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Request for Comment

**Comment Deadline**

September 14, 2015

**Category**

Market Transparency

## Request for Comment on Establishment of an Academic Historical Trade Data Product

### Overview

The Municipal Securities Rulemaking Board (MSRB) is requesting comment on establishing a historical data product to provide institutions of higher education with post-trade municipal securities transaction data collected through the MSRB's Real-time Transaction Reporting System (RTRS) ("RTRS Academic Data Product"). The establishment of the RTRS Academic Data Product would advance a goal of the MSRB's [Long-Range Plan for Market Transparency Products](#) (January 27, 2012) by facilitating access to municipal market data for academics. While academics currently utilize the post-trade municipal securities transaction data disseminated from RTRS, the RTRS Academic Data Product would improve the usefulness of this data by enabling academics to distinguish transactions executed by a particular broker, dealer or municipal securities dealer ("dealer"). The MSRB and the Financial Industry Regulatory Authority (FINRA) have been engaged in ongoing dialogue to support a coordinated approach in this area. FINRA is also publishing a notice soliciting comment on a similar proposal that would apply to other areas of the fixed income market.<sup>1</sup>

Comments on the MSRB's proposal should be submitted no later than September 14, 2015 and may be submitted in electronic or paper form. [Comments may be submitted electronically by clicking here.](#) Comments submitted in paper form should be sent to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board, 1900 Duke Street, Suite 600, Alexandria, VA 22314. All comments will be available for public inspection on the MSRB's website.<sup>2</sup>

<sup>1</sup> [FINRA Regulatory Notice 15-26 \(July 2015\).](#)

<sup>2</sup> Comments are posted on the MSRB website without change. Personal identifying information such as name, address, telephone number, or email address will not be edited from submissions. Therefore, commenters should submit only information that they wish to make available publicly.



Receive emails about MSRB  
regulatory notices.

Questions about this notice may be directed to Justin R. Pica, Director, Product Management - Market Transparency, at 703-797-6716, or Marcelo Vieira, Director of Research, at 703-797-6607.

## Background

MSRB Rule G-14, on transaction reporting, requires dealers to report all executed transactions in municipal securities to RTRS within 15 minutes of the time of trade, with limited exceptions.<sup>3</sup> RTRS serves the dual objectives of price transparency and market surveillance. While a comprehensive database of transactions is needed for the surveillance function of RTRS, not all information or transactions reported to RTRS are necessary to serve the transparency objective of the system and therefore do not qualify for public dissemination. Among other things, the executing broker symbol (EBS) that provides the identity of each dealer that executed a transaction reported to RTRS is not publicly disseminated.

The MSRB makes post-trade transaction data available to the general public through the [Electronic Municipal Market Access \(EMMA®\) website](#)<sup>4</sup> at no cost. MSRB also makes the same transaction data displayed on the EMMA website available on a subscription basis through a real-time data feed and on a delayed basis.<sup>5</sup> Further, MSRB offers for purchase historical transaction data, available in one-year data sets for transaction data that is at least 20 business days old.<sup>6</sup>

## RTRS Academic Data Product

The MSRB periodically receives requests from academics for enhanced historical MSRB trade data. While the RTRS data available on the EMMA website, through subscription services or in historical data sets is used by academic researchers today, it does not include any identifying information

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<sup>3</sup> Transactions in securities without CUSIP numbers, transactions in municipal fund securities and certain inter-dealer securities movements not eligible for comparison through a clearing agency are the only transactions exempt from the reporting requirements of Rule G-14.

<sup>4</sup> EMMA is a registered trademark of the MSRB.

<sup>5</sup> A subscription to the real-time data feed is \$11,000 per year and the comprehensive, or delayed, service is \$5,500 per year.

<sup>6</sup> Historical data is offered for purchase at \$2,500 per calendar year plus a one-time set-up fee of \$2,000 for new purchasers, unless the purchaser is a current subscriber to an MSRB subscription service.

regarding the dealer reporting each transaction. Thus, where a researcher wishes to tie transactions to dealers – even anonymously – the information disseminated from RTRS would not allow for this type of observation. As a result, some academics have asked whether the MSRB could make available an enhanced version of RTRS data that includes dealer identifiers. Further, on July 15, 2014, the MSRB published a [Report on Secondary Market Trading in the Municipal Securities Market](#) that utilized dealer identifiers to gain a better understanding of secondary market trading practices in the municipal securities market, including basic patterns of trading, pricing differentials associated with trading patterns and the impact of price transparency on pricing differentials. Academics wishing to replicate the methodology employed in this report are unable to do so as it relies on dealer identifiers.

