Comment on Notice 2023-11

From: Dennis Dix Jr, DIXWORKS LLC

On: February 09, 2024

Comment:

Fees for small firms (1-5 MA's) should not be the same as for larger firms, but lower. Using the SEC risk-based protocol for examinations, small firms require less monitoring than larger firms. Large fees represent a substantial burden for small firms and should be reduced.

Comment on Notice 2023-11

From: Dmitry Semenov, Ridgeline Municipal Strategies, LLC

On: December 29, 2023

Comment:

We would like to provide comments / responses the following questions, as referenced in the RFI: 1. Factors that determine the size of a regulated entity: revenue, number of associated persons, and number of transactions. 2. The following rules and market practices have an unintended negative impact on or unfairly burden smaller regulated entities: - Requirement to develop and maintain WSPs - this impact can be easily mitigated by providing an easy-to-use template with regular updates and notifications that smaller firms could utilize to develop and update their WSPs without having to hire outside consultants. - Annual Registration Fees unfairly burden smaller registered entities comparing to larger ones. This impact can be mitigated by charging lower fees to smaller entities.

February 23, 2024

BY ELECTRONIC SUBMISSION
Ronald W. Smith
Corporate Secretary
MSRB
1300 I Street NW, Suite 1000
Washington, DC 20005

Re: MSRB Request for Information on Impacts of MSRB Rules on Small Firms

Mr. Smith,

This letter is in response to 2023-11; Request for Information on Impacts of MSRB Rules on Small Firms. Academy Securities, Inc. appreciates this opportunity to respond to this request.

Academy Securities is a Disabled Veteran Owned Firm that is committed to instigating social impact by addressing the challenges facing the men and women who have served our country. One of the most significant issues facing our military veterans is the high level of veteran unemployment. Not only do we want to draw attention to this issue, but we are determined to set a precedent for prospective employers of veterans. We are convinced that the core of any company can be strengthened when staffed with military veterans.

Academy understands that regulations are necessary to protect investors and maintain efficient markets. Rulemaking also creates burdens for regulated market entities regardless of size. However, smaller firms do not have the staff to manage the regulatory changes as quickly as a larger firm.

The Municipal Market has seen a number of smaller dealers exit the municipal market in recent years. Regulatory changes have been a contributing factor because the changes require more focus on compliance and administrative expenses instead of focusing on factors to better serve our clients. It is critical that the MSRB appreciate the fact that less dealers, whether large or small has a negative impact on market liquidity especially during periods of dislocation.

Academy appreciates the obligations MSRB has to protect investors and municipal entities. However, Academy recommends that the MSRB proceed in a manner that does not create unnecessary change that has an even greater negative impact on the operations of smaller dealers who have an important role in the marketplace.

Sincerely Yours,

Michael Boyd
Chief Compliance Officer
Academy Securities, Inc.

Comment on Notice 2023-11

From: andrew boyack, advisabilitys

On: January 09, 2024

Comment:

I beleive in algorithms of good, honesty, creativity for good if a left is made always do a double right. I must see all aspects of any situation and great outcomes . An example is this is and was ,take the water of the ocean with filtration systems along the way and siphon that water through pipeline to replenish our lakes, rivers. water displacment due to our caps melting if not dispursed correctly is like a marble in a balloon you can imagine the rest....now on to my situation im going through a identity theft event done by my father and his goons which he has passed on and i have aquired his devices he used a cross device sdk also intercepted my devices as in this chromebook i use now.tomarrow im going to some computer people to see exzaxctly what is going on and i will habve a better understanding of what is going on with everything

January 8, 2024

BY ELECTRONIC SUBMISSION

Ronald W. Smith
Corporate Secretary
MSRB
1300 I Street NW, Suite 1000
Washington, DC 20005

Re: MSRB Notice 2023-11, Request for Information on Impacts of MSRB Rules on Small Firms

Dear Mr. Smith,

The following comments are submitted in response to 2023-11. Founded in 1980, Amuni Financial, Inc. (AMUNI) is a full-service broker-dealer specializing in the sale of individual fixed income securities. AMUNI is very active in fixed income, particularly in the secondary municipal bond market.

Although I believe that the MSRB has good intentions, I strongly feel that the current regulatory environment disproportionately penalizes small broker-dealers who most likely don't have large compliance teams and the seemingly unlimited resources of larger firms. The amount of time and the cost of replying to numerous inquiries severely impacts our firm. Since our small firm lacks a large, dedicated compliance department, we spend precious time responding to regulatory inquiries and complying with new regulations; time that could otherwise be spent serving our clients. Often, we face unrealistic turnaround times, only to wait months for the next round of questions after our responses.

My latest and primary area of concern involves the recently approved regulation mandating a one-minute trade reporting window. At the time of this writing, most comments on Regulatory Notice 2022-07 argue against this change, yet the MSRB recently approved the most stringent version proposed. It makes me wonder if any of the MSRB Board Members have experience on a small firm municipal bond trading desk. The municipal market differs significantly from the taxable and equity markets, and I believe this rule was approved without considering how a large part of the municipal marketplace functions. Our firm has already invested substantial sums attempting to comply with this regulation. The MSRB has approved a rule that will penalize firms making markets in municipals and will most likely consolidate the marketplace further. Only firms willing to spend a fortune on technology will "try" to comply with this regulation. It is my belief that many firms will opt out of the business and will move their business to other investment alternatives.

Another area of concern involves bonds trading below their minimum denominations. This rule is antiquated, and I would argue that it harms more than it helps. Regulators have created a market, or lack thereof, penalizing retail investors for circumstances beyond their control. Almost every time our firm sells a bond below the minimum denomination to a retail customer, the MSRB initiates an inquiry. Our firm provides liquidity to this market as a matter of principle, but as a small firm, bidding on these bonds, knowing we will face an inquiry, is hard to stomach. It would be beneficial for the MSRB to review the current state of the

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market and adjust these rules, especially given the reorganization of much of the Puerto Rican debt that is trading in micro-bond increments. I feel, and I may be wrong, that many of these inquiries could be resolved by regulators investigating the issue at hand before launching a formal inquiry. This could be done by examining previous interactions with firms and the resolutions that came from prior investigations or even by a phone call.

The last area I'd like to highlight involves PMP (prevailing market price) and markup disclosures. We have faced multiple exams and inquiries into our procedures, and it seems regulators consistently ask us to repeatedly "tweak" our procedures. We appear to be held to a zero-tolerance standard, which I find at odds with other MSRB reporting standards. I strongly encourage the MSRB to consider that calculating the PMP for many transactions still involves human intervention, which inherently leads to an occasional error.

Personally, I do not believe the municipal market is as complex as perceived. The industry should take a step back and refine existing regulations to better encourage new entrants to join the space. I would also like to request that any regulatory inquiry initiated by the MSRB or FINRA should have basic contact information attached to the initial inquiry. As the work from home model has persisted, in my experience, it has been more difficult to get analysts on the phone.

In conclusion, I urge the MSRB to carefully consider the impact of all new regulations and their impact on all broker-dealers and to engage in a dialogue with industry participants to understand the regulatory impact, particularly on small firms. Small firms play a vital role in providing liquidity to the marketplace while fostering more competition with the large firms that dominate the space. By refining existing regulations and considering the unique challenges faced by smaller players, the MSRB can promote a more vibrant and resilient municipal market. I appreciate the opportunity to comment on this topic and trust that the MSRB will consider the impact of their new, and existing, regulations on the few small firms that are still left in the market. Thank you for your time.

Sincerely yours,

Mike Petagna
President
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Responses to MSRB Small Municipal Advisor Regulation RFI

Request for Information The MSRB seeks input from different-sized firms, particularly smaller regulated entities, and from other market participants on the following questions. Responders are invited to respond to any or all of the following questions and to provide additional input on how the MSRB can address, within the scope of its statutory authority, any undue burdens or unintended negative impacts its rules or other activities may have on smaller regulated entities. To assist the MSRB in its review and to the extent possible, please provide data or evidence to support your views along with any other information you believe would be useful to the MSRB. Responders should clearly identify which rules, interpretive guidance or other MSRB activity they are referring to when answering each question.

1. ***What factors make a regulated entity a small, mid-sized or large regulated entity: revenue; level of business activity; number of associated persons; type of regulated entity; or other factors?***

   Answer: I think the no. of associated persons is the primary factor. I think five or less associated persons would be considered a "small MA firm". I have been a one person MA firm since 1994.
2. ***What, if any, MSRB rules or other MSRB activity, and what market practices impacted by MSRB rules or activities, have an unintended negative impact on or unfairly burden smaller regulated entities?***

   Answer: I think every day regulation takes time away from business development and trying to get hired. This is especially true for very small MA firms like my own that have a small no of smaller clients, who do not do a lot of repeat business vs. a larger public agency. I am constantly need to originate new business that take time and money and ability to wait patiently until client is ready to proceed. Realize small MA firms must follow MSRB Rules. But most small firms like my own are not owned by a larger entity and live from transaction to transaction with a lot of financial pressure. There are no financial benefits because income is often limited to cover health care and retirement contributions (if any). Some smaller entities that have good niches with larger entities, like hospitals, K-12 schools and health care providers can do quite well. I think smaller MA firms like my own are an endangered species although some MA's may be able to develop profitable niches with regular repeat business. I have not been able to get off the erratic nature of my income that varies dramatically from year to year. However, this could be reduced if a small MA firm was acquired by a financial institution assuming they wanted to be involved in the Muni market. Or by a larger municipal bond underwriter who wants to have an MA division.

3. ***What, if any, MSRB rules impede or limit small, regulated entities' participation in the municipal securities market?***

   -Answer: I think just the general burden of ongoing regulation that in order to comply with MSRB rules for things like Continuing Education are time consuming, but I am sure considered needful. Also making sure to document any recommendations in preparation for future SEC exams and saving all so they can easily be retrieved. Not sure how MSRB can reduce regulatory burden on small MA firms who must comply with MSRB regulations.

4. ***Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the growth of smaller regulated entities?***

   Answer: I think the annual CE requirement is very burdensome and could be modified so not required every year or just every 3 yrs. This would include needs analysis, training plans, content, records, etc.

5. ***Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the ability of smaller regulated entities to obtain or retain talent?***

   Answer: Have always been a one-person firm and never sought to hire another municipal advisor.

6. ***Are there circumstances where the application of an MSRB rule has required smaller regulated entities to spend resources or retain the services of third-party vendors at costs that have a disproportionate impact on smaller regulated entities?***

   Answer: Yes. Like consulting firms to assist with annual CE requirements that I always have done myself of save money. Also serve as my own Chief Compliance Officer to save money.

7. ***What, if any, MSRB rules would benefit from a different or tiered approach to regulation or interpretations, according to size, that would support greater efficiency without the loss of investor, municipal entity or obligated person protection?***

   Answer: Relax annual CE requirements so not annual.

8. **Are there changes that could be made to MSRB rules to provide meaningful and appropriate exceptions based on regulated entities' sizes?**

   Answer: Sure, that is the case but cannot think of any now. Perhaps the annual MSRB fees could be reduced based on the size and income of the MA Firm.

9. ***Are there changes the MSRB can make to any of its own processes that could address specific challenges faced by smaller regulated entities?***

   Answer: MSRB could update its notice for information that should considered a MA's WSP's. An updated template for WSP's for small firms.

10. **Are there compliance resources or guidance the MSRB could produce that would be useful if tailored for different-sized regulated entities?**

    -See response to 9.I think also a guidance on what needs to be done to prepare for SEC exams and tools to assist.

11. Are there any MSRB rules that have an unintended negative impact on or unfairly burden mid-sized and/or large firms, or do any of the questions posed above with respect to smaller regulated entities give rise to concerns about unintended negative impact or unfair burdens on mid-sized and/or large firms?

Answer: Cannot think of any.

Questions about this RFI should be directed to the MSRB's small firm contact, Carol Converso, Director, Market Practice, at 202-838-1500.

February 26, 2024

Re: Notice 2023-11 - Request for Information on Impacts of MSRB Rules on Small Firms

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street, NW
Washington, DC 20005

Dear Mr. Smith,

The American Securities Association[1] (ASA) submits these comments in response to the MSRB's Request for Information (RFI) on Impacts of MSRB Rules on Small Firms.[2] The RFI solicits public input on any aspects of its rules, or the absence thereof, that may result in undue regulatory, compliance, operational or administrative burdens or other negative unintended impacts on smaller regulated entities.

ASA requests that the MSRB take into account all correspondence ASA has previously submitted regarding how any MSRB proposed rules may adversely impact small and mid-sized firms operating within the fixed income market, as a comprehensive response to inquiries on this matter.

Specifically, we would like to reiterate recent comments and objections to the MSRB's Request for Comment on Transaction Reporting Obligations under MSRB Rule G-14[3] combined with the MSRB's Notice of Filing to the SEC of a Proposed Rule Change to Amend MSRB Rule G-14 to Shorten the Timeframe for Reporting Trades in Municipal Securities[4]. We include those letters as **Exhibit A** and **Exhibit B**, maintaining our objections to the initial and revised proposal.

The objections raised by ASA to proposed changes to Rule G-14 center on smaller and mid-size broker-dealers and their customers. As we argued in those letters, the proposed changes lack evidence of a market failure to justify such changes and would not provide tangible benefits to

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[1] ASA is a trade association that represents the retail and institutional capital markets interests of regional financial services firms who provide Main Street businesses with access to capital and advise hardworking Americans how to create and preserve wealth. ASA's mission is to promote trust and confidence among investors, facilitate capital formation, and support efficient and competitively balanced capital markets. This mission advances financial independence, stimulates job creation, and increases prosperity. ASA has a geographically diverse membership base that spans the Heartland, Southwest, Southeast, Atlantic, and Pacific Northwest regions of the United States.

[2] MSRB Notice 2023-11, Request for Information on Impacts of MSRB Rules on Small Firms, available here: https://www.msrb.org/sites/default/files/2023-12/2023-11.pdf.

[3] MSRB Notice 2022-07, Request for Comment on Transaction Reporting Obligations under MSRB Rule G-14, available here: https://www.msrb.org/sites/default/files/2022-09/2022-07.pdf.

[4] SEC Release No. 34-99402, Notice of Filing to the SEC of a Proposed Rule Change to Amend MSRB Rule G-14 to Shorten the Timeframe for Reporting Trades in Municipal Securities, available here: https://www.sec.gov/files/rules/sro/msrb/2024/34-99402.pdf.

investors. ASA specifically opposes reducing the reporting time for manual trades from 15 minutes to 1 minute, arguing that the complexities involved in the manual trade reporting process necessitate the current 15-minute reporting period. Reducing this timeframe would introduce significant operational challenges, particularly in addressing discrepancies between sales and trader tickets, and could disrupt the efficient execution of trades. Consequently, the heightened burden of 1 minute trade reporting requirements could negatively impact investors from receiving Best Execution on a given trade order, as the firm trading desk could be potentially hindered by the limited timeframe to search multiple marketplaces for best price of execution if they need to adhere to the 1 minute trade reporting window.

Moreover, we express concern that the proposed changes are based on incomplete assumptions and lack hard data to support their necessity. Financial regulators, including the MSRB have embarked on rulemaking agendas whose scope and speed are wholly unwarranted by congressional mandate or financial crisis. To force regulatory changes without justification could harm investors and threaten the participation of small and mid-sized broker-dealers in the municipal securities market now and into the future.

