as (among other things) the identity of any agents designated to provide continuing disclosure information or any criteria set out in the continuing disclosure undertaking for identifying obligated persons subject to the disclosure obligations pursuant to such undertaking.

In the Notice, the MSRB states that, at the time of initial issuance “underwriters of new issue municipal securities would be required to provide the following items of information: (i) whether a continuing disclosure undertaking exists; (ii) the identity of any obligated persons other than the issuer; and (iii) the date identified in the undertaking by which annual financial information is expected to be disseminated.”

NABL has no comments on the first requested item of information but would qualify the second requested item of information. Instead of having underwriters identify “obligated persons” (a term that has a technical meaning under the United States Securities and Exchange Commission’s Rule 15c2-12), NABL recommends that underwriters be required only to identify those persons expressly specified in the continuing disclosure undertaking who will be required to make continuing disclosure filings or to state that such persons will be determined by the functional description contained in the continuing disclosure undertaking (for example, participants in a pooled bond financing satisfying certain criteria in the continuing disclosure undertaking).

Rule 15c2-12 does not require that continuing disclosure filings be made regarding all obligated persons, but only regarding those obligated persons about whom financial information or operating data is included in an offering document. In addition, NABL is concerned that this second requested item of information could be viewed as additional certification by underwriters beyond the obligations prescribed by Rule 15c2-12(b)(5)(i) that underwriters “reasonably determine” that a continuing disclosure undertaking conforming to the Rule has been executed.

With respect to the third item of information, NABL requests that the MSRB clarify why it plans to require that underwriters provide to the MSRB the date identified in the continuing

disclosure undertakings by which annual financial information is expected to be disseminated. This information already can be found in the offering documents to which such undertakings relate. Moreover, if more than one person is specified in the undertaking that will be required to make continuing disclosure filings or if reporting is required more frequently than annually, financial information dissemination will be required on multiple dates.

With respect to other additional items of information that should be required to be submitted by underwriters at the time of initial issuance, NABL does not believe that underwriters should be asked to identify agents designated to provide continuing disclosure information. However, NABL recommends that the MSRB consider requiring underwriters to submit CUSIP numbers at the time of initial issuance, so that users of EMMA can search for information by issuer name or CUSIP number. NABL also recommends that the MSRB solicit input from the investor community regarding the desirability of requiring underwriters to submit the name and a unique identification number for those obligated persons about whom financial information or operating data is included in an offering document (for example, an employer identification number) at the time of initial issuance, so that users of EMMA can search for information by obligated persons identified in filings.

The MSRB seeks comments on whether the MSRB should accept submissions from a third party with respect to an issuer's securities only if the issuer has affirmatively designated to EMMA that such third party is authorized to act as its agent, or whether submissions from any registered EMMA user should be accepted on behalf of an issuer unless the issuer has affirmatively indicated that it wishes to take control over which parties can submit on its behalf.

NABL respectfully defers to the issuer community on the issue of whether the MSRB should accept submissions from third parties with respect to an issuer's securities.



National Association of Bond Lawyers

EXHIBIT I

NABL SECURITIES LAW AND DISCLOSURE COMMITTEE AD HOC SUBCOMMITTEE MEMBERS MSRB NOTICE 2008-05

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NAHEFFA

National Association of Health and Education Facilities Finance Authorities

March 3, 2008 **[By Mail and e-Mail]**

Mr. Ernesto A. Lanza
Senior Associate General Counsel
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314
Attention: Rulemaking/Policy

RE: Comments on January 31, 2008 MSRB Notice 2008-05

Dear Mr. Lanza:

The National Association of Health and Educational Facilities Finance Authorities (NAHEFFA) appreciates the opportunity to comment on MSRB Notice 2008-05 relating to the new Electronic Municipal Market Access System ("EMMA"). NAHEFFA represents statewide issuers of tax-exempt bonds for non-profit healthcare, higher education and other charitable purposes.

We generally support the concept of expanding the existing pilot to contain a continuing disclosure component, as described in your notice. We need details about the operation of the system before we can fully comment or determine our support. The following are preliminary comments and questions.

First, it is important that the SEC modify Rule 15c2-12 to make clear that submission of information to EMMA, even during the pilot period, satisfies all filing obligations and that issuers will not be required also to make submissions through the NRMSIRs. Second, the provisions of the SEC Rule 15c2-12 should be limited to allowing electronic submission of disclosure documents to one central location and not be expanded for other purposes, including to further the SEC's announced interest in increasing regulation of issuers.