In response to these requests from academics, the MSRB is proposing to create a new RTRS Academic Data Product that would include anonymized dealer identifiers. The RTRS Academic Data Product would be made available only to institutions of higher education and would include the same transactions included in the current RTRS historical transaction data sets. The RTRS Academic Data Product would be made available for a fee of \$500 per calendar-year data set (with a one-time initial set-up fee of \$500). The MSRB customarily waives all fees associated with an MSRB subscription service or historical data product purchase for institutions of higher education. However, due to the additional legal and operational effort required for the MSRB to offer the RTRS Academic Data Product, the MSRB believes that the \$500 fee per data set and \$500 one-time initial set-up fee is appropriate to help defray these costs.

While the MSRB understands that anonymized dealer identifiers may be highly useful to academics in connection with their research activities, the MSRB also recognizes that dealers may be concerned regarding the potential for reverse engineering of anonymized dealer identifiers to determine dealer identities. To address this issue, in addition to anonymizing dealer identifiers, the MSRB proposes to take further measures to allay such concerns, including to: (1) explicitly require subscribers to agree that they will not attempt to reverse engineer the identity of any dealer; (2) prohibit the redistribution of the data in the RTRS Academic Data Product; (3) require users to disclose each intended use of the data (including a description of each study being performed and the names of each individual who will have access to the data for the study); and (4) require that the data be returned or destroyed if the agreement is terminated. Select key terms intended to be included in the agreement to safeguard the data are outlined below. In addition, the transactions included in the RTRS Academic Data Product will be aged no less than 24 months.

## Economic Analysis

### ***The need for the RTRS Academic Data Product***

As discussed above, the MSRB has received requests from academics for enhanced historical MSRB data that includes dealer identifiers. The MSRB believes supporting academic research is consistent with its statutory mandates. The MSRB further believes that the RTRS Academic Data Product would improve the ability for academics to conduct research on the municipal securities market, including on issues related to intermediation costs, dealer participation and liquidity. Further, as noted above, the RTRS Academic Data Product would facilitate replication of the methodology employed in the MSRB July 15, 2014 [Report on Secondary Market Trading in the Municipal Securities Market](#).

### ***Relevant baselines against which the likely economic impact of the establishment of RTRS Academic Data Product can be considered***

The relevant baseline is the current RTRS facility that does not specify the availability of a historical trade data product for academics that includes identifying information regarding the dealer reporting each transaction.

### ***Identifying and evaluating reasonable alternative regulatory approaches***

The MSRB recognizes that there are alternatives to the approach proposed. The MSRB could take no action and continue to provide to academics only the information currently available to trade data subscribers. Alternatively, the MSRB could produce the new data product with the dealer identifiers as reported to the MSRB rather than anonymizing the dealer identifiers. This approach would likely yield greater benefits to researchers but could result in more negative impacts on market participants. Finally, the MSRB could produce the new data product as proposed, but under different terms. For example, the MSRB could issue the product on a longer or shorter delay or impose different terms on users.

### ***Assessing the benefits and costs of the establishment of the RTRS Academic Data Product***

While the proposed RTRS Academic Data Product with anonymized dealer identifiers may promote academic research on dealer behaviors, it also may raise concerns regarding the potential for reverse engineering of dealer identities. The MSRB will explore this issue further using available data and information obtained through the comment process.

## Request for Comment

The MSRB requests comment on all aspects of the proposal and specifically requests comment concerning the following issues.

- What public, issuer and investor protection benefits might arise from the availability of the RTRS Academic Data Product?
- The MSRB proposes that the RTRS Academic Data Product only include trade data that is aged no less than 24 months. Is this delay an appropriate period of time to allay concerns regarding potential reverse engineering of dealer identities? If not, what other delay period would be appropriate to address these concerns while still providing data that is timely enough to be useful for market research purposes?
- Would a shorter delay period, such as 12 months, be appropriate to enhance the timeliness of the data for research purposes while still minimizing the risk and potential impact of reverse engineering of dealer identifiers?
- Are there alternative ways of anonymizing dealer identities in the RTRS Academic Data Product? Are there groupings of dealers based on dealer characteristics (*e.g.*, size of dealer) that could be used to identify the type of dealer that executed each transaction? Are there behavioral groupings that may be utilized (*e.g.*, average daily trading volume) How would this approach be preferable to anonymizing dealer identifiers in retaining the usefulness of the data to academics while presenting fewer concerns regarding reverse engineering of dealer identifiers?
- The MSRB intends to limit the availability of the RTRS Academic Data Product to academics currently associated with an institution of higher education in connection with their research activities. Is this an appropriate limitation? If not, please provide alternatives and explain how the alternatives would address concerns regarding reverse engineering of dealer identifiers. Should a data product containing anonymized dealer identifiers be made available more broadly to researchers, even if not part of an institution of higher education (*e.g.*, industry groups, non-profit organizations or research-oriented for-profit companies)? Would a broader subscriber base increase the likelihood that dealers or other market participants may obtain the data for competitive reasons?
- Are the key terms of the agreement below sufficient in striking the appropriate balance between protecting dealer interests and facilitating academic research? Should the MSRB include any additional restrictions on the use of the data? Are any terms in the