We have conveyed to the MSRB directly, through comment letters, and via statements and publications in the press that implementing unnecessary and burdensome municipal market regulation will adversely affect small brokers nationwide. Well-capitalized and more-resourced firms can absorb additional costs imposed by regulations, while small-and medium-sized firms will be burdened by costs and unnecessary compliance leading to negative unintended consequences for financial markets and those who rely on them.

By increasing regulatory compliance requirements, the MSRB, SEC, and other financial regulators will greatly reduce the viability and health of small-and medium-sized firms who meet the needs of retirement savers, Main Street businesses, and communities across America. These firms do not gain from flawed premises being marginally improved through self-negotiation. Instead, firms will prosper when regulators refrain from disrupting a market that currently operates effectively.

We would also like to submit for consideration an op-ed published in the Bond Buyer [5]. In that piece, ASA voiced concerns about the potential unintended negative impacts and unfair burdens that certain regulatory changes could impose on smaller regulated entities operating within the fixed income market. Specifically, we emphasize the resilience of the fixed income market, which has weathered numerous crises and black swan events without experiencing market failures. We also strongly caution against unjustified regulatory changes that could increase costs for governments, municipalities, states, and millions of American investors by making it more difficult for small and mid-sized firms to compete in the marketplace. ASA asks the MSRB to

[5] ASA op-ed written by Christopher A. Iacovella, CEO, ASA, published June 6, 2023 in the Bond Buyer, available here: https://www.bondbuyer.com/opinion/fixed-income-doesnt-need-more-regulation.

consider our full op-ed as a component of the information it considers in response to this RFI. We have included the full op-ed as **Exhibit C**.

Overall, ASA advocates for preserving the integrity and functionality of U.S. fixed income markets to benefit local communities, small businesses, and working families, emphasizing the importance of policies that work for the American people. We suggest regulators engage with firms of all sizes, including small-and medium-sized participants, to understand the regulatory, compliance, operational, administrative, and other impacts of market regulation. We also urge regulators to seek industry expertise before considering new policies and continue to emphasize the importance of ongoing communication and collaboration with market professionals.

Any regulatory action lacking adequate justification or evidentiary support risks impeding the involvement of small, regulated entities in the municipal securities market by exacerbating operational hurdles and compromising investor interests. Ultimately, any changes to fixed income markets should be rooted in law, driven by evidence-based understanding, and capable of withstanding unforeseen crises.

Sincerely,

Jessica Giroux

Jessica R. Giroux
General Counsel
American Securities Association

american securities association

America's Voice for Main Street's Investors

September 30, 2022

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW
Washington, DC 20005

Ms. Jennifer Piorko Mitchell
Office of the Corporate Secretary
Financial Industry Regulatory Authority
1735 K Street NW
Washington, DC 20006

Re: Request for Comment on Transaction Reporting Obligations under MSRB Rule G-14; Request for Comment on Proposal to Shorten the Trade Reporting Timeframe for Transactions in Certain TRACE-Eligible Securities From 15 Minutes to One Minute

Dear Mr. Smith and Ms. Mitchell:

The American Securities Association (ASA)[1] submits these comments in response to proposals issued by the Municipal Securities Rulemaking Board (MSRB) and Financial Industry Regulatory Authority (FINRA) that would mandate corporate and municipal fixed income securities trades to be reported within one minute (the "Proposals"). As explained in more detail throughout this letter, the ASA is concerned that the MSRB and FINRA have failed to identify a market failure that warrants such a significant change, and that the Proposals would disproportionately impact smaller and mid-size broker-dealers and their customers.

Since 2005, MSRB Rule G-14 and FINRA Rule 6730 have required trades to be reported "as soon as practicable" but not later than 15 minutes after the time of trade. As noted in both of the Proposals, the vast majority of trades for both municipal and corporate securities are already reported sooner than 15 minutes. Since the previous amendments to Rule G-14 and Rule 6730

[1] The ASA is a trade association that represents the retail and institutional capital markets interests of regional financial services firms who provide Main Street businesses with access to capital and advise hardworking Americans how to create and preserve wealth. The ASA's mission is to promote trust and confidence among investors, facilitate capital formation, and support efficient and competitively balanced capital markets. This advances financial independence, stimulates job creation, and increases prosperity. The ASA has a geographically diverse membership base that spans the Heartland, Southwest, Southeast, Atlantic, and Pacific Northwest regions of the United States.

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were adopted, MSRB's Electronic Municipal Market Access (EMMA) and FINRA's Trade Reporting and Compliance Engine (TRACE) systems have greatly improved the transparency in these markets and provided investors with decision-useful information. It is unclear how a shift to a uniform one-minute timeframe (for vastly different markets and products) would benefit investors when considering the costs such a mandate would create.

More concerningly, the Proposals are being put forward at a time when other changes to the regulation of the fixed income markets – for example Securities and Exchange Commission's (SEC) Rule 15c2-11 and a pending proposal to institute a T+1 settlement window – are coming online. The ASA remains concerned that these fundamental changes to rules that govern fixed income trading will disrupt otherwise well-functioning markets and are based upon incomplete or flawed assumptions.

The ASA wishes to provide the following views regarding the Proposals:

I. **The MSRB and FINRA have not properly identified or explained a market failure – or evidence of investor harm – that would justify the Proposals;**

II. **The costs of the Proposals are likely to be substantial on broker-dealers and their customers, while the benefits are unclear – a reality implicitly acknowledged in the Proposals;**

III. **The Proposals do not properly consider the different ways in which certain trades are executed (i.e. voice vs. electronic trading) and how that can impact trade reporting timelines; and**

IV. **The Proposals would create logistical challenges for firms that have not been fully analyzed by the MSRB and FINRA.**

These views are discussed in further detail below.

I. FINRA and MSRB have not properly identified or explained a market failure – or evidence of investor harm – that would justify the Proposals.

The Proposals are notable in that they offer scant evidence for why current reporting requirements are inadequate or how investors would benefit by a shift to a mandated one-minute time frame. FINRA posits that reducing the reporting time frame will "solidify the benefits of the technological advancements that have occurred since 2005 by requiring timelier reporting in the rule" while MSRB makes similar claims that improved technology is a justification for its proposal.

However, simply because technology may exist that allows dealers to report some, but not all, trades within one minute is not sufficient justification for a rulemaking. Neither FINRA or MSRB offer any empirical evidence or past research that would support a one-minute requirement, and neither self-regulatory organization (SRO) identifies any specific instances of investor harm due to current requirements.

The MSRB and FINRA should consider the significant amount of resources that broker-dealers have already expended over the last fifteen years to be able to report trades within this window. The data provided by both FINRA and MSRB shows that roughly 97 percent of municipal and corporate trades are reported within five minutes. This demonstrates that with today's technological capabilities, five minutes has become the de facto "as soon as practicable' standard for the vast majority of trades. When certain factors (e.g. trade size, voice trading) are all taken into account, five minutes is typically the fastest time on average for trades to be reported.

II. The costs of the Proposals are likely to be substantial on broker-dealers and their customers, while the benefits are unclear – a reality implicitly acknowledged in the Proposals.

As noted above, the Proposals offer little explanation as to the benefits of a one-minute requirement other than "increased transparency" in the municipal and corporate bond markets. The ASA has supported many past efforts by the SROs and SEC to promote transparency in the markets, however the Proposals do not offer any evidence which shows that a one-minute timeframe would make any material difference in price than current requirements and market practice. At the same time, the Proposals acknowledge many of the costs that would be imposed on broker-dealers for implementing these changes. According to FINRA's proposal:

> FINRA believes that the proposal would likely result in direct and indirect costs for firms to implement changes to their processes and systems for reporting transactions to TRACE in the new timeframe. Firms that do not have automated reporting systems in place may incur costs from establishing such systems and infrastructure. Table 3 shows that, even for very active firms that most likely have a trade reporting infrastructure in place, some trades are still reported later than one minute from the time of execution. For these trades, firms may incur costs to modify their reporting procedures to report more quickly and monitor that the trades are reported in the required timeframe.
>
> A higher percentage of less-active reporters submitted 95 percent of their trades within one minute than moderately active reporters, possibly suggesting that use of a third-party reporting system by less-active reporters may be associated with faster reporting. While members currently using a third-party reporting service may incur less costs, those that do not currently use a third-

> party reporting service may opt to do so if the costs would be lower than building their own system.[2]

Similarly, MSRB's proposal states:

> The MSRB acknowledges that dealers would likely incur costs, relative to the baseline state, to meet the new transaction reporting time of one minute outlined in the Proposal to Rule G-14. These changes would likely include the one-time upfront costs related to adopting new technologies or upgrading existing technologies to speed up the trade reporting for some dealers, as well as setting up and/or revising policies and procedures. Since 76.9% of all relevant trades already report within one minute, the cost to comply with the proposed change would not be as significant if the current one-minute compliance rate was substantially lower.
>
> For the upfront costs, it appears smaller firms would have difficulty with the proposed one-minute reporting requirement. The MSRB is basing this assumption on an internal analysis showing smaller firms lagging behind larger firms in reporting time…[3]

Thus, the SROs acknowledge that: 1) smaller broker-dealers would have difficulty coming into compliance with the new rules; and 2) some firms may have to hire a third-party in order to meet the one-minute requirement. The ASA notes that several smaller firms have already submitted letters to FINRA and MSRB outlining the challenges and costs that would be created by a one-minute requirement. We implore FINRA and MSRB to consider these real and substantial costs and weigh them against the unsubstantiated purported benefits outlined in the Proposals.

III. The Proposals do not properly consider the different ways in which certain trades are executed (i.e. voice vs. electronic) and how that can impact trade reporting timelines.

As noted previously, under current rules and existing technological capabilities, the vast majority of corporate and municipal trades are reported within five minutes. There appears to be an underlying presumption in the Proposals that due to the increase in electronic trading, in many cases it would be relatively straightforward transition for firms to begin reporting trades in one minute. However, that presumption does not consider how certain trades – particularly larger ones – are executed and the logistical challenges that a one-minute mandate would impose. For example, the MSRB proposal states:

> While 80.3% of trades with trade size of $100,000 par value or less were reported within one minute, only 40.1% of trades with trade size between $1,000,000 and $5,000,000 par value and 25.3% of trades with trade size above $5,000,000 par value were reported within one minute.[4]

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[2] FINRA Proposal at 13
[3] MSRB Proposal at 10
[4] MSRB Proposal at 4

Underlying this data is the fact that larger trades tend to be executed by voice, while smaller trades (including retail trades) have increasingly been done via electronic platforms. Voice brokerage can take substantial time negotiate and report once the trade is executed. It is entirely possible and reasonable that large, voice-executed trades may not be able to be reported within one minute. The SROs must careful not to equate for regulatory purposes smaller, retail trades that can easily executed with the click of a button with larger institutional trades that take more time to be processed. Some firms may also use platforms that do not direct straight to BETA and would therefore have to take the time within one minute to manually enter trade information into BondWorks. For voice trading, doing all of this in a one-minute timeframe would in many cases be unrealistic.

Additionally, the Proposals' one-minute requirement is a hard and fast timeframe and would not provide any exception for bona fide errors when entering trades. The current time requirement allows traders to correct price or quantify numbers of transposed digits on a CUSIP. If the Proposals were adopted, firms may not have sufficient time to correct such errors and would technically be in violation of a rule if not corrected in time.

IV. The Proposals would create logistical challenges for firms that have not been fully analyzed by MSRB and FINRA.

If implemented, the Proposals would create several logistical hurdles that have not been adequately considered and would be challenging for firms to meet a one-minute reporting requirement.

For example, if a CUSIP has not been traded at a particular firm previously, that firm would have to set up a CUSIP prior to reporting the trade, something that it may eventually have to do for hundreds of securities it has not traded before. Similarly, if there is a dealer trading through an ATS that is not setup by another firm trading through the same ATS, that could create complexities for firms to comply with one minute.

Additionally, the Proposal could create an incentive for firms to "auto-route" more orders to help with compliance. This will mean that less individuals at firms are involved with handling orders which could have consequences for price improvement and best execution obligations. Firms may find themselves with no option other than to auto-route orders in order to meet the one-minute timeframe. As with other aspects of the Proposals, the ASA urges MSRB and FINRA to consider these unintended consequences before considering further action.

Conclusion

The corporate and municipal fixed income markets have proven themselves to operate with increasing efficiency, even during times of stress that markets have experienced in recent years. We are concerned that significant regulatory changes – particularly when based upon incomplete assumptions – would be harmful to investors and threaten the participation of small and mid-sized broker-dealers in these markets. Accordingly, the MSRB and FINRA should drop the Proposals in their entirety.

Sincerely,

Kelli McMorrow

Kelli McMorrow
Head of Government Affairs
American Securities Association

American Securities Association
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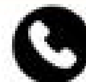
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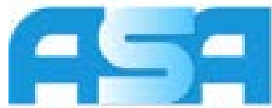
american securities association
America's Voice for Main Street's Investors

VIA ELECTRONIC MAIL to: rule-comments@sec.gov

February 16, 2024

Re: Request for Comment on Transaction Reporting Obligations under MSRB Rule G-14; Request for Comment on Proposal to Shorten the Trade Reporting Timeframe for transactions in Certain TRACE-Eligible Securities From 15 Minutes to 1-Minute

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Dear Ms. Countryman,

The American Securities Association[1] (ASA) submits these comments in response to proposals issued by the Municipal Securities Rulemaking Board[2] (MSRB) and the Financial Industry Regulatory Authority[3] (FINRA, collectively with MSRB the 'SROs') that would mandate municipal and corporate fixed income securities trades to be reported within one minute (the "Proposals").

We would like to reiterate comments[4] ASA sent to the SROs in a letter dated September 30, 2022, concerning the initial Proposals. In the 2022 letter, we explained in detail that the Proposals lack evidence of a market failure to justify such a change, will not provide a tangible benefit to investors, and will disproportionately impact smaller and mid-size broker-dealers and their customers. Nothing in the interim has changed our views on the subject.

Consequently, we re-submit our initial comment letter as **Exhibit A**, maintaining our objections to the revised Proposal.

Regarding the revised Proposal, the SROs advocate for two exceptions from the one-minute reporting requirement. However, these exceptions do not appreciably alter market dynamics. In light of this, it begs the question: why is the regulatory regime expending valuable resources and

[1] ASA is a trade association that represents the retail and institutional capital markets interests of regional financial services firms who provide Main Street businesses with access to capital and advise hardworking Americans how to create and preserve wealth. ASA's mission is to promote trust and confidence among investors, facilitate capital formation, and support efficient and competitively balanced capital markets. This mission advances financial independence, stimulates job creation, and increases prosperity. ASA has a geographically diverse membership base that spans the Heartland, Southwest, Southeast, Atlantic, and Pacific Northwest regions of the United States.
[2] SEC Release No. 34–99402; File No. SR–MSRB–2024–01 (MSRB)
[3] SEC Release No. 34-99404; File No. SR-FINRA-2024-004 (FINRA)
[4] ASA letter to MSRB and FINRA dated September 30, 2022 in response to Request for Comment on Transaction Reporting Obligations under MSRB Rule G-14 and Request for Comment on Proposal to Shorten the Trade Reporting Timeframe for Transactions in Certain TRACE-Eligible Securities From 15 Minutes to One Minute, available here: https://www.msrb.org/sites/default/files/2022-09/ASA-MSRB-FINRA-One-Minute-Proposals.pdf

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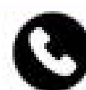
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time to enact a rule that ultimately yields negligible impact? Moreover, any consideration of gradually lowering the compliance threshold over time should require the SROs to solicit additional feedback in a Request for Comment or new proposal, accompanied by a compelling rationale and hard data to support their reasons why accelerating the reporting timeframe is necessary.