We support a requirement that there be an explicit designation by the issuer of a third party who may act as a submission agent on its behalf. It is important that issuers maintain control of who may file such submissions on their behalf and that MSRB be clear that specific authorization has been provided.

There are several matters raised in the notice which require clarification. For example, the notice states that underwriters will be required to provide certain information at initial issuance, including without limitation "the date on which the annual financial information will be provided." We request that the MSRB clarify the purpose of such information and, if such information is to reflect the obligations under the continuing disclosure agreement, that the data entry be flexible enough to reflect a deadline such as within a certain number of days (i.e., 180) from the end of the fiscal year, rather than a date certain. In addition, please clarify whether EMMA would accommodate regular, periodic filings in addition to annual ones, whether an obligation in the continuing disclosure agreement or elsewhere, such as a commitment of a borrower in a conduit financing to provide quarterly or monthly financial results.

Mr. Ernesto A. Lanza
March 3, 2008

Our conceptual support for EMMA is based on the understanding that it will not require additional cost to prepare data submissions. In that regard, the statement in the notice that "information could be provided either through data files submitted to EMMA's computer-to-computer interface or through data-entry screens on the EMMA web interface" raises the question whether special software or other arrangements will need to be purchased by issuers. How accessible is the interface? Are standard e-mail systems capable of this interface or are there additional buried transaction costs which should be made clear? Please also confirm that issuers will receive electronic confirmation that disclosure materials were received by EMMA.

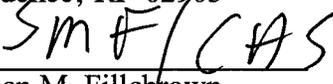
Finally, the notice states that "in addition to making continuing disclosures available publicly through the EMMA website, such disclosures would be available on a real-time basis through paid subscriptions to the complete EMMA document collection for re-dissemination or other use by subscribers." This raises the issue of two different levels of access to this data. We request information about the nature of the special access that your real-time subscribers will obtain and how that differs from the benefits to the general public. How many hours or days gap will there be between access by the special paid subscribers and the general public? We believe that issuers as well as private sector participants ought to have essentially the same benefit from EMMA without having to pay MSRB for a subscription.

We appreciate the opportunity to comment and look forward to working closely with MSRB. We believe that it is critical that MSRB make a special effort to reach out to issuers on the continuing development of this system.

On behalf of NAHEFFA:



Robert Donovan
Executive Director
Rhode Island Health and Educational Building Corporation
170 Westminster Street, Suite 1200
Providence, RI 02903

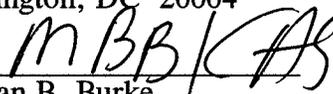


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cc: Lynnette Kelly Hotchkiss, Esquire



February 25, 2008

Ernesto A. Lanza
Senior Associate General Counsel
Municipal Securities Rulemaking Board
1900 Duke Street
Suite 600
Alexandria, Virginia 22314

Re: MSRB Notice 2008-05: Plans to Establish an
Electronic Access System for Continuing Disclosure

Dear Mr. Lanza:

The Securities Industry and Financial Markets Association (“Association”)¹ appreciates this opportunity to respond to Notice 2008-05 issued by the Municipal Securities Rulemaking Board (“MSRB”) on January 31, 2008 (“Notice”) in which the MSRB requests comment on its proposal to expand the pilot portal being developed by the MSRB, in connection with official statements and advance refunding documents, to include secondary market submissions of continuing disclosure in the event the Securities and Exchange Commission (“SEC”) amends Rule 15c2-12 to provide for a centralized electronic submission and dissemination model.

The Association fully supports the development by the MSRB of a pilot portal, as an internet-based public access portal, to provide free access to secondary market disclosures (consisting of annual financial information, notices of specific material events and related filings pursuant to Rule 15c2-12). The pilot portal, along with the pilot portal for primary market disclosure, would be in anticipation of a permanent system, to be known as the MSRB’s Electronic Municipal Market Access system (“EMMA”). The Association further wishes to express its appreciation to the MSRB for its efforts to create a single electronic portal for both primary and secondary market disclosure, which we believe will improve market efficiency and facilitate comprehensive disclosure in the municipal securities markets. The MSRB is to be congratulated for its rapid response to recommendations from the Association and other market participants

¹ The Association, or “SIFMA,” brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA’s mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public’s trust and confidence in the markets and the industry. SIFMA works to represent its members’ interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

February 25, 2008

Page 2

that there be a single location for free access by investors of both primary and secondary market information.

Submission of Indexing Information

The MSRB seeks comment on the proposal in the Notice that underwriters submit certain indexing information at the time of initial issuance of municipal securities. At the time of initial issuance, underwriters would be required to provide the following items of information: (i) whether a continuing disclosure undertaking exists, (ii) the identity of any obligated person other than the issuer, and (iii) the date identified in the undertaking by which annual financial information is expected to be disseminated.