agreement unduly restrictive such that they may potentially hinder research? Would academics be opposed to including as a term of the agreement that a copy of all derivative works that rely on the RTRS Academic Data Product be provided to the MSRB upon publication?

- How would dealers, or other market participants, be impacted if dealer identifiers were reverse engineered? Are there data or other evidence, including studies or research, that support estimates of these impacts?

July 16, 2015

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## Text of Draft Amendments<sup>7</sup>

### RTRS Facility

No change.

### Price Dissemination by RTRS

No change.

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### MSRB Real-Time Transaction Data Subscription Service

No change.

### MSRB Comprehensive Transaction Data Subscription Service

No change.

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### MSRB Historical Transaction Data Product

No change.

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<sup>7</sup> Underlining indicates new language.

### **MSRB Academic Historical Transaction Data Product**

The MSRB offers an Academic Historical Transaction Data Product, which consists of the same transaction information as is provided by the MSRB Historical Transaction Data Product with the exception that it also includes anonymized dealer identifiers. The Academic Historical Transaction Data Product may be obtained only by institutions of higher education in one calendar year data sets for \$500 per calendar year for data that is aged no less than 24 months. No smaller data sets will be available. The Academic Historical Transaction Data Product will be made available on CD-ROM<sup>1</sup>, pursuant to the terms of the Academic Historical Transaction Data Product Agreement, which must be executed prior to delivery of the Academic Historical Transaction Data Product.<sup>2</sup> A one-time initial set-up fee of \$500 will be charged for the Academic Historical Transaction Data Product, unless the requestor is a prior recipient of a historical data product or current subscriber to an MSRB Subscription Service, including the MSRB Real-Time Transaction Data Subscription Service, Comprehensive Transaction Data Subscription Service, Short-Term Obligation Rate Transparency Subscription Service, Primary Market Disclosure Subscription Service or Continuing Disclosure Subscription Service.<sup>3</sup>

- <sup>1</sup> As technology evolves, or if the volume of information included in the Academic Historical Transaction Data Product increases, the MSRB may in the future decide to use a different medium for delivering the Academic Historical Transaction Data Product.
- <sup>2</sup> Institutions of higher education shall be required to execute and shall be subject to the terms of an agreement to be entered into with the MSRB, which shall include proprietary and intellectual property rights of third parties in information provided by such third parties that is made available through the product.
- <sup>3</sup> Any applicable fees do not include sales tax as required by Virginia state law. The fee for each calendar year data set represents a one-time charge and will not include any future additions or enhancements that may be added to the data.

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### **RTRS ACADEMIC DATA PRODUCT AGREEMENT**

The MSRB would create a new agreement for recipients of the RTRS Academic Data Product generally based on the [MSRB Historical Data Product Purchase Agreement and Order Schedule](#). Selected key terms below would be incorporated into this new agreement that institutions of higher education would be required to execute in order to obtain the RTRS Academic Data Product. Some of these key terms may be modified in the final version of the agreement, and provisions of the current MSRB Historical Data Product Purchase Agreement and Order Schedule may be revised. Capitalized terms shall be defined as set forth in the agreement.