Regarding the manual trades exception specifically, we remain troubled by the language which suggests the possibility of reassessing the reporting timeframe, potentially leading to further reductions or even the elimination of the manual trade exception altogether.

The idea that either of any these exceptions could be reduced over time without being proposed for public comment would violate the due process rights of every market participant. It would also set a troubling precedent that would allow SROs to implement changes without an evidentiary or legal justification for doing so.

ASA's position is that maintaining the reporting time at 15 minutes is necessary, considering the complexities involved in the manual trade reporting process. To date, the SROs have failed to prove (using any data) why disrupting a functioning market is at all logical. The only justification we have gotten is that the SEC Chair wants this rule so we should accept it. We reject that reasoning because this is not a monarchy and the Chair of the SEC is not our king.

A significant portion of our firms' institutional transactions, approximately 50%, involve salespeople. At several of our firms, traders have the *sole* authority to commit capital, and thus any trade involving a salesperson qualifies as a manual trade. The current 15-minute reporting period allows firms to address any discrepancies between sales and trader tickets before manually matching them. Reducing this timeframe would introduce significant challenges into the process used to ensure accurate and efficient trade execution.

Similarly, on the retail trading desk, trades conducted outside of certain third-party platforms necessitate the creation of manual trade tickets. While there may not be a matching component involved, completing this process within a shorter timeframe presents considerable operational difficulties, especially considering the simultaneous management of multiple orders by traders.

These are real-world market practices that are not reflected anywhere in the SRO proposals. Accordingly, we strongly advocate for maintaining the manual trade reporting time at 15 minutes without ANY reduction in reporting time frame. There are numerous complexities and potential issues inherent in the manual trade reporting process that require careful attention and consideration.

We remain concerned that regulatory changes based upon incomplete assumptions would be harmful to investors and threaten the participation of small and midsized broker-dealers in these markets.

Regulators must be questioned and held accountable when they attempt to issue unsubstantiated "reforms" that would needlessly disrupt well-functioning markets.

The circumvention of regulatory obligations under the Administrative Procedure Act by the SEC and the SROs to push forward with this rule undermines regulatory accountability and public trust. It also raises serious questions about why the SEC wants to avoid conducting a robust economic cost/benefit analysis for policies that impact the fixed income market.

By intentionally sidestepping these requirements, the SEC and the SROs are exposing themselves to legal action. That said, we strongly recommend these Proposals be abandoned in their entirety.

Sincerely,

Christopher A. Iacovella

Christopher A. Iacovella
President & Chief Executive Officer
American Securities Association

american securities association

THE BOND BUYER

ICYMI: The Fixed Income Market Isn't Broken, So Stop Trying to Fix It

by Christopher A. Iacovella
President & CEO, American Securities Association

The recent failures of regional banks is emboldening Washington's administrative state to double down on regulation. Regulators across the city are rushing to write new rules to further inject Washington's central planners into the functioning of our capital markets.

The American Securities Association, which I run, recently sent a letter to the Washington bureaucracy with a simple message: leave the U.S. fixed income markets alone.
These markets have performed remarkably well despite the regional bank failures and the Covid crash in March 2020. The resilience of

the fixed income market, having weathered multiple crises and black swan events without experiencing any market failure, is real-time evidence that it works. When markets work, the public must question the motivation for any "regulatory change" sought by professional bureaucrats.

To be very clear, any attempt to use regional bank problems or the March 2020 market volatility as a justification to change the fixed income markets is not only misleading, but it will also needlessly increase costs for the governments, towns, cities, states, and millions of American investors who rely on these markets.

Volatility in fixed income prices, which has risen recently, should not be mistaken for a systemic flaw in market structure or be used as a "strawman" to fix the plumbing and functioning of these markets. Despite the volatility, there have been no issues with pricing, settlement, clearance, or payment in the fixed income markets through multiple black swan events.

The Silicon Valley and Signature Bank failures are also an important reminder that the "risks" regulators identify do not always align with the actual risks in today's markets. On that point, one glaring question is why did they focus on climate risk and ignore the risks rising interest rates posed to the financial system? One might conclude that they missed the real risk in the system because they were so focused on using regulation as a means to inject politics into markets.

Regulators must be questioned and held accountable when they attempt to use unsubstantiated academic theory, ideology, or politics to adopt "reforms" that would needlessly disrupt well-functioning markets.

For example, the Municipal Securities Rulemaking Board has no legal or evidentiary basis to move forward with its costly pre-and post-trade pricing initiatives, FINRA hasn't analyzed the impact of its Rule 4210 amendments on the low-income housing market, and the SEC's unnecessary application of Rule 15c2-11 to fixed income markets would have shut off funding for numerous auto, consumer, and real estate loans. These are a few examples of how untested

theory driving regulatory change threatens to undermine the efficiency, stability, and functioning of the fixed income markets.

Career bureaucrats whose only understanding of bond trading is derived from textbooks and academic papers must not be allowed to test their theories in America's most important capital market.

To avoid this, regulators should seek industry expertise before any new policy is considered. Engaging the industry and the public after an ill-conceived policy has bubbled up within the agency is too late. Ongoing communication and collaboration with market professionals who understand the intricacies of markets is essential to developing a rational, evidence-based approach that maintains a well-functioning market. Involving the voices of experienced bond traders and advisors will help regulators to learn how the fixed income markets function in practice.

Thankfully, the resilience of the fixed income market has proven itself time and time again, which is why any changes to these markets, absent a market failure, must (1) be rooted in law, (2) be driven by a rational, evidence-based understanding of market dynamics, and (3) prove they can withstand unforeseen crises and black swan events.

Our democracy must work for the American people, not the professional class of lawyers and consultants whose compensation rises with every new rule regulators adopt. We care deeply about preserving the integrity and functionality of the U.S. fixed income markets because they drive capital to our local communities, small businesses, and working families that benefits the entire American economy.

Christopher Iacovella is the President and CEO of the American Securities Association

Read the full article at The Bond Buyer.

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BDA Bond Dealers of America

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February 26, 2024

Ronald W. Smith, Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW Ste 1000
Washington DC 20005

Dear Mr. Smith,

The Bond Dealers of America (BDA) is pleased to respond to MSRB Notice 2023-11, "Request for Information on Impacts of MSRB Rules on Small Firms" (the "Notice"). BDA is the only DC-based group exclusively representing the interests of securities dealers and banks focused on the US fixed income markets.

BDA's membership includes broker-dealers of all sizes. A preponderance of our members are mid-size BDs. This gives BDA a distinct perspective in relation to the questions posed in the Notice. We welcome the opportunity to respond.

Q. What factors make a regulated entity a small, mid-sized or large regulated entity: revenue; level of business activity; number of associated persons; type of regulated entity; or other factors?

A. All those characteristics are relevant to segmenting the industry by size. For BDs, another key factor is capital. The SEC's Net Capital Rule requires that firms hold enough capital to support all the firms' BD activities, including underwriting and market making. Without sufficient capital, firms cannot participate actively in the market. More capital generally means the firm can engage in a higher level of market activity. Capital drives a firm's ability to compete and grow.

Q. What, if any, MSRB rules or other MSRB activity, and what market practices impacted by MSRB rules or activities, have an unintended negative impact on or unfairly burden smaller regulated entities?

A. Burdens associated with MSRB rules or practices faced by smaller BDs are generally focused around resources available for compliance-related activities. At the smallest firms, the compliance "team" is a solo chief compliance officer, and even mid size firms have limited resources. Changes to MSRB rules generally require updating compliance practices, and depending on the nature of the rule change, could involve technology acquisition and implementation, staff training, and other resource-intensive activities. These challenges are magnified when faced with a final rulemaking with a short implementation period.

Q. Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the growth of smaller regulated entities?

A. MSRB Rule G-27 applies to supervision. Paragraph (b)(iv) of the Rule requires that all Offices of Municipal Supervisory Jurisdiction (OMSJs) have a registered principal on site and branch offices have a person with "authority to carry out the supervisory responsibilities with respect to municipal securities assigned to that office by the dealer." These requirements can raise the cost for firms seeking to grow through opening new offices. For firms with limited resources seeking to grow and expand, this can be a limitation.

Q. Are there circumstances where the application of an MSRB rule has required smaller regulated entities to spend resources or retain the services of third-party vendors at costs that have a disproportionate impact on smaller regulated entities?

A. Many MSRB rules effectively require firms to build or buy technology solutions which automate some of or all the compliance process. This is necessary because compliance with certain MSRB rules requires calculation or processing activities which can only be accomplished at scale with technology. While pricing for some technological compliance solutions varies with volume, some expenses are fixed. While all dealers face this burden, smaller BDs must spread the cost of acquiring and using technology solutions over a smaller base of revenue.

Q. What, if any, MSRB rules would benefit from a different or tiered approach to regulation or interpretations, according to size, that would support greater efficiency without the loss of investor, municipal entity or obligated person protection?

A. BDA does not believe smaller firms should face relaxed or different regulations or compliance standards than larger firms. There is no justification for a reduced standard for investor or issuer protection for some but not all BDs active in the market. Instead, we urge the Board to consider how its potential rule changes would affect all market participants, including smaller BDs, and to write rules which do not impose unreasonable compliance standards on any market participant, big or small. This is especially important with respect to implementation periods for regulatory changes. In many cases, it may reasonably take smaller firms more time to implement rule changes than larger firms due to fewer resources available for the task. We urge the Board to consider the effects of its rule amendments on those firms that would be particularly challenged and to gauge implementation times to ensure all firms are able to be fully compliant on a rule's effective date.

Q. Are there changes that could be made to MSRB rules to provide meaningful and appropriate exceptions based on regulated entities' sizes?

A. We do not believe smaller firms should be excepted from any of the Board's regulatory requirements. In some cases exceptions to certain regulatory requirements may be justified based on level of market activity, not size of firm. For example, the Board currently has a proposal pending before the Commission to shorten the time dealers have under MSRB Rule G-14 to report trades to the Real-time Trade Reporting System. The proposal includes an exception to the expedited reporting time not based on the size of a firm but on a firm's level of municipal

securities trading activity. Exceptions like that may be appropriate for certain MSRB regulations and may benefit smaller firms seeking to comply.

Q. Are there changes the MSRB can make to any of its own processes that could address specific challenges faced by smaller regulated entities?

A. The MSRB should ensure that members of the Board represent a broad cross-section of the municipal dealer industry, including small firms. Small firms have a unique market perspective that would enhance the Board's deliberations.

Q. Are there compliance resources or guidance the MSRB could produce that would be useful if tailored for different-sized regulated entities?

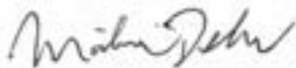
A. The Board may wish to consider a training and education program tailored to small firms, including content geared towards professionals new to the industry. The MSRB's current suite of educational content is helpful, but a quality program specific to small BDs could be valuable.

Q. Are there any MSRB rules that have an unintended negative impact on or unfairly burden mid-sized and/or large firms, or do any of the questions posed above with respect to smaller regulated entities give rise to concerns about unintended negative impact or unfair burdens on mid-sized and/or large firms?

A. Other than what we have already stated, especially concerns around resources available for compliance activities, small firms appropriately face similar compliance burdens as larger firms. One area of MSRB practice that fails to acknowledge the burdens of regulation on small firms is the Board's economic analysis that generally accompanies SEC rule filings. We recognize that projecting compliance costs for rulemakings that have not yet even been approved is a challenge. However, the MSRB's cost-benefit analyses consistently underestimate the cost of compliance with rulemakings. They often do not reflect the reality faced by smaller firms once rule changes are fully approved, especially manpower costs associated with preparing for compliance and opportunity costs associated with small firm employees focused on compliance with new rules and not on growing the business.

We appreciate the opportunity to present our responses to the questions posed by the Board. Please call or write if you have any questions.

Sincerely,



Michael Decker
Senior Vice President

Comment on Notice 2023-11

From: Lowell Clary, Clary Consulting Company

On: February 16, 2024

Comment:

We understand the need for rules and regulations for municipal advisors. However, we believe the process has gone overboard on the rules and regulations to the extent it is forcing small businesses out of business. We are a firm of two municipal advisor principals (had three, but one partner recently passed away). The time for the annual and periodic reporting, constant updates requiring nonstop reading, and periodic audits (every three years so far - taking 200+ staff hours per audit) are pushing us to consider changing our focus away from municipal advisory and deregistering. We do a lot of non-MA work and when we get audited they feel compelled to review all of this as well as any MA work. However, we know of firms doing very similar work to our firm that never registered and they seem to be rolling right along without all the extra overhead. It seems the focus is more on registered companies trying to do the right thing instead of finding those not registered that are not following the regulations. Something has to give for small firms on the overload of rules and regulations, routine audits and the growing annual fees or the small firms will no longer be in the MA business. This would be a travesty as many very good senior principal MAs prefer a smaller firm where they can focus on select clients to be experts on these clients. We know this is not an easy issue and the little firms simply don't have the cloud to push the needle for major change. Thank you for listening and best wishes on your efforts to assist small businesses.

DERIVATIVE
ADVISORS

December 6, 2023

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000
Washington, DC 20005

Dear Mr. Smith:

Thank you for your Request For Information regarding issues of smaller firms, and we are pleased to respond. Please note we have previously detailed these issues in an October 23, 2018 letter sent to Gail Marshall (with copies to L. Wilhelmy, E. Dolan, B. Joiner, and Keiholzer), with no reply.

Derivative Advisors is an interest rate swap broker who has been in business for 20 years and is a registered Municipal Advisor (IRMA) with MSRB. We execute several billion dollars in notional transactions annually on behalf of clients, and are recognized experts in the interest rate derivative industry. Our advisors have been trusted industry advisors for over 25 years.

Nevertheless, despite our many years of employment and experience in the industry, MSRB required us to pass two new exams in order to continue to be employed. Both the new exams, Series 50 and 54, covered material unrelated to our firm or work. We estimate only 5% of the questions were related to interest rate derivatives, and the rest pertained to credit analysis and issuance of municipal debt which is unrelated to our firm and has nothing to do with us or our services. In order to pass the Series 50 and Series 54 each principal has to spend many hundreds of hours to learn and master unfamiliar new material that is useless to our customers and us. Due to this very heavy investment of time and effort and pointless burden, we considered whether we should exit the business of serving non-profits and municipalities. Yet we entered the business because of the unethical behavior of swap brokers serving those entities which was not a problem in the more professional for-profit market we came from. With the exit of businesses like ours, it will once again be a few suppliers more likely to take advantage of relatively unsophisticated and nondemanding end-users.

These exams for firms that are strictly swap brokers is not in the public interest, and does not benefit investors, municipal entities, or obligated persons. To the contrary, it restricts the supply thus increasing fees, and rewards ‘jack of all trades and master of none’ practitioners who can’t provide the best service. We respectfully request a separate exam or exemption from the parts of the exam that don’t pertain to swap broker firms as they add no value to us or end users but involve many numerous wasted hours and expense.

Sincerely,

Elaine M. Philbrick
Principal

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ECHO VALLEY ADVISORS, LLC
104 E Cedar St, Livingston NJ 07039 973-736-4882

February 23, 2024

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000
Washington, DC 20005

Re: MSRB Request for Information 2023-11 on Impacts of MSRB Rules on Small Firms

Dear Mr. Smith,

Thank you for giving small firms the opportunity to provide feedback on the MSRB's regulatory process and its impact on small firms.