The Notice does not identify the time or format required for this information other than that it would be at the time of initial issuance. Presumably, the information would be part of the new G-32 form submitted when the official statement is filed with EMMA. The second item, which is the identification of any obligated person, may, in some cases, have little value because a financing can have numerous obligated persons, but continuing disclosure is not required with respect to an obligated person unless information about the obligated person is material and the official statement thus contains financial or operating data about the obligated person. If the reason for this information is for the portal site to have a line item disclosing obligated persons about whom continuing disclosure will be provided, it should also be recognized that many obligated persons file on EDGAR pursuant to the Securities Exchange Act of 1934, and the EDGAR filing will normally satisfy the continuing disclosure agreement. Attempting to disclose which obligated persons can be expected to file on EMMA seems unnecessarily complicated since the official statement itself, which is on the portal, has a summary paragraph stating who will be filing continuing disclosure and where it will be filed. The continuing disclosure agreement, in full, is also usually in the official statement.

The third item of information, stating the date by which annual financial information is expected to be disseminated is likely to be vague and, thus, not useful. Typically, the continuing disclosure agreement has a formula, such as “within 90 days after the close of the issuer’s fiscal year.” We doubt this statement has much utility. Once the annual information is filed on EMMA, a pattern will develop that will indicate to investors when the information is likely to be filed each year.

Designated Agents

The MSRB seeks comment on whether the MSRB should accept submissions from a third party with respect to an issuer’s securities only if the issuer has affirmatively designated to EMMA that such third party is authorized to act as its agent, or whether submissions from any registered EMMA user should be accepted on behalf of an issuer unless the issuer has affirmatively indicated that it wishes to take control over which parties can submit on its behalf.

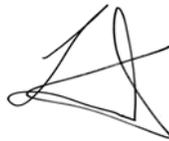
February 25, 2008

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The Association is concerned that if EMMA does not accept continuing disclosure from a third party, unless an issuer specifically authorizes the third party to EMMA, there will be cases of issuer inaction preventing timely disclosure. Many issuers appoint dissemination agents or rely on obligated persons to submit continuing disclosure. Posting disclosure should not be delayed by a requirement of authorization by an issuer, who is not involved in making continuing disclosure, because a delay in authorization would create an increased likelihood of a failure to provide information on or before the date specified in the continuing disclosure agreement and, thus, a new notice required of a failure to comply as well as disclosure in a subsequent official statement of a failure to comply. We believe the current practice set forth in the standard Municipal Secondary Market Disclosure Information Cover Sheet should be continued, which requires the person/entity submitting information to represent affirmatively that the person is authorized to submit the information.

We appreciate the opportunity to comment on the proposed pilot portal for secondary market disclosure. If you have any questions concerning these comments, or would like to discuss these comments further, please feel free to contact the undersigned at 212.313.1130 or via email at lnorwood@sifma.org.

Respectfully,

A handwritten signature in black ink, appearing to be 'L. Norwood', written in a cursive style.

Leslie M. Norwood
Managing Director and
Associate General Counsel

Ernesto A. Lanza
February 25, 2008
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cc: ***Securities Industry and Financial Markets Association***
Municipal Executive Committee
Municipal Policy Committee
Municipal Legal Advisory Committee
Municipal Operations Committee
Municipal Syndicate & Trading Committee
Municipal Credit Research, Strategy and Analysis Committee
Municipal Access Equals Delivery Task Force

EXHIBIT 3**FORM G-32**¹

(Items to be provided pursuant to Rule G-32(b)(vi)(A))

- I. **Underwriter/Submitter Identification**
 - A. Name of managing underwriter
 - B. MSRB number of managing underwriter
 - C. Name of submitter company, if different than managing underwriter
 - D. MSRB number of submitter company, if different than managing underwriter
 - E. Name of individual making submission
 - F. Contact information for individual making submission

- II. **Submission Information**
 - A. Submission type (primary market disclosure or advance refunding submission)
 - B. Submission identifier, only for supplements, modifications or amendments of prior submission

- III. **Information for Offering**
 - A. Offering type (debt or municipal fund security)
 - B. Underwriting spread/agency (placement) fee, for negotiated offerings if not included in official statement
 - C. Underwriting assessment exemption/discount indicator, if applicable
 - D. Notice of cancellation of offering, if applicable