## Authorized Use

- Except as otherwise provided in the agreement, Recipient is granted a world-wide, non-transferable, non-exclusive, non-assignable, limited right and license to use the Academic Historical Transaction Data Product in accordance with the agreement and its attachments, and to create and publish derivative works.
- Authorized use is limited to accessing, receiving, using, processing, manipulating and storing the Academic Historical Transaction Data Product and creating and publishing derivative works in accordance with the agreement and attachments. Recipient is prohibited from disseminating the Academic Historical Transaction Data Product or any Data contained therein to third parties.
- Recipient must submit to the MSRB a new attachment to the agreement for each new intended use of the Academic Historical Transaction Data Product by Recipient. Any use of the Data, by a Recipient or its Internal Users, unless expressly described in this agreement, is prohibited.
- Internal Users of Recipient listed on a separate attachment to the agreement are authorized to use the specifically identified Academic Historical Transaction Data Product in accordance with the terms and conditions of the agreement and its attachments. Recipient represents and warrants that each of those individuals listed in the attachment fall within the definition of Internal Users set out in the agreement.
- Recipient remains liable to the MSRB for any breach of the agreement resulting from the action/inaction of Recipient's Internal Users or any other individual or entity that accesses the Academic Historical Transaction Data Product via Recipient or to whom Recipient provides any derivative works.
- If Recipient learns of any Unauthorized Use of the Data, it shall immediately provide the MSRB with written notice of the Unauthorized Use, and shall assist the MSRB in investigating, halting and prosecuting, if necessary, any such Unauthorized Use. If the MSRB so elects, Recipient shall assign and shall ensure that its agents assign all right, title and interest in and to any suit, including its subject matter, of or concerning the Data or which otherwise arises out of or is related to the agreement, to the MSRB.
- The MSRB reserves the right to monitor and review the activities of Recipient to ensure that no Unauthorized Use of the Data occurs. Recipient agrees to cooperate with the MSRB, and use reasonable efforts to obtain the cooperation of its Internal Users with the MSRB, at Recipient's cost, in any such review. In the event that the MSRB identifies any Unauthorized Use, Recipient shall, upon notice from the MSRB, immediately cease all such use and confirm in writing to the MSRB that such use has been terminated. At such time when the Unauthorized Use, in the sole, reasonable judgment of the MSRB, has been cured, the MSRB *may* grant Recipient permission to resume using Academic Historical Transaction Data Product and disseminating the Derivative Data.



This remedy is in addition to and not in place of any other remedy the MSRB may have as a matter of law or equity.

### Restrictions and Redistribution

- As the Data includes masked identification of the MSRB registrant executing the trade, Recipient will not attempt to reverse engineer or take any other measures, nor will it assist any other person or entity in taking any measures, to discover the true identity of any MSRB registrant at any time. If Recipient or its Internal User breaches this term, the agreement will be subject to immediate termination by the MSRB and immediate return of the Academic Historical Transaction Data Product. Additionally, Recipient shall be subject to any additional damages suffered by any MSRB registrant executing the trade as a result of having its' identification revealed as well as any damages incurred by the MSRB as a result thereof.
- Recipient shall not redistribute or otherwise make available the Academic Historical Transaction Data Product or any Data comprising the Academic Historical Transaction Data Product to any other individual or entity with the exception of the Internal Users listed in the attachment to the agreement and shall use commercially reasonable measures to cause Recipient's Service to be configured and operated in such a manner as to protect the Data. Such measures may include, but not be limited to, the use of user IDs and passwords and other forms of entitlements to gain access to the Data. Additionally, Recipient shall administer reasonable security procedures in the place(s) where Recipient's Service and the Data are used, accessed, processed, stored or transmitted in order to ensure that the Academic Historical Transaction Data Product remains, at all times, secure from unauthorized access or interference and to prevent the Academic Historical Transaction Data Product from being accessed or taken from or in any way communicated, divulged or published except through authorized channels of transmission or reception.
- If Recipient is a Public University, terms to protect the Data from the law of the Public University's resident State involving information disclosure shall be applicable.

### Publication of Derivative Works

- All Data results included in any draft or final version provided to or made available in any way whatsoever, to any third party, shall be sufficiently aggregated to ensure that no third party can identify any specific MSRB registrant, or reverse engineer any specific transaction. Recipient shall inform all of its Internal Users to act accordingly and shall take reasonable measures to ensure their compliance. **Any disclosure of the identity of any MSRB registrant, whether willful or accidental, is considered a material breach of the agreement and will result in immediate Termination of the agreement for cause and subject the Recipient to any and all damages which are incurred and can be proven by any identified MSRB registrant and/or the MSRB.**

## Termination

Immediately upon conclusion or termination of the agreement for any reason, Recipient shall, without additional cost to or demand from the MSRB, return to the MSRB in an orderly and expeditious manner or destroy all information, records, documentation, data and other property supplied to Recipient by and for the MSRB, and shall certify in writing that it has done so.