What factors make a regulated entity a small, mid-sized or large regulated entity?
The most important factor is number of employees. Many regulated activities require effort proportional to the number of employees (e.g. tracking communications, developing a training plan and supervising its implementation, and certifying gift-giving and political donations). The next most important factor is the number of transactions. Regardless of size, every transaction needs to be documented appropriately (e.g. G-42 letter, contract, analysis, transaction documents, invoice, and recommendations). The least important factor is revenue.

With respect to the other questions, since my firm has been in business for less than one year and has not yet been audited, I will not provide responses at this time.

In addition to this formal and public forum, I have two suggestions for additional ways in which the MSRB could engage with small firms:

1) Host an in-person gathering or a series of regional in-person gatherings for small firms. The virtual compliance outreach that took place on December 7th was useful, but an in-person event would allow more robust discussion to take place between municipal advisors and the MSRB, and also amongst the municipal advisors.
2) Create an additional phone line (or some other mechanism) which would allow municipal advisors to ask compliance questions anonymously.

Best regards,

Julie Needham, President
Echo Valley Advisors, LLC

To whom it may concern:

I am writing with my concerns regarding the impact of Municipal Market Regulation on small firms. Herold & Lantern is a small broker dealer with a small imprint and impact on the multi trillion-dollar municipal bond market. For a firm like ours with very few bond traders and assistants, moving trade comparison time to one minute from the current 15 minutes allotted would be an undue burden, that would not only be detrimental to our business and our efficiency, but also to our health. I am Treasurer of the Municipal Bond Club of New York, and at our holiday function this was a major topic of discussion. After speaking with traders at both large and small firms, the consensus was that this rule is unnecessary, will be extremely detrimental (for the reasons above) and will do NOTHING to materially help the retail investor.

First of all, Municipal bonds are an over-the-counter market and many transactions are confirmed by voice, ATS, or over Bloomberg. There are several reasons that a trade may not be able to be reported in one minute: It is possible that one of the traders is backed up with transactions that they are already inputting, it is possible that one of the traders can't get off the phone, it is even possible that one of the traders needs to use the restroom. I am a third-generation municipal bond professional, and municipals always have been, and, I firmly believe always will be a much slower moving market. This is actually very helpful to the retail investor. If a registered rep is offering bonds and the client wants to think about it, there is a very good chance that the trade will get executed at the price discussed, primarily because of this slow-moving nature.

I would encourage someone to actually do a study on how prices generally don't significantly move in the municipal bond market on an intraday basis. If you run through the Bloomberg PICK offers, or comb the MUNICENTER or Tradeweb systems the price changes are generally insignificant intraday. The only exception to this are the algo firms who "may" move their bid or offer so nominally that the original price can usually be negotiated back through a phone call.

Though we have a trading account at Herold & Lantern, our bond trading desk is the backbone that supports the registered representatives that want to use municipal bonds as part or all of their client's portfolios. The bulk of our transactions are considered to be odd-lot amounts (less than 100m). Our trades have virtually no bearing on the market. There are 50,000 issuers, and as mentioned earlier, this is within a multi-trillion-dollar industry. There are hundreds of firms like ours, and probably tens of thousands that have an order taker to fill these bond inquiries.

At times, because of our smaller transaction size , and many registered reps, multiple orders come in to the trading desk. Every order is very time consuming for a municipal bond trade. Multiple systems as well as land line calls may be made to assure best execution. Every transaction is vetted to see if material events need to be disclosed to the client. Additionally, PMP must be reported on "in and out" transactions. Ultimately what takes the most time is the manual input into the clearing firm's trading system. Our order tickets are handwritten and our trade tickets are generated from the system after the completion of the input of the transaction. This process can take several minutes in and of itself, let alone if we have multiple transactions to input. One, and at most two people, input our tickets. The tickets are printed out, with all notes handwritten on the tickets, and then filed into a folder with all the days tickets, trade blotters, and any other relevant market information that might be included in that daily folder. The trader is responsible for executing the trades, double checking material events, best execution, and PMP. The assistant trader inputs the trades after the trader "walks" the trades over to the assistant's desk or office.

As we try to be mindful of everything that goes into a municipal bond trade, as well as cost controls, with a lot of growing pains, we ultimately perfected a system that has a very good track record for comparing trades within 15 minutes. Aside from the fact that there is NOTHING material that will be gained in the market by comparing our trades in one minute, this will put an undue and unnecessary burden and stress on our trader(s) and their assistant(s), that I feel would potentially imperil their effectiveness, their diligence, and unfortunately and ultimately their health! I assure you that there are thousands of position traders, order clerks, and operational employees that will feel this same unnecessary pressure.

The market moving trades (millions of bonds) are not handled by the majority of firms that may buy municipal bonds. There is transparency already. There are multiple ATS systems where sellers can battle it out if they want to be the best offer, but even with all of this, it is so insignificant in the realm of this market. Traders and reps have all sorts of transparency. For retail investors who want, they have transparency through EMMA. And now there is even more transparency with PMP.

What is beneficial to investors is that this is a slower moving market and that is why price outliers are easily identified. There may be a reason for a price outlier, but it is at least there to see and be questioned. It is incredible that the government market may rally one point and Municipals could be unchanged, or vice versa. This market moves slowly! The one-minute rule

will have no material benefit at all to the retail investor. I do not know who is looking to benefit from this rule, but if it is the institutions, or the mega dealers, I would strongly suggest that this rule is implemented ONLY to those who may benefit from this (maybe it is the million-dollar trades). Otherwise, you are creating an extremely unnecessary stressful situation for a lot of small firms that are already overburdened and just trying to fairly and properly run their business and take care of their reps and clients with the clients' best interests always in mind. PLEASE do not detract from that with a panic of having to compare a trade in one minute. There are so many more important things that you ask us to do that go into a transaction, and I question none of those.

Sincerely,

Brad Harris
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February 26, 2024

Ronald W. Smith
Corporate Secretary, MSRB
1300 I Street NW, Suite 1000
Washington, DC 20005

Re: Regulatory oversight of small firms.

Dear Mr. Smith,

We are writing in response to the MSRB Request for Information (RFI) on the effect of MSRB Rules on small broker/dealer firms. In our firm's opinion, there is some over-regulation by all regulators today that in general is not really written to protect the customers but is simply written for regulation's sake. A first-time violation of these "no harm rules" should not merit a monetary fine by any SRO. In fairness, because FINRA oversees each firm for both FINRA and MSRB rules, it is sometimes hard to know whether this over-regulation is caused by FINRA, MSRB, or both.

Small firms, such as ours (with 18 employees), can't always afford the staff to keep up with the current micro-management of the MSRB and FINRA plus the SEC. When responding to any SRO or the SEC It frequently becomes necessary for us to impose on our commission-only professionals to respond to the multiple questions that are thrown at us.

You asked us to reply as a small firm on the impact of MSRB rules specifically. But first the view from 30,000 feet we note that there are less than 3,400 broker dealers remaining in the U.S. today while we had over 5,800 in 1990. This is a decline of 41% in 30 years. From our perspective it is over-regulation that kills small broker/dealers. We thank you for asking for our input and we recognize that you are attempting to address these matters.

Once again from the 30,000 foot perspective we believe that small infractions that cause no harm to the customer should simply be <u>pointed out</u> by the SRO and corrected by the broker dealer. As it is now, these small no-harm issues are considered BIG ISSUES, called infractions and may cause financial fines.

We also feel that today's regulators tend to bring an attitude of superiority when visiting small broker/dealers and this may not always be justified. In our opinion, the regulators visiting a broker/dealer should begin more like a partner, unless fraud or abuse is known. Today, representatives of the SRO's (and the SEC) frequently act like they are working on commission and will get a bonus if they find something that the B/D has done wrong. What is the point of being a Self Regulating Organization and acting in a confrontational manner? Again, there should be less regulator's focus on non-fraud and no-harm issues.

For specifics on MSRB Rules please see the attached pages where we have listed the eleven points in your RFI and inserted our replies below each of your questions.

Sincerely,

Fred R Cornwall
President
Municipal Capital Markets Group, Inc.

1. What factors make a regulated entity a small, mid-sized or large regulated entity: revenue; level of business activity; number of associated persons; type of regulated entity; or other factors?

Reply: Certainly, the number of regulated persons should be the primary factor. The number of retail customers should be the second factor to consider.

2. What, if any, MSRB rules or other MSRB activity, and what market practices impacted by MSRB rules or activities, have an unintended negative impact on or unfairly burden smaller regulated entities?

Reply: Rule G-17 requires that all firms seeking to underwrite municipal bonds for a qualified entity cannot give information (such as advice), to a potential client without getting a signed document from the entity disclosing every possible conflict of interest. From the standpoint of a small firm, this prevents us from sharing our expertise in the specialty area that we excel in. Large firms typically have nationally recognized names in the field, but small firms may have more specific skills in one or more specialty sectors of the market that a potential client while shipping for a broker/dealer would benefit from learning about.

3. What, if any, MSRB rules impede or limit small, regulated entities' participation in the municipal securities market?

Reply: Currently Rule G-17. See above.

4. Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the growth of smaller regulated entities?

Reply: The MSRB staff must recognize that the primary way a small firm can survive in an industry competing with multi-billion firms is to develop specialties within this huge marketplace in which the small firm can bring value to the client. This is as compared to the larger firms that are basically generalists. Hence, the need to give advice to a potential client without having to ask them to sign an agreement.

5. Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the ability of smaller regulated entities to obtain or retain talent?

Reply: Not that we know of.

6. Are there circumstances where the application of an MSRB rule has required smaller regulated entities to spend resources or retain the services of third-party vendors at costs that have a disproportionate impact on smaller regulated entities?

Reply: G-41 Yes. Such basic rules as G-41 which require every firm to review the list of individuals and companies on the "watch list" of the Feds for money laundering, when our firm neither holds customer accounts nor receives customer money in the name of our firm. The limited amount of customer checks that come into our firm are on an Agency basis for a mutual fund and made out to the mutual fund. Can there be a carve-out for a firm holding NO accounts?

G-14 Recent changes to Rule G-14 relating to the window for trades to match in one minute instead of 15 minutes has become an illustration of how a simple rule can have many unintended consequences and the solutions added make the rule very difficult to understand. Each Rule should be written simply so that they do not require an attorney to understand. The term "transparency" is used quite frequently by regulators, but frankly we do not understand why the 15-minute rule was not simply left in place.

7. What, if any, MSRB rules would benefit from a different or tiered approach to regulation or interpretations, according to size, that would support greater efficiency without the loss of investor, municipal entity or obligated person protection?

8. Are there changes that could be made to MSRB rules to provide meaningful and appropriate exceptions based on regulated entities' sizes?

9. Are there changes the MSRB can make to any of its own processes that could address specific challenges faced by smaller regulated entities?

10. Are there compliance resources or guidance the MSRB could produce that would be useful if tailored for different-sized regulated entities?
11. Are there any MSRB rules that have an unintended negative impact on or unfairly burden mid-sized and/or large firms, or do any of the questions posed above with respect to smaller regulated entities give rise to concerns about unintended negative impact or unfair burdens on mid-sized and/or large firms?

Reply: It appears to our firm that with the MSRB Rules, once the basic rules are accepted (G-1 through G16) virtually every newer MSRB rule should have flexibility built in that acknowledges that small firms to not have committees to review each and every matter, but senior management in generally involved in anything that is out of the ordinary. As long as there is no harm to the client, this business model should meet the MSRB requirements.

February 26, 2024

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000
Washington, DC 20005

Dear Mr. Smith:

The National Association of Municipal Advisors ("NAMA") appreciates the opportunity to comment on MSRB Notice 2023-11, *Request for Information on Impacts of MSRB Rules on Small Firms* ("RFI"). NAMA represents independent municipal advisory firms and individual municipal advisors ("MA") from across the country and is dedicated to educating and representing its members on regulatory, industry and market issues. A working group of our members developed this response.

NAMA appreciates the Municipal Securities Rulemaking Board's ("MSRB") attention on the critical issues that small firms face to comply with MSRB rules. As a vast majority of MA firms consist of a small number of MAs/covered persons within the firm, a focused look at these issues will be helpful to overall rule and compliance conversations. A key theme in NAMA's comments is the need for the MSRB to undertake a greater effort during the rule and guidance development process to understand MA firms and the varied MA services they provide. Within this process, the MSRB should also consider the approach firms, especially small firms, take to understand and comply with rules. As NAMA has commented in the past, it would be helpful for all involved for the MSRB to engage regulated entities at the beginning of and throughout the rule and guidance development process.

There are no definitive answers to many of the questions asked in the RFI although they raise important issues. Each key area deserves greater discussion and attention as the MSRB considers next steps with the information gathered from RFI respondents.

Please note that for the most part, NAMA is approaching this comment letter by providing thoughts on items that are included in the RFI that transcend numerous questions. These comments are particularly applicable to independent MA firms (those not associated with broker-dealer firms).

<u>What Factors Should be Utilized to Define "Small"?</u>

The first question in the RFI asks about how to determine the definition of "small" regulated entity. For MAs, that question is further complicated by the fact that compared to other types of financial services firms, a great majority of independent MA firms are likely to be considered "small." When taking the next step and looking within the scope of only independent MA firms, there are gradations of 'small' that need

to be considered. A review of MA firm information posted on the MSRB's web site notes that approximately 75% of MA firms have five or fewer Municipal Advisor Representatives (MAR). However, does that mean that a 7 or 10 or 15 MAR firm is not "small?" It is very difficult to definitively say. On this key issue, especially, we would appreciate having additional conversations with the MSRB as we all continue to grapple with how to, and to what end to, identify small firms.

In discussions with NAMA member firms, however, it is unanimous that the definition of "small" should not be associated with revenues. This conflicts with the Securities and Exchange Commission's ("SEC") MA Rule that pegs the definition of "small" to that of the Small Business Administration's financial services sector, which currently establishes that threshold at $47 million of revenues. NAMA believes that for this discussion, that amount is grossly inappropriate. Even the $7 million threshold used in the 2014 Final MA Rule and currently used in Form MA, may not be a good guidepost when there are such variations of "small" within the MA community. Another question that should be part of this conversation is if and how the MSRB, while having the mandate to avoid burdening "small MA firms," can define this unilaterally when the small firm definition is part of the SEC's MA Rule. Perhaps that can be done within the context of the application of each rule, and is worth further discussion. The MSRB may also wish to look at how other regulators define "small" for regulated entities.

<u>MSRB Approach to Rules and Guidance to Better Assist Small MA Firms</u>

The MSRB, understandably, approaches MA rulemaking in a manner similar to rulemaking for broker-dealers ("BD") that has been done for nearly the entirety of the MSRB's existence. Rules have always been and continue to be written by lawyers for lawyers. However, this overlooks an important hallmark of most independent MA firms – those serving as Chief Compliance Officers ("CCO"), are also practicing MAs, and very few MA firms have in-house legal counsel to review and provide insights into understanding MSRB rules.

These matters are further complicated since unlike underwriting, which ultimately is a clear transactional role for which rules are written, municipal advisory firms are not uniform in their roles and may perform different and various services to clients, some of which are not transactional and, further, may not even be MA activities. This places administrative, and ultimately costly, burdens on small MA firms. Additionally, while NAMA develops resources by and for MAs, and other general resources are available through the MSRB and other providers, there is a dearth of legal counsel able to help firms interpret rules and how rules apply directly to their firm's practice.

Many firms do seek outside counsel or compliance professionals to assist with their compliance programs. These costs may represent the price of doing business, but place greater financial and administrative burdens on smaller firms. The cost of external compliance review and/or development and maintenance of written supervisory procedures ("WSP")/policies and procedures, etc., are typically not based on the size of the firm, but rather a fixed cost to firms. That proportionately places greater costs on small firms. Additionally, NAMA members report that when small firms are uniquely challenged to find answers of the application of a rule during an SEC exam, they spend additional staff time and funds on counsel to advise them. Again, this all speaks to the need for MSRB rules and guidance to be clear and to be better developed for the MA audience that must adhere to the rules.