- IV. **Information for Each Issue in Offering Underwritten by Underwriter**
 - A. Issue type (new issue, remarketing)
 - B. Security type (CUSIP-based issue, commercial paper with 6-digit CUSIP information, ineligible for CUSIP number assignment)
 - C. Full issuer name
 - D. Full issue description
 - E. State, only for issues ineligible for CUSIP number assignment and municipal fund securities
 - F. Issue dated date
 - G. Closing date
 - H. Original dated date, for remarketings with new dated date assigned
 - I. Original nine-digit CUSIP number of remarketed issue, only if new CUSIP numbers assigned to a remarketed issue
 - J. Six-digit CUSIP number, for commercial paper issues

- V. **Information for Each Security in Issue Underwritten by Underwriter**
 - A. Nine-digit CUSIP number, except issues with no CUSIP numbers, issues of commercial paper, or issues of municipal fund securities
 - B. Maturity date

¹ Underlining indicates additions.

- C. Interest rate
- D. Maturity principal amount, except issues of commercial paper or issues of municipal fund securities
- E. Initial offering price or yield, except issues of commercial paper or issues of municipal fund securities
- F. Partial underwriting indicator, if less than full principal amount of security is underwritten by underwriter
- G. Security dated date, only for securities ineligible for CUSIP number assignment and if different from issue dated date

VI. Information for Issue Not Underwritten by Underwriter (if any)

- A. Nine-digit CUSIP number for latest maturity of issue, only if a different underwriter underwrote an entire issue that is part of the offering

VII. Advance Refunding Information

- A. Advance refunding indicator
- B. Original nine-digit CUSIP numbers of refunded securities
- C. Maturity date of refunded securities
- D. Refunded issuer name, only if refunded issue has no CUSIP numbers
- E. Refunded issuer's state, only if refunded issue has no CUSIP numbers
- F. Refunded issue description, only if refunded issue has no CUSIP numbers
- G. Newly assigned nine-digit CUSIP numbers of refunded securities, if any
- H. Newly assigned nine-digit CUSIP numbers of unrefunded balances, if any

VIII. Document Information

- A. Document type (official statement, preliminary official statement, advance refunding document)
- B. Date document received from issuer
- C. Notice of OS unavailability under Rule G-32(b)(i)(B)(2)(A) or (b)(i)(C)(1), if applicable
- D. Notice of no OS submission for limited offering under SEC Rule 15c2-12(d)(1)(i), if applicable
- E. Contact information for obtaining limited offering OS, if applicable
- F. Notice of POS unavailability under Rule G-32(b)(i)(D)(2), if applicable

IX. Continuing Disclosure Information

- A. Continuing disclosure undertaking indicator
- B. Obligated persons, if any, identified in continuing disclosure undertaking, other than issuer (for issue subject to SEC Rule 15c2-12)
- C. Date annual financial information expected to be submitted (for issue subject to SEC Rule 15c2-12) (not required if items IX.D and IX.E are both provided)
- D. Issuer/obligated person fiscal year end date (for issue subject to SEC Rule 15c2-12) (required if item IX.C not provide)
- E. Number of days/months after fiscal year end by which annual financial information expected to be submitted (for issue subject to SEC Rule 15c2-12) (required if item IX.C not provide)

EXHIBIT 4

MARKED COPY OF CHANGES TO ORIGINAL PROPOSED RULE CHANGE¹

PROPOSED AMENDMENT TO RULE G-32

Rule G-32. Disclosures In Connection With Primary Offerings

(a)-(c) No change.

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

(i)-(xii) No change.

(xiii) The term “obligated person” shall mean an obligated person defined in Securities Exchange Act Rule 15c2-12(f)(10) [with respect to all or a portion of the municipal securities in a primary offering].

(e) No change.

* * * * *

PROPOSED AMENDMENT TO FORM G-32

I-VIII. No change.

IX. Continuing Disclosure Information

- A. Continuing disclosure undertaking indicator
- B. Obligated persons, if any, identified in continuing disclosure undertaking, other than issuer[, if any] (for issue subject to SEC Rule 15c2-12)
- C. Date annual financial information expected to be submitted (for issue subject to SEC Rule 15c2-12) (not required if items IX.D and IX.E are both provided)
- D. Issuer/obligated person fiscal year end date (for issue subject to SEC Rule 15c2-12) (required if item IX.C not provide) [Issuer account set-up contact information (if issuer account not yet established and if issue subject to SEC Rule 15c2-12)]
- E. Number of days/months after fiscal year end by which annual financial information expected to be submitted (for issue subject to SEC Rule 15c2-12) (required if item IX.C not provide)

¹ Underlining indicates insertions made by this amendment to the original proposed rule change; brackets indicate deletions made by this amendment to the original proposed rule change.