A step forward for the MSRB could be that within its retrospective rule review, the MSRB approach this review and future rules and guidance by keeping in mind the audience for whom the rules are written. This is not saying to water down the rules or lose important emphasis, but rather to write them in a manner that can be well understood by MAs. The MSRB should also be acutely attuned to comments from MAs about rules and guidance. This is especially true as the MSRB has not employed staff who have been practicing MARs or MA Chief Compliance Officers/regulatory counsels. The same is also, if not more, important regarding MSRB guidance. This does not mean more words are better, but rather the MSRB's efforts could focus on understanding the pressure points within a rule and focus guidance on these areas for the intended audience. NAMA also, as we have in the past, calls on MSRB guidance to take on one form and to have it available for public comment and discussions[i].

The MSRB may also wish to consider developing a year-end regulatory update for regulated entities that would include rule changes and other rulemaking efforts. This could especially help small MA firms easily understand areas where WSPs need to be updated. The MSRB's Model WSP document, though greatly appreciated by MAs, remains static, unaffected by rule changes and guidance. The MSRB should consider establishing an annual linkage between the Model WSP and each year's rule changes and guidance updates. These updates might also include lists of regulatory questions posed by MAs and SEC examiners together with the MSRB's responses and guidance on issues which frequently arise through the MSRB's help line and during SEC examinations.

Another suggestion to help MA firms, and especially small MA firms best understand the application of rules to their practices, would be to ask where guidance may be needed within requests for comments on proposed rules.

Key Focus Area: Sole Proprietor Firms

The independent MA firm community also has the unique nuance of having numerous sole proprietor firms. According to MSRB data, almost 40% of MA firms have only one MAR. The challenges these firms face may not be more than firms with three or four MAs (and in fact could be less). However, the true challenge these firms face, in addition to other points raised in this letter, how to supervise themselves, and demonstrate compliance with MSRB supervision rules (this is also true for small firms that may not have a supervisor-principal to a principal). Since the number of sole proprietor firms is so great the MSRB may wish to consider, again in its retrospective rule and guidance review, how to ensure that guidance addresses single person firms and their needs for complying with a rule. Also, allowing for public comment and engagement about the application of rules and guidance on small firms prior to finalizing documents is imperative for the MSRB's efforts to be successful for this audience (for example, see NAMA's January 2023 comment letter Rule G-3[ii]). The MSRB may also wish to review how other regulated entities approach sole proprietor firms.

Burdens to Small MAs of the Collective Suite of Rulemaking

Another item that is important to flag is the need for the MSRB not only to include an economic analysis of a rule on the MA community and also specifically for small MA firms, per Securities Exchange Act Section 15B(b)(2)(L)(iv), but a need to analyze the burdens of the entire suite of MSRB's rules on MA firms. This is

an area where the MSRB would benefit from having input from MAs to better understand what it takes for various sized firms to maintain a robust compliance program, and again, the pressure points therein and where more clarity of MSRB rules could be helpful.

The SEC noted various estimates of the time and costs of complying with the MA Rule (Release No. 34-70462; File No. S7-45-10). These estimates only provide for books and records and registration filings, and do not reflect the actual totality of the regulatory compliance costs to MA firms, but rather anticipated costs to comply with the SEC's MA Rule. With no overall estimated costs for MA compliance programs being done since before regulations went into effect, and absent the totality of the costs of MSRB rules, NAMA believes this is an area ripe for more extensive conversations.

The MSRB should address how it approaches its analysis on the costs of regulations, and the burdens to small firms, and allow public comment on its analysis both for individual rules and the totality of the rulebook within its retrospective rule review. Without this information, it is unclear how the MSRB or SEC can determine if application of a rule is burdensome on small MA firms. The MSRB may also wish to confer with small firm CCOs and sole proprietor MAs to discuss how they approach reviewing new/updated rules, making changes to their WSPs, and implementing compliance and supervisory procedures.

<u>How MSRB Rules Could Lessen Impediments and Limits to MA Participation</u>

In response to changes to Rule G-3 last year, NAMA commented on the difficulty in understanding - for the purposes of taking the Series 50 and 54 exams, as well as generally - the sequence of activities a person needs to undertake to start an MA firm[iii]. These unknowns or not-well-understood variables could be barriers for new or returning professionals to start an MA practice.

In this era of having difficulty attracting talent generally in public finance and for municipal advisors in particular, how supervisory procedures work when MAs are not located in the same office also deserves attention. Within its retrospective rule and guidance review, the MSRB should ask respondents if there are any guidance needs to assist with rule compliance and supervision when MARs are not in a central location. This could allow firms to understand the compliance necessities when looking to hire professionals who may seek greater locational flexibility.

<u>Guidance Organization</u>

Within the MSRB's retrospective rule and guidance review, a better organization of materials – in addition to streamlining the types of materials – would be helpful. There are numerous areas on the MSRB's web site where nuggets of compliance and rule information may be found (Guidance, Resources, Advisories, Guides, FAQs, Compliance Tips of the Week, Webinars, and Podcasts), but they are not organized by rule or streamlined in any easy to access manner. This also includes MSRB Notices and Rule Filings that may contain valuable and helpful information, but are buried in the Filings, and the documents themselves are not intuitively found on Rules' web page.

Additionally, as noted above, a comprehensive year end compilation of materials that can assist regulated entities, especially small firms, be more aware of any rule and guidance changes, as well as other information provided about a rule throughout a year, would be helpful.

Other Matters Related to MSRB Rules and Small MA Firms

While NAMA's letter speaks to the issues for independent MA firms, we know that other items may be worth discussing when broker-dealer and/or investment advisor firms also have MAs within the firm. While legal and compliance assistance may be more readily available for these firms (if large), there are still questions worth considering on how various MSRB rules apply to MAs, Registered Investment Advisors (RIA), and BDs, and the compliance needs for these entities. The MSRB may wish, in its retrospective rule review, to address compliance considerations: when one professional may have multiple licenses and designations; that reflect the needs for "small" firms that offer-BD and/or IA and MA services, and; on how firms can best approach compliance when the number of MA representatives may be small compared to other licensed and regulated professionals at the firm.

NAMA also suggests that the MSRB inquire and discuss with marketplace participants whether there are lessons that can be utilized from fellow regulators related to small firms and rule writing and compliance assistance, including for small and sole proprietor firms.

Another item that may need to be on the MSRB's radar during its retrospective rule review is current and possibly future congressional and regulatory action that addresses regulated small firms. This includes the Regulatory Flexibility Act (1980) [https://advocacy.sba.gov/resources/the-regulatory-flexibility-act/], and the Small Entity Update Act (H.R. 2792, https://www.congress.gov/118/bills/hr2792/BILLS-118hr2792ih.pdf) which passed the House in 2023, and is pending in the Senate.

NAMA is not seeking exemptions or a tiered approaches to regulation, but as the retrospective rule review continues, NAMA may wish to comment on these matters.

NAMA will be providing comments separately about the negative impact of unfair burdens of MSRB rules on mid-sized and/or large firms (per RFI question #11). We would note, however, that generally many of the key concerns that small firms experience and are discussed in this letter, also exist for independent MA firms of all sizes.

A critical theme throughout our response is the need for the MSRB to better understand MA firms, MA activities and how firms approach complying with MSRB rules, especially small MA firms. We also recommend that if the MSRB is looking further into the impact of its rulemaking on small MA firms, that it review the significant drop of MA firms over the past 10 years, and determine if one reason for the decline can be attributed to regulatory barriers.

As discussed in this letter, NAMA would appreciate the MSRB's attention and additional discussions on key matters as the MSRB determines any outputs from the RFI process. These include:

- When reviewing rules and guidance as part of the retrospective rule review, allow for public comment and address the review from the point of view of most MA firms, especially small firms, where compliance is handled by a practicing MA;

- When developing any new rules and guidance, allow for public comment and address the products from the point of view of most MA firms, especially small firms, where compliance is handled by a practicing MA;
- Explain the MSRB's approach in determining if there are burdens to small firms for its rules;
- Consider the burdens of the entire rulebook on small MA firms;
- Provide greater discussion about compliance for sole proprietor firms in MSRB products; and
- Have additional conversations and public comment, as well as look at other regulators, for how "small" is defined and what that means for various MSRB outputs (without conflicting with the SEC MA Rule).

Additionally, we would welcome the opportunity to have MSRB staff engage with NAMA's Small MA Firm Working Group about these and other issues, especially as the MSRB determines next steps per the RFI. These discussions could also aid the MSRB's retrospective rule and guidance review.

We appreciate the MSRB's focus on small firms and this opportunity to provide comment on the MSRB's rules and the rulemaking process related to small firm concerns. We hope that this is the beginning of conversations about small MA firms and look forward to working with the MSRB on these matters.

Sincerely,

Susan Gaffney
Executive Director

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[i] Page 4, fourth bullet, https://www.msrb.org/sites/default/files/RFC/2020-19/NAMA.pdf.
[ii] Answer to question #12, https://www.msrb.org/sites/default/files/2023-01/NAMA-2022-13.pdf
[iii] Page 1, https://www.msrb.org/sites/default/files/2023-01/NAMA-2022-13.pdf

VIA ELECTRONIC SUBMISSION

Ronald W. Smith 2/26/24
Corporate Secretary
Municipal Securities Rulemaking Boar
1300 I Street NW, Suite 1000
Washington, DC 20005

Re: MSRB Notice 2023-11 – Request Information on Impacts of MSRB Rules on Small Firms

Mr. Smith,

Thank you for the opportunity to respond to the MSRB's request for comment on areas of regulations that could be considered burdensome by small firms.
This letter will focus on MSRB Rule G-27 and specifically that portion of the Rule that requires the designation of one or more appropriately registered principals in each office of municipal supervisory jurisdiction (OMSJ).
Like many other firms, on March 13, 2020, Regional Brokers, Inc. (RBI) closed its office and made arrangements for its employees to work from home. RBI has made a corporate decision to maintain the "work from home" model going forward. Until now, RBI has utilized the relief granted by FINRA and the MSRB under which RBI was not required to designate these homes as "offices".
Now, however, that relief is ending, and RBI will need to fulfill the supervisory requirements of MSRB Rule G-27 related to these homes.
If these home offices are required to be designated as OMSJ, as it is indicated under G-27(g) "Definitions", due to order taking or market making, the Rule will require the persons in those newly identified "offices" to acquire a Series 53.
However, since any persons working alone in those offices **cannot supervise themselves,** they will have to be supervised by some other principal at a separate location, rendering their 53 meaningless.
It can certainly be identified as a "burden" if the MSRB will require perhaps hundreds of persons in the industry to study for and acquire a license that they can never use.
Common sense says that relief should be granted for this catch-22. And, it seems that relief is already possible, if the MSRB will give guidance based upon the following section of the Rule:

Rule G-27(g)(ii) appears to give exemption to a municipal branch office from being named as such (and therefore also an exemption from being designated an OMSJ), if the orders taken or placed by that person are entered through a designated branch office or electronic system that is reviewable at the municipal branch office. Because this is the business model of RBI and many other firms that will be affected by the end of Covid relief, I believe that the exemption should apply and appropriate guidance be given.

Thank you for allowing me the opportunity to remark on this very important and timely subject and I would be happy to discuss the matter further with the MSRB.

Deane Armstrong

H. Deane Armstrong
CCO
Regional Brokers, Inc.

SANDERLIN SECURITIES LLC

5050 Poplar Avenue – Suite 618 – Memphis, Tennessee 38157
Phone (901) 683-1903

January 26, 2024

Re: MSRB Request for Information (RFI) on Impacts of MSRB Rules on Small Firms

To Whom It May Concern:

Below are my responses to the RFI issued on December 4, 2023, by the MSRB soliciting public input on any aspects of its rules, or the absence thereof, that may result in undue regulatory, compliance, operational, or administrative burdens, or other negative unintended impacts on smaller regulated entities.

1. What factors make a regulated entity a small, mid-sized or large regulated entity: revenue; level of business activity; number of associated persons; type of regulated entity; or other factors?
   Number of associated persons employed by a regulated entity is in my opinion the determining factor for classifying the size of a firm.
2. What, if any, MSRB rules or other MSRB activity, and what market practices impacted by MSRB rules or activities, have an unintended negative impact on or unfairly burden smaller regulated entities?
   The MSRB amendment to Rule G-14, reducing the reporting time from 15 minutes to one minute, inadvertently places smaller entities at a disadvantage. This adjustment necessitates smaller firms to invest in order entry software, such as Bloomberg's TOMS, which carries an annual cost of $250,000. This expenditure disproportionately burdens smaller firms, imposing a significant financial strain. While larger firms with hundreds or thousands of registered representatives might deem this cost nominal, for smaller entities, it poses a severe financial threat, potentially jeopardizing their viability.
3. What, if any, MSRB rules impede or limit small, regulated entities' participation in the municipal securities market?
   The MSRB amendment to Rule G-14, which reduces the reporting time from 15 minutes to one minute, poses a significant challenge to small firms' participation in the municipal securities market. The shortened reporting requirement increases the cost burden for small firms to remain compliant with the amendment, potentially rendering it economically unfeasible to sustain operations.
4. Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the growth of smaller regulated entities?
   Yes, there are circumstances where the application of an MSRB rule has led to unintended disproportionate impacts on the growth of smaller regulated entities. The MSRB amendment to Rule G-14, reducing the reporting time from 15 minutes to one minute, is a notable example. To remain compliant with this rule, smaller firms will be compelled to invest in costly reporting systems or technology upgrades. Consequently, they may encounter

challenges in competing with larger firms that possess greater financial resources and operational capabilities to meet regulatory requirements.

Smaller firms do not benefit from economies of scale to the extent that larger firms do. The additional costs required to stay compliant with the proposed amendment significantly hinder the ability of smaller firms to grow.

5. Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the ability of smaller regulated entities to obtain or retain talent?
   Certainly, when a firm becomes economically unfeasible and is unable to sustain its operations, it often becomes an undesirable place to work. Employees may face uncertainty about job security, financial stability, and career advancement opportunities. This can lead to lower morale, higher turnover rates, and difficulty attracting top talent. A firm's financial health and stability play a significant role in shaping its attractiveness as an employer and its ability to retain skilled employees.
6. Are there circumstances where the application of an MSRB rule has required smaller regulated entities to spend resources or retain the services of third-party vendors at costs that have a disproportionate impact on smaller regulated entities?
   To comply with the new one-minute reporting requirement, smaller firms will need to invest in order entry software. Larger firms typically already possess such software in their operational infrastructure.
7. What, if any, MSRB rules would benefit from a different or tiered approach to regulation or interpretations, according to size, that would support greater efficiency without the loss of investor, municipal entity or obligated person protection?
   I believe that the MSRB rule regarding the one-minute reporting requirement could benefit from a different or tiered approach to regulation, particularly considering the size of firms. Currently, smaller firms like ours face significant challenges in complying with the one-minute reporting requirement. While larger firms with sophisticated order entry systems like Bloomberg's TOMS may find it feasible to meet this requirement, smaller firms often lack the resources and infrastructure to do so efficiently.
   Allowing smaller firms to qualify for a manual trade entry exception, especially given that they must manually input *every* trade, could alleviate some of the burden without compromising the protection of investors, municipal entities, or obligated persons. This approach would support greater efficiency for smaller firms while maintaining the necessary safeguards.
   Mandating a five-minute reporting time period, instead of one minute, could also enhance compliance for smaller firms like ours. This adjustment would still ensure timely reporting while acknowledging the operational constraints faced by smaller entities.
   I feel it's important to recognize that the one-minute time period, while feasible for firms with automated systems, is not realistic for those relying on manual processes.
8. Are there changes that could be made to MSRB rules to provide meaningful and appropriate exceptions based on regulated entities' sizes?
   Please see my reply to question 7.
9. Are there changes the MSRB can make to any of its own processes that could address specific challenges faced by smaller regulated entities?
   Certainly, smaller regulated entities often encounter unique challenges in complying with MSRB regulations due to their limited resources and operational capacities. To address these challenges, the MSRB could consider several changes to its own processes:
   I. **Tailored Guidance and Education: The MSRB can develop and disseminate tailored guidance and educational resources specifically designed for smaller regulated entities. This could include simplified explanations of complex**

regulations, best practices for compliance, and practical tips for navigating regulatory requirements with limited resources.

II. **Flexible Compliance Deadlines: Recognizing the resource constraints of smaller regulated entities, the MSRB could consider implementing more flexible compliance deadlines for certain regulatory requirements. This could involve staggered implementation timelines or extended grace periods to allow smaller firms adequate time to adapt and comply without undue financial strain.**

10. Are there compliance resources or guidance the MSRB could produce that would be useful if tailored for different-sized regulated entities?
    As mentioned above, it would be beneficial if the language of new regulations were written in plain, easy-to-understand verbiage. While efforts are made in this direction, there is room for improvement. The language often contains excessive legalese, making it challenging for small firms without legal staff to interpret.
11. Are there any MSRB rules that have an unintended negative impact on or unfairly burden mid-sized and/or large firms, or do any of the questions posed above with respect to smaller regulated entities give rise to concerns about unintended negative impact or unfair burdens on mid-sized and/or large firms?
    I cannot offer commentary on this matter as I lack experience in complying with regulations at a mid to large firm.

In this RFI, the MSRB requested data or evidence to support my views. Below is my original comment letter to the G-14 Amendment regarding a shortened reporting requirement. In that comment letter, I made considerable efforts to provide empirical evidence for my claims that this amendment's cost to the municipal market's liquidity, which regular investors rely upon, and on small firms, far outweighs any benefit.

September 27, 2022

To: Municipal Securities Rulemaking Board
Re: Request for Comment on Transaction Reporting Obligations under MSRB Rule G-14

I am president of Sanderlin Securities, a municipal bond broker dealer in the secondary market. I appreciate this opportunity to comment on the proposed amendment to MSRB Rule G-14. I believe that there is no benefit to making the proposed change, and that if it is passed, it will actually harm municipal securities investors.

Sanderlin Securities is a “small” broker dealer, but we do handle what we feel is a fairly significant amount of trading volume in our part of the municipal bond market. In 2021, we traded over $300 million par amount of bonds in 8594 trades, making the average size of trade: $35m par amount. Based on this average size, we feel like we provide liquidity to retail investors—the mom and the pops—when they put their bonds out for the bid with their financial representative.

We tracked our trades in August to see how well we would have done remaining compliant with the reduced time requirement to report trades. We did 537 trades in the month of August (a slow month for our firm). We reported 47 (8.75%) in less than one minute; 298 (55.49%) trades were reported between one minute and two minutes; 160 (29.8%) trades were reported between two minutes and five minutes; and 32 (5.96%) trades reported in greater than five minutes. Less than ten percent of the trades we did this past August would have been compliant with the proposed change to MSRB Rule G-14.

In order for Sanderlin Securities to be compliant with this proposed change, we would have to purchase TOMS, Bloomberg's Order Management System, at a price tag of $250,000 per year[1]. We've engaged Bloomberg on the matter to see if there was a trimmed down version. There is, but for the number of trades we do, we don't qualify for that version. There are other order management systems available, but they all come with a hefty price tag. An additional expense of $250,000 per year would be very difficult for us to take on. In the MSRB write up on the matter, they seem to acknowledge this and appear to be apathetic to losing *more*[2] small firms, when it is stated: "as these trades would likely migrate to other large dealers." I can assure you, our trades would not migrate to "other large dealers". Our customers were unable to obtain the service they require at the large firms they previously patronized. Sanderlin provides a bespoke service in small lots that is simply unavailable elsewhere. Our customers will not migrate to large firms, they will simply go to Treasurys.

Let me put this in even more practical terms to show the negative impact on the municipal securities investor. I did a query through one of the ECNs we use to buy and sell bonds, to get a "color recap" for the bonds we bid in August 2022 (as mentioned previously, a slow month). We put a bid on 4778 bid wanteds in the month of August on this ECN. The color recap shows how many bidders there were on each bid wanted. I exported the data to find the average number of bidders on the 4778 bid wanteds we bid. The average was 5 bidders.

If Sanderlin Securities is forced to cease operations, due to the additional cost of this change, our bids will no longer show up on these 4778 bonds put out for the bid in August. So, instead of the municipal security investor getting five bids on their bid wanted, they get four, a 20% decline. More bids equals better pricing[3]! On an average day, the two traders at our firm bid over 600 bonds. Those 600 bids would no longer be available to the municipal securities investors and are most certainly not migrating to larger firms.

Sanderlin Securities has been in business over twenty years. During that time, we have never had a complaint or been part of a settlement for anti-competitive or disallowed practice. Our record with all regulatory bodies is immaculate. A fact very few, if any, of the larger firms can state.

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[1] Currently, Sanderlin Securities enters our trades using our clearing firms provided order entry system.

[2] In the five year period of 2017-2021, there was a 9% decline in FINRA Registered Firms. The small firms (firms with fewer than 150 registered representatives) were the overwhelming majority of this decline (305 out of the 332). In the time period of 2012-2021, the decline in FINRA Registered Broker Dealers is 21%. I could not locate the data to show what percentage of this decline in the ten year period was attributed to small firms, but based on the percentage from 2017-2021, we can estimate that it is an overwhelming majority.
source: https://www.finra.org/sites/default/files/2022-03/2022-industry-snapshot.pdf

[3] A fact that is empirically proven later in this comment letter.

On numerous occasions during Sanderlin's existence as a broker dealer, we experienced markets where liquidity in the municipal bond market declined significantly[4]. Our firm has always remained a bidder during times of market turmoil. During the COVID pandemic, we've remained in the office since Day 1[5], bidding bonds as always before. The firms that exited the markets (stopped bidding) during these tumultuous times were the "larger firms." Sanderlin's percentage of aggregate indebtedness (AI) to net capital (NC) is 1.65%[6]. In our twenty plus years of existence, our AI to NC has always been around this number. This is why we are always bidders, no matter the market we find ourselves in. We don't use absurd leverage for our trading operations, allowing us to always remain active in the markets.

The MSRB's explanation for this amendment suggests that the Board has identified a correlation between size of trade and reporting of greater than one minute: see Table 1 Trade Report Time by Trade Size. We don't usually transact in large lots, so I cannot comment on what is going on regarding the correlation between lot size and reporting time. If it is the Board's feeling that something iniquitous is occurring during that time period that is harmful to the retail investor, I suggest one minute trade reporting requirement to trades that have a par amount of one million or greater. Why punish broker dealers that aren't even part of the problem? Migrating trades to larger firms will result in fewer firms and less competition. These firms have never offered services in small areas of the market the many firms like us do.

Keeping with the argument that this change hurts municipal securities investors, while providing no benefit, I'd like to provide further empirical evidence. I randomly chose a trading day[7] for this example. Using the software[8] we use to track our trading activity, I can see that on May 4, 2022, Sanderlin had 18 purchase trades. I then looked at each CUSIP to see when after our purchase that bond traded again. Below is a table showing the results:

Bot Date	CUSIP	Bot Qty	BOT Time	Next time (or date) of Trade*
5/4/2022	56682PBC4	5	10:32:45	6/27/2022
5/4/2022	5515625V9	2.5	10:39:04	No trade since
5/4/2022	20774YKN6	5	11:01:00	5/24/2022
5/4/2022	65821DLJ8	35	11:33:01	5/5/2022
5/4/2022	13032UGN2	35	11:57:04	5/5/2022
5/4/2022	072024UR1	50	12:15:53	5/5/2022

[4] The two most significant examples being the post Lehman collapse (Global Financial Crisis) and during the early months of the COVID pandemic.
[5] We are fortunate to have an office that allowed us to depart from our traditional trading desk setup and pivot to a work space where each employee was safely segregated from their coworkers. We were able to never work from home and as a result of this spacing, we suffered no COVID transmission among our employees.
[6] Source: Sanderlin's July 2022 FOCUS Report Part IIA
[7] Actually, I asked the other trader to randomly choose a trading day within the past six months.
[8] Cost of software: $900 per year, a doable expense.

5/4/2022	37855PHJ4	5	12:56:02	No trade since
5/4/2022	45204EA40	10	13:03:17	5/9/2022
5/4/2022	154872AU9	200	14:03:12	6/1/2022
5/4/2022	74526QPL0	30	13:34:13	5/9/2022
5/4/2022	56036YDH5	10	13:35:14	15:04:08
5/4/2022	745190UK2	30	14:02:30	5/10/2022
5/4/2022	64542UCN2	10	14:08:43	9/16/2022
5/4/2022	841531DE3	10	14:17:20	5/5/2022
5/4/2022	34061QAH0	45	14:24:01	15:35:06
5/4/2022	34153PR42	85	15:52:10	5/10/2022
5/4/2022	927793WN5	20	16:31:00	5/5/2022
5/4/2022	13032UGP7	25	14:05:12	5/5/2022

*if we sold the bond to one of our customers or the trade was associated with our trade e.g., purchase from customer, I didn't include that time of trade in the analysis.

Of the 18 purchases made on May 4th, a randomly select trading day, the closest time that another trade went off on one of the CUSIPs was 71 minutes later. I fail to see how any of the subsequent municipal security investors in these bonds would have gained any benefit from me reporting these trades in less than sixty seconds. I will gladly provide similar data for any trading day; I feel certain we will draw the same conclusion: No benefit to the investor.

As a result of passing this amendment, you will have less firms like Sanderlin Securities in the municipal market. The MSRB Notice for this amendment seems to indifferently acknowledge this point when it states:

> *if these dealers [small broker dealers] choose to relinquish their secondary market trading business, there **should** [*emphasis mine*] not be any significant reduction in the supply of services to investors, as these trade would **likely** [*emphasis mine*] migrate to other larger dealers.*[9]

I hope in the above examples I have been able to elucidate how investors will not only see a reduction in the supply of services they receive, but these trades will not migrate to other larger dealers.

"The Municipal Securities Rulemaking Board was established by Congress in 1975 and charged with a mandate to protect municipal securities investors, municipal entities, obligated person and the public interest."[10] It seems to me that in order to uphold this mandate, the Board would do all that is possible to ensure the "municipal securities investors" are protected. It is my opinion, that if the amendment to MSRB Rule G-14 is passed, it will do significant harm to municipal securities investors.

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[9] Source: https://www.msrb.org/-/media/Files/Regulatory-Notices/RFCs/2022-07.ashx??n=1

[10] Source: https://www.msrb.org/msrb1/pdfs/Role-and-Jurisdiction-of-MSRB.pdf

I would like to conclude by giving further empirical evidence of the harm this proposed amendment will have on municipal securities investors. Literally, as I finished writing this comment letter (first draft), I had a bond confirmed to me from an ECN. We bought 290m of CUSIP 71885FCJ4. We were the high bid with only one other bid[11]. Our bid was $100.844 per bond; the cover bid was $100.47 per bond. Since reporting the trade (in greater than a minute, I should note), I can see from the tape that the bond was purchased from a customer at my bid price of $100.844. That customer would have gotten $1084.60 less if my bid was not there[12]. That seems pretty clear evidence of the harm done to a municipal securities investor as a result of less bids/liquidity. Where were the larger firms on this trade to ensure there were no "reduction in the supply of services to investors"? As an investor myself, I can assure you the main service I am concerned with offered by my broker dealer is the price I pay for bonds and the price I get when I decide/need to sell bonds.

I will now attempt to reply to each of the questions asked at the end of the request for comment by the MSRB:

Benefits:

I hope I've been clear in my above response that I see no benefit to any parties (other than the entities selling the automated order entry systems and the larger firms who will enjoy less competition) regarding this proposed amendment. Ergo, this section is left blank.

Costs and Burdens

1. Would a one-minute trade reporting requirement have any undue compliance burdens on dealers with certain characteristics or business models (e.g., large firms versus small firms, firms with greater trading volume versus lesser trading volume, bank dealers versus broker-dealers, etc.)? If so, please provide suggestions on how to alleviate the undue burdens.
The one-minute trade reporting requirement would absolutely create an undue compliance burden on smaller firms that don't already pay the hefty price tag for Bloomberg TOMS or another similar product that automates the processing of your trades.
As stated previously, the burden could be alleviated by putting the minimized time requirement on trades of one million or greater.

2. Are these undue compliance burdens unique to minority and women owned business enterprise (MWBE), veteran-owned business enterprise (VBE) or other special designation firms? If so, please provide suggestions on how to alleviate any undue burden or impact.
I suspect not. They are unique to firms that cannot afford the hefty price tag of an automated order entry system.

3. What are the likely direct and indirect costs associated with the Proposal? Who might be affected by these costs and in what way? a. Is there data on these costs that the MSRB should consider? If so, please provide such information. b. If firms would have to make system changes to meet a new timeframe for trade reporting, how long would firms need to implement such changes?
I hope the answer to these questions was made clear in my above response. As with any of this, if not, please contact me to discuss further.

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[11] The market has been selling off considerably recently due to a myriad of reasons causing bidders to stay away, but as mentioned earlier, Sanderlin is always a bidder for bonds that meet our parameters. The trade I am citing is from 9/22/22.

[12] My bid 100.844 – cover bid 100.47= $3.74 per bond *290=$1084.60

Operational Considerations

1. The time to report a trade is triggered at the time at which a contract is formed for a sale or purchase of municipal securities at a set quantity and set price; is this definition of "Time of Trade" the appropriate trigger? If not, what other elements of the trade should be established before the reporting obligation is triggered?
It is my feeling that this "Time of Trade" trigger is appropriate.

2. The data in Table 1 above indicates that 76.9% of trades reported to the MSRB were reported within one minute. Are there any commonalities with the trades (other than those noted above) that were reported within one minute or reported after one minute?
I feel the commonality is that 76.9% of trades reported in less than one minute are reported using an automated order entry system. For larger firms, the cost of $250k per year for this automation is nominal when spread out amongst their greater than five hundred registered representatives. For a smaller firm, it is burdensome at best, crushing at worst.

3. The data in Table 1 above indicates that larger-sized trades take longer to report than smaller-sized trades. What is the reason(s) it takes a firm that reports larger-sized trades more time to report a trade (e.g., voice trades)? a. For dealers that report larger-sized trades, would the process(es) for executing and/or reporting those trades need to change to be able to report those trades in a shorter timeframe? If so, how? b. Would dealers need retail and/or institutional investors to modify any of their processes so that larger-sized trades could be reported in a shorter timeframe?
Our data shows no correlation between the reporting time of a trade at Sanderlin Securities and the size of the trade.

4. The data in Table 2 above indicates dealers that report a smaller number of trades per year, take longer to report trades than dealers that report a larger number of trades. What is the reason(s) it takes a firm that reports a small number of trades more time to report a trade?
I suspect it is the same reason it takes us longer to do anything we don't do often: If you only do something every now and then, you have to essentially remind yourself what you are doing every time. With increased frequency of any activity comes increased efficiency[13].

5. Based on the MSRB's analysis, trades conducted on ATS platforms are reported to RTRS in less time than non-ATS trades, with 84.4% of inter-dealer trades on an ATS platform being reported within one minute while only 74.9% of non-ATS trades were reported within one minute. What is the reason(s) it takes more time to report trades executed away from an ATS?
I would venture a guess that firms that are executing exclusively on ATS platforms have automated their order entry. Sanderlin transacts on ATS platforms, with Brokers' Brokers, and off the MBWD bid lists on Bloomberg. It takes us the same amount of time to report a trade regardless of the venue we bought or sold it on.

6. Submitting transactions to RTRS using a service bureau appears to result in faster trade reporting time than a dealer using the RTRS Web interface. On average how long does it take a dealer to report a trade through the RTRS Web interface? How could the MSRB improve the process for reporting through the RTRS Web interface? In what instance would a dealer choose to or need to use the RTRS Web interface?

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[13] To the extent a firm's equipment and software allow e.g., we processed an average of 34 trades per day in 2021, but we still wouldn't be able to meet the one minute time requirement on 90% of those trades due to we don't have the automated order entry system.

Sanderlin's clearing firm handles the reporting of our trades to RTRS. I can say with confidence they do this reporting within one minute of the time we submit our trade using their order entry system. I know this because I just looked at a trade I had earlier today and from the time I submitted the trade to our clearing firm using their order entry system to the time I received the affirming email from RTRS was less than one minute.

7. Would reducing the timeframe to as soon as practicable, but no later than within one minute affect the accuracy of information reported and/or the likelihood of potential data entry errors? If so, what is the reason for such impact?
ABSOLUTELY! The reason is the trader would be rushed to input the data in under 60 seconds. What happens when you do anything in a hurry? Mistakes.

8. Are there any necessary process(es) a dealer needs to complete before trading a bond for the first time that could impact the ability to report a trade within a reduced timeframe (e.g., querying an information service provider to obtain indicative data on the security)? a. Please describe the process(es) and how often it is necessary to implement the process(es). b. Please estimate the time necessary to complete such process(es). c. Describe how, if at all, the process has changed in the last 10 years?
The most notable process I would cite is when your clearing firm's security master doesn't have a CUSIP set up. You have to then contact their security master department, alerting them for the need to set up a CUSIP. This can usually be done in under fifteen minutes. There is no possible way it could be done in under sixty seconds.

9. Rule G-14 currently provides exceptions for certain trades to be reported at end of day. Are these exceptions still necessary? If so, is end of day still the appropriate timeframe for reporting these transactions?
I'm not aware of these exceptions, so I can't comment on them.

10. Would reducing the reporting timeframe to one minute require additional trade reporting exceptions, other than end of day exceptions, to allow for certain trades to be reported at a different time (e.g., 3 minutes)? If so, please identify the types of trades that would require an exception and why such are believed necessary? For example, do trades executed on swap rather than on a cash basis require more time to report?
This is an operational element I have no experience with, so I cannot comment intelligently upon it.

Market Structure Considerations

1. Would approval of this Proposal have an impact on any current trading patterns or processes not already identified above? Would certain types of trades be less likely to occur? If so, what type of trades would be most impacted, and would that impact the fairness and efficiency of the market?
I'm hopeful my above comments on this matter have sufficiently answered this question. I would add that I feel the trades most impacted are the one of belonging to the "Mom and Pops"—the odd lot trades. The larger firms, from my experience, don't want to mess with lot sizes less than 100m.

2. The MSRB is aware of differences in the market structure in the municipal bond market compared to other fixed income markets. These differences include the substantial number of issuers and individual securities as well as the lack of uniformity for the structure of many municipal bonds including optional and mandatory redemption provisions.14 Do these differences cause municipal bond trades to take longer to report than the reporting of other fixed income trades, such as corporate bonds? If so, why?

For our firm, the nuances of different municipal bonds don't cause us a longer amount of time to report a trade.

3. Are there any other potential market structure implications the MSRB should be aware of? For example, could the Proposal alter the competitive balance in the current market?
I am very hopeful that my position on this question was made clear in my overall response. If not, allow me to summarize it: This proposed amendment will cause great harm to the smaller firms, putting more of them out of business due to the cost burden to remain compliant. Less participants in the municipal market means less liquidity, among other things. This will harm the municipal securities investors.

Sincerely,

Matthew Kamler
President
Sanderlin Securities

February 26, 2024

VIA ELECTRONIC SUBMISSION
Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000
Washington, DC 20005

Re: MSRB Notice 2023-11 – Request for Information on Impacts of MSRB Rules on Small Firms

Dear Mr. Smith,

The Securities Industry and Financial Markets Association ("SIFMA")[1] appreciates this opportunity to provide input on the MSRB's Request for Information on Impacts of MSRB Rules on Small Firms,[2] as part of the MSRB's retrospective review of its rule book. Overall, SIFMA is concerned about the regulatory burdens on all regulated entities.

Recommendation

The MSRB should:

- Carefully analyze the necessity of any regulatory change, as all MSRB rules and activities impose a burden on all regulated entities; and

- Consider the pace and volume of regulatory changes, in conjunction with other market changes.

[1] SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

[2] *See* MSRB Notice 2023-11 (Dec. 4, 2023) (the "RFI").

I. <u>All MSRB Rules and Activities Impose a Burden on Regulated Entities.</u>

As set forth in the RFI:

> [U]nder the MSRB's statutory mandate in Section 15B of the Securities Exchange Act of 1934 (the "Exchange Act"),[3] the MSRB rules may not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act[4] and also may not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons.[5] . . . [T]he MSRB's rules must be designed to prevent fraudulent and manipulative practices, promote fair and equitable principles of trade, foster a free and open market in municipal securities and municipal financial products, and, importantly, protect investors, municipal entities, obligated persons, and the public interest.[6]

Rules for regulated market entities are necessary to protect investors and maintain fair, orderly, and efficient markets. Rulemaking does create regulatory, compliance, operational, administrative, and other burdens for all regulated market entities. It is critical to ensure a balance of the benefits of regulation with the burdens on regulated entities.

Regulated entities need to be mindful of each action from the MSRB, whether it be a rule change, FAQ or other guidance, or a compliance resource. Entities must review the action, review their entities' current operations, policies and procedures, and determine if any changes need to be made. When implementing any changes, which may include a variety of systems both internally and with vendors or agents, updates must be rolled out in a coordinated fashion and connectivity tested end-to-end. New staff may need to be hired or existing staff responsibilities realigned. Written policies and supervisory procedures may need to be drafted or revised and implemented. Trainings must be scheduled for staff on the new policies and supervisory procedures. Any and all regulatory change involves a significant amount of work for regulated entities and their operations,

[3] 15 U.S.C. 78s(b)(1).

[4] Section 15B(b)(2)(C) of the Exchange Act; 15 U.S.C. 78o-4(b)(2)(C).

[5] Section 15B(b)(2)(L)(iv) of the Exchange Act; 15 U.S.C. 78o-4(b)(2)(L)(iv).

[6] Section 15B(b)(2)(C) of the Exchange Act; 15 U.S.C. 78o-4(b)(2)(C).

compliance and administrative teams. This creates a significant burden on any regulated entity, regardless of size.

There are occasionally instances where exceptions for smaller regulated entities could be beneficial. Small firms, with proportional compliance departments, may not have enough staff to manage the regulatory change process as quickly as larger firms. Also, some necessary vendor solutions may have a cost that is prohibitive when weighed against a small firm's level of market activity. For example, SIFMA does support a de minimis exception to the MSRB proposal to reduce trade reporting deadlines from fifteen minutes to one-minute, as this will be a major set of technological changes for broker dealers.[7] However, by and large, most regulatory action creates burdens for all regulated entities.

II. MSRB Should Consider the Pace and Volume of Regulatory Changes, in Conjunction with Other Market Changes.

The MSRB should consider the pace and volume of regulatory changes, in light of other market changes. The move from T+2 to T+1 settlement is monumental and forcing broker dealers to focus a tremendous amount of resources on this change scheduled for May 28, 2024 is a significant requirement for any firm. Simultaneously, the industry is analyzing changes to bank capital rules, a potentially new and different SEC best execution rule, and a proposal for one-minute trade reporting, among others. Each and every one of these changes is significant, but collectively they are overwhelming for all firms that have a primary duty to focus on servicing their clients. The MSRB should be mindful of the totality of the burdens on the regulated parties when planning additional regulatory changes.

III. Classifications of Firms.

SIFMA members note that the existing classifications by FINRA of firms are based on the number of registered representatives.[8] Firms with 1 to 150 registered representatives are deemed small, 151 to 499 mid-sized, and over 500 large. Another classification example appears in the de minimis exception to the MSRB proposal on one-minute trade reporting.[9] In that proposal, the exception was

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[7] See letter from Kenneth E. Bentsen, Jr., SIFMA, to Vanessa A. Countryman, SEC, on File Number SR-MSRB-2024-01; Release No. 34-99402; Notice of Filing of a Proposed Rule Change to Amend MSRB Rule G–14 to Shorten the Timeframe for Reporting Trades in Municipal Securities to the MSRB and File Number SR-FINRA-2024-04; Release No. 34-99404; Notice of Filing of a Proposed Rule Change to Amend FINRA Rule 6730 (Transaction Reporting) to Reduce the 15-Minute TRACE Reporting Timeframe to One Minute.

[8] See: https://www.finra.org/sites/default/files/2023-04/2023-industry-snapshot.pdf.

[9] https://www.sec.gov/files/rules/sro/msrb/2024/34-99402.pdf .

based on level of business activity, and applied to broker dealers with very low trading volume. SIFMA members believe that a better system for the classification of regulated entities is based on revenue or capital.[10] For example, the Small Business Administration determines small investment banking and securities intermediation firms as those that are independently owned and operated, with average annual gross receipts of $47 million or less, averaged over the previous three years.[11]

IV. MSRB Should Provide Market Leadership in Related Regulatory Issues.

a. Net Capital Haircut Requirements

The MSRB should provide market leadership in related regulatory issues that impact regulated entities in the municipal securities market. One issue that has created a disproportionate burden on small firms is related to the net capital haircut requirements for brokers or dealers under the Securities Exchange Act Rule 15c3-1. Before a co-manager can reduce their open contractual commitments charge in an underwriting in which they did not receive an allocation of bonds, FINRA examiners are requiring written notification from the managing underwriter to a co-manager confirming they no longer have exposure to the underwriting transaction. SIFMA members ask that MSRB assist the industry by requesting that FINRA examiners take a rational basis approach and permit co-managers, consistent with longstanding industry practice, to continue to rely on evidence that is currently produced by senior managers, including balance wires, IPREO allocation and/or retention wires, and free to trade wires. MSRB Rule G-11(g)(ii) requires that the senior manager: "notify all members of the syndicate and selling group members, at the same time, via an industry-accepted electronic method of communication, that the issue is free to trade . . . ."[12]

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[10] SIFMA members suggest that the most appropriate classification should also take into account the revenue or capital of the entity's corporate parent or related entities.

[11] https://www.sba.gov/sites/sbagov/files/2023-03/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%281%29%20%281%29_0.pdf.

[12] "The free-to-trade wire communicates to members of the syndicate that the various syndicate restrictions set forth in the AAU or otherwise communicated to the syndicate have been removed and indicates to syndicate members that they may trade the bonds at prices other than the initial offering price." https://www.msrb.org/sites/default/files/2018-15.pdf.

Syndicate members are informed the bonds are "free to trade" after allocations have been made to all syndicate members. If a co-manager receives the "free to trade" wire, but no allocation of bonds, and no notification of a retention, the co-manager knows that it has no continuing underwriting commitment. While SIFMA acknowledges that a co-manager with no allocation of bonds may continue to have legal liability under the agreement among underwriters, it should not

Bloomberg messages, wires, or similar messages are an industry-accepted electronic method of communication. MSRB should consider guidance to MSRB Rule G-11 to make clear that the "free to trade" wire is evidence members of the syndicate no longer have capital at risk, therefore no related open contractual commitments should be required.

a. Supervision[13]

Another issue that creates a disproportionate burden on small firms is related to supervision. MSRB Rule G-27 requires the designation of one or more appropriately registered principals in each office of "municipal supervisory jurisdiction" (OMSJ). Many broker dealers have utilized the temporary COVID-era relief granted by FINRA and the MSRB under which entities were not required to designate the homes of employees working alone from home as "offices." As the temporary relief is ending,[14] broker dealers will need to comply with the supervisory requirements of MSRB Rule G-27 related to these home offices that continue to be in use in the current age of technological tools and flexible work. For example, designating these home offices as an OMSJ, pursuant to MSRB Rule G-27(g), requires traders working from home order taking or market making to obtain a Series 53 license. However, since any person working alone in those home offices cannot supervise themselves, they will need to be supervised by another principal from a separate location, rendering the Series 53 taken by the person in the one-person office useless. SIFMA requests the MSRB consider guidance and relief to the industry by indicating that G-27(g)(ii) gives exemption to a municipal branch office from being named as such (and therefore also an exemption from being designated an OMSJ), if the orders taken or placed by that person are entered through a designated branch office or electronic system that is reviewable at the municipal branch office. We request similar relief for municipal finance investment bankers working remotely, regarding the location of structuring and underwriting.

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be required to maintain open contractual commitments charges in this instance as a matter of course.

[13] SIFMA recognizes that FINRA has recently adopted FINRA Rule 3110.19 (Residential Supervisory Location) and FINRA Rule 3110.18 (Remote Inspections Pilot Program), and announced the end of temporary relief related to updates of office information on Forms U4 and BR (https://www.finra.org/rules-guidance/notices/24-02), with which MSRB is planning to harmonize Rule G-27 on Supervision. As MSRB considers the impact of its rules on small firms, it was important for SIFMA to highlight this issue.

[14] https://www.msrb.org/sites/default/files/2023-04/SR-MSRB-2023-04.pdf.

V. **Losing Any Market Participants Reduces Liquidity in the Municipal Securities Market.**

In recent years, the municipal securities market has not only seen the loss of small firms in the industry, but also major firms exiting the municipal securities market. While such decisions usually are not attributed to solely one factor, regulatory changes driving compliance, operational and administrative burdens, and the commensurate costs are most certainly a major contributing factor. Whether large, mid-sized or small, these firms all serviced clients and had balance sheet committed, which are critical functions to maintain a liquid and resilient market. When fewer participants are in the market, the negative impacts on market liquidity may not be readily apparent in calm market conditions. However, markets with fewer participants are less resilient because there are fewer, if any, participants ready to step in during times of dislocation in the market. In recent years the municipal securities market has "broken" or seen major dislocations during the Great Recession of 2007-2008 as well as during the COVID liquidity crisis of 2020. The MSRB should continue to track the number of market participants, as well as the size of their balance sheet committed to making markets in municipal securities, to monitor the robustness of the market.

The SEC's 2012 Report on the Municipal Securities Market[15] detailed a number of market structure proposals, many of which have been adopted by the MSRB. Since 2012, the MSRB has instituted changes to the municipal market structure through rulemaking, and the release of various related guidance, on procedures for determining "prevailing market price," disclosure of mark-up or mark-down on retail customer confirmations, and "best execution" for customer orders. The MSRB has historically and repeatedly dismissed the market liquidity concerns of the broker dealer community when faced with the impacts of the costs and burdens of these and other regulatory changes, many of which had a stated intent of improving the transparency of market information to investors. Further, the SEC is currently considering yet another different best execution rule and the MSRB has filed a proposal for one-minute trade reporting and continues to consider implementing a pre-trade price transparency regime. Our members cannot say this strongly enough: there is a tipping point at which the additional costs for broker dealers to provide marginal improvements in transparency to investors makes the municipal market no longer a good use of the broker dealer's capital. Aspirational transparency goals cannot blindly trump liquidity concerns and use of resources. Investors, issuers and obligors all rely on a healthy, functioning municipal securities market for various financing needs. Broker dealers are critical participants to keep the municipal market functioning.

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[15] The SEC Report on the Municipal Securities Market, July 21, 2012, available at: https://www.sec.gov/files/munireport073112.pdf.

Thank you for considering SIFMA's comments. Overall, SIFMA appreciates the MSRB's retrospective rule review project's goals to reduce unnecessary costs and burdens for regulated entities while still meeting the MSRB's regulatory obligation to protect investors, municipal entities and obligated persons. However, SIFMA recommends the MSRB proceed with a more measured pace and volume of change on changes that are deemed necessary, while taking into account other industry changes, to avoid unintended negative consequences to the municipal securities market, including additional market participants exiting the marketplace. If a fuller discussion of our comments would be helpful, I can be reached at (212) 313-1130 or lnorwood@sifma.org.

Sincerely,

Leslie M. Norwood
Managing Director and Associate General Counsel
Head of Municipal Securities

cc: ***Municipal Securities Rulemaking Board***
Ernesto A. Lanza, Chief Regulatory and Policy Officer
Carol Converso, Director, Market Practice

Speer Financial, Inc.
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February 20, 2024

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000
Washington, DC 2005

Dear Mr. Smith:

This letter is Speer Financial, Inc.'s ("Speer") response to the Municipal Rule Making Board's ("MSRB") Request for Information on Impacts of MSRB Rules on Small Firms (2023-11) (the "RFI"). Speer is a municipal advisory firm which advises municipal clients in Iowa and Illinois.

Speer was a founding member of the National Association of Municipal Advisors ("NAMA") (previously known as the National Association of Independent Public Financial Advisors). We supported the initial regulation of municipal advisors and continue to support municipal advisor regulation. As a smaller municipal advisory firm, we would like to express our thoughts on the extent to which the MSRB's rules (the "Rules") have had a more negative impact on our firm and our municipal clients than initially anticipated by the SEC/MSRB.

Speer has experienced significantly greater time burdens as a result of regulation. Speer does not contract-out its compliance obligations to third party providers, except that we employ a compliance attorney as needed. We have three officers of Speer that are certified municipal advisor principals. As opposed to an outside compliance firm, we believe the officers of Speer know how the firm's municipal advisors can best serve our clients, based on the types of municipal advising provided by our firm. Though we emphasize training and ongoing education of our municipal advisor employees, the Rules require the Speer officers (particularly the Speer municipal advisory principals) to continually monitor the Speer municipal advisors. In addition, these principals are responsible for the information retention files and compliance-required systems. Contracting-out such services would be prohibitively expensive to the firm and would not best address municipal advising compliance issues as they arise for the firm's particular clients.

There is also an over-documentation time burden on the officers of the firm. The Rules include a presumption that unless a municipal advisor firm can prove through documentation that an action was taken, that action is assumed to have not been taken. Clearly, documentation is appropriately a part of compliance in many instances, such as providing clients with engagement and suitability letters. However, such matters as an internal discussion of client credit matters, direction from a principal to a firm's municipal advisor as to how best comply with a Rule, and other communications to better comply with the intent of the Rules should not be assumed to have not occurred simply because an internal email was not sent and saved in a compliance file.

In addition to the time burden, the IT system costs (e.g. email archiving) and information retention costs of regulation are more of a financial burden to Speer than the SEC/MSRB initially anticipated. Ancillary costs, such as for cybersecurity for such systems and files, adds to this cost.

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While we understand that the MSRB cannot control the costs of third party service providers, the MSRB should know that these regulation costs, in both time and money, are a particular burden to small municipal advisory firms such as Speer. The MSRB is charged, in part, with providing protection to municipal entities and the public interest. Municipal clients are not best protected when time is taken away from their municipal advisors, which could be otherwise used to serve them, in order to comply with certain unnecessary and fixable regulatory provisions of the Rules. Nor are such municipal clients served by firms such as Speer passing along the firm's increasing regulation costs to them, if possible.

Because of the competitive nature of the municipal advisory market in Speer's service area, Speer has not been able to pass along any significant amount of our additional regulation costs to our clients. Many of our competitor municipal advisory firms have not been able to do so either. The result has been the merging of municipal advisory firms or the exiting of such firms from the industry. This has been especially true for smaller municipal advisory firms. Because of the high cost of regulation and other barriers of entry into the municipal advisory business, the MSRB may be creating circumstances and effects that are contrary to its mission to serve the municipal market and the public interest.

We understand that the RFI asks for responders to provide specific solutions to the concerns discussed above. We believe that the information the MSRB already has, including the information gathered by the SEC from examinations of municipal advisory firms, can provide the best indication of what municipal advisory firms are doing well and not doing well. Speer has been through two SEC examinations. As a result of these examinations, we believe that we have a good idea as to what we do well and what we need to continue to improve upon in our compliance with the Rules. One suggestion we can offer, is that any revisions to MSRB rules for municipal advisors (and scope and frequency of SEC examinations) should focus on areas of material harm to municipal clients and the industry rather than providing overly detailed requirements that are not absolutely necessary to serve that end. Again, we trust that the MSRB has more industry-wide information in this regard.

Thank you for this opportunity to provide our thoughts on how the MSRB's regulation of small firms such as Speer may be improved.

SPEER FINANCIAL, INC.

Daniel Forbes
President

February 26, 2024

To: Municipal Securities Rulemaking Board

RE: MSRB Notice 2023-11 Request for Information on Impacts of MSRB Rules on Small Firms

Stern Brothers & Co appreciates the opportunity to respond to Notice 2023-11 (the "MSRB Notice") issued by the Municipal Securities Rulemaking Board ("MSRB").

Stern Brothers is a woman owned investment bank. Among the MWBE firms participating in the municipal market, Stern consistently ranks in the top 7 MWBE municipal underwriters. We are well capitalized and have continued to reinvest in the firm.

Q: What factors make a regulated entity a small, mid-sized or large regulated entity: revenue; level of business activity; number of associated persons; type of regulated entity; or other factors?

Stern Brothers believes a firm's revenue and capital should be the main factors in determining whether a firm is classified as a small, mid-sized or a large, regulated entity. Capital is the key factor in determining how much leverage a firm may have in what municipal issues they would be financially qualified to be a lead or co-senior manager.

Available capital also determines the resources that firm can use to promote and add staff, add new technology systems, or outsource services that may be needed to support existing or new business lines and address regulatory changes.

We have found that many municipal issuers define small firms in an RFP and RFI in line with the revenue limits definitions of the Small Business Administration (SBA).

We recommend that the MSRB should define small, mid-sized or large regulated entities in terms that are commonly used by municipal issuers and rightsized for the municipal market

Q: What, if any, MSRB rules or other MSRB activity, and what market practices impacted by MSRB rules or activities, have an unintended negative impact on or unfairly burden smaller regulated entities?

Some MSRB Rules and other MSRB activities force small firms, in particular, to outsource the work that is required as opposed to training in-house personnel or hiring additional personnel.

Sometimes third-party vendors have a minimum level of service that has to be met for any contract or service offering. This can result in a significant negative fiscal impact when entering a new business or adjusting to a rule change or initiation.

Q: Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the growth of smaller regulated entities?

Two circumstances come to mind where the application of MSRB rules combined with other regulatory requirements led to reduced growth in certain business lines and led to the exiting of certain business lines.

Stern Brothers withdrew as a Municipal Advisor in 2020 after determining that the combined regulatory requirements and associated costs could not be sustained.

Regulation Best Interest is a second example where the requirements of Reg BI combined with the MSRB's regulations protecting retail investors became too onerous to maintain. This became a factor in our firm's decision to exit the retail business. This was a painful decision resulting in the layoff of a highly talented and valuable employee.

We would like to note that when regulations become too onerous it becomes very difficult to remain in business and serves as a barrier to new entrants in the marketplace, including MWBE entrants.

The implementation of 1 minute reporting will cause Stern to withdraw from the Market Access Diversity Dealer Platform. The cost to implement the Market Access direct order entry system on a monthly basis is prohibitive for Stern. However, Market Access allows us to participate using manual entry for orders. Given the order process for these types of trades, it is impossible to meet the 1-minute reporting requirement. As a result, we will be forced to resign from a program specifically designed to help MWBE dealers.

Q: Are there circumstances where the application of an MSRB rule has led to an unintended disproportionate impact on the ability of smaller regulated entities to obtain or retain talent?

As noted above the decision to exit a business line due to regulatory burdens can and does result in layoffs and the ability to retain talent.

Our decision to exit the retail business resulted in a layoff and exiting the Municipal Advisor space also resulted in layoffs.

Q: Are there circumstances where the application of an MSRB rule has required smaller regulated entities to spend resources or retain the services of third-party vendors at costs that have a disproportionate impact on smaller regulated entities?

The move to one minute trade reporting and T+1 settlement requires many small firms to spend resources and retain the services of third-party vendors at costs that have a disproportionate impact on smaller entities.

In order to be able to meet T+1, our firm was required to engage and use DTCC's Central Trade Matching (CTM) for allocations. This was an additional service that comes at a significant additional cost and also comes at a great cost of personnel time and effort to implement. Even with upgrading to CTM, small firms continue to need large institutional customers to provide timely allocations, over which the firms themselves have no control.

Another service we found is needed in order to be able to satisfy 1- minute reporting is the use of Bloomberg's Trade Order Management Solutions (TOMs), which has a significant cost; not all small firms can manage this increased cost. We were fortunate in having the ability to invest in TOMs. We believe if we had not done this, we would not be in a position to meet the 1-minute reporting requirement and would have needed to exit trading in the secondary markets. Trading in the secondary markets is a key driver to earning business in multiple areas of the municipal space. For example, municipal issuers will rarely, if ever, select a senior manager for an issuance if that firm does not or has not traded in the issuer's bonds.

Q: Are there changes the MSRB can make to any of its own processes that could address specific challenges faced by smaller regulated entities?

We applaud the MSRB's past roundtables discussions with representatives from minority and woman-owned business enterprises (MWBE) and veteran-owned small business (VOSB) firms. We encourage the MSRB to continue these roundtables. We would also urge the MSRB to continue and increase more direct engagement with small firms. This enables the MSRB to hear directly from small firms regarding the issues facing them as a result of certain proposed regulatory changes.

Q: **Are there compliance resources or guidance the MSRB could produce that would be useful if tailored for different-sized regulated entities?**

We recognize the importance and appreciate the value of guidance and FAQ's that have been issued by the MSRB. When possible, the MSRB should issue guidance earlier in

the process. In many cases we have found that in order to meet expected deadlines we have had to engage outsourced services prior to understanding the full expectations of the regulators which become clarified in guidance that is issued at or shortly after the effectiveness of a new or amended rule.

Siebert Williams Shank

A SHANK WILLIAMS CISNEROS COMPANY

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February 26, 2024

VIA ELECTRONIC SUBMISSION

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000
Washington, DC 20005

Dear Mr. Smith:

Siebert Williams Shank & Co., LLC (the "Firm") appreciates this opportunity to comment on an interpretation of regulatory requirements that will result in undue and unintended burdens on smaller firms such as ours. During the course of a routine cycle examination, staff of the Financial Industry Regulatory Authority, Inc. ("FINRA") took a position regarding Rule 15c3-1 (the "Net Capital Rule") of the U.S. Securities and Exchange Commission (the "SEC") that is without basis in the rule's text or in related guidance. We bring it to your attention because the Staff's interpretation could have a negative impact on firms' underwriting capacity and, as a result, the vibrancy and depth of the primary market for securities—including the municipal market.

The Net Capital Rule requires firms participating in a firm commitment underwriting to take an open contractual commitment (an "OCC") charge "on each net long and each net short position" contemplated by any OCC in their accounts.[1] Recently, the Staff took the position that, under no circumstances, may a co-managing underwriter in an offering of new issue securities reduce its OCC charge to zero prior to the settlement date unless it has "adequate supporting documentation ***from the lead underwriter*** to evidence that the Firm no longer had any exposure to the underwriting deals." The Staff further contends that such evidence is required (i) even if there are no unsold securities, and (ii) if there are unsold securities, even if the bookrunning lead underwriter (the "Bookrunning Manager") has not allocated any unsold securities to the co-manager.

Historically, syndicate members in primary offerings of municipal securities that have not been allocated any unsold securities reduce their OCC charges the day after pricing based on the implied representation by the Bookrunning Manager that no securities are to be allocated to the syndicate, which is reflected in communications such as balance wires, IPREO allocation and/or retention wires, and free to trade wires. Notwithstanding this widespread and longstanding practice among industry participants, the Staff asserted that these communications are insufficient bases for a co-

[1] Rule 15c3-1(c)(2)(viii); 15c3-1(c)(4).

manager to reduce its OCC charge under the Net Capital Rule. Instead, the Staff suggest that a firm that does not retain other supporting documentation from the Bookrunning Manager evidencing that the co-manager "no longer had any exposure to the underwriting deals as of the close of business" on the pricing date and/or trade date will have violated SEC Rules 17a-3(a)(11) and 17a-5(a) and FINRA Rules 3110(a) and (b). As a matter of practice, Bookrunning Managers do not issue the type of communication the Staff demands; in fact, because neither FINRA nor the SEC have published guidance regarding this new interpretation, most market participants simply do not know that there is any reason to do so. Absent formal guidance from the SEC or FINRA, longstanding industry practice in the determination of OCC charges, and the timing thereof, should be respected, or the Staff's interpretation should otherwise be put out for comment by the industry.

The imposition of this new purported requirement under the Net Capital Rule has a disproportionate adverse effect on small and diverse firms such as ours, with no corresponding reduction in risk. In addition, because FINRA appears to raise this issue only with smaller firms, larger firms that also frequently serve as co-managers are unaware that they may be deemed by FINRA to be misstating their net capital. Thus, the imposition of this new requirement holds market participants to different standards depending on whether they have received "private" guidance from FINRA. It also results in the incongruity that Bookrunning Managers, with access to the full syndicate order book, may reduce their OCC charges to zero while each co-manager in the syndicate must continue to take the OCC charge—through settlement—for its entire underwriting liability, simply because the Bookrunning Manager has not communicated to the co-manager, in explicit terms, that it has no continuing underwriting commitment. The broad application of this interpretation could cause disruption to the municipal securities market if frequent co-managers are forced to decline syndicate appointments on primary offerings because FINRA improperly deems them to have insufficient net capital.

We hope the MSRB will exercise its traditional market leadership role to encourage FINRA exam staff to take a reasonable approach in determining when co-managers can cease to take OCC charges. The MSRB should also consider guidance under MSRB Rule G-11 to make clear that, absent the Bookrunning Manager's allocation of securities that remain unsold, the free to trade wire is evidence that syndicate members have no continuing open contractual commitment.

Sincerely,

/s/ Suzanne Shank	/s/ Gary Hall
Suzanne Shank President & Chief Executive Officer	Gary Hall President of Infrastructure & Public Finance

Comment on Notice 2023-11

From: yana shnayder,

On: December 13, 2023

Comment:

these unfair busoness practices need to ejdn