



January 28, 2025

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

Re: MSRB Notice 2024-14: Request for Information on the MSRB's Rate Card Process

Dear Mr. Smith:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates the opportunity to provide input in response to the Request for Information (“RFI”) issued by the Municipal Securities Rulemaking Board (“MSRB”) regarding its Rate Card Process.² In this comment letter, SIFMA is providing recommendations about the general topic areas the MSRB included in its RFI as well as an appendix containing more detailed answers to the MSRB’s list of questions for each topic.

Executive Summary

SIFMA appreciates the MSRB’s recent increased outreach efforts to regulated entities and other stakeholders regarding the Rate Card Process. As discussed in further detail below, SIFMA recommends that the MSRB:

- continue to seek opportunities to provide transparency into its budget, as budget levels drive the Rate Card Process and fee levels;
- require municipal advisors to self-report fee and retainer information to the MSRB to level the regulatory playing field with broker-dealer reporting and enable the

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 one million employees, we advocate on 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). For more information, visit <http://www.sifma.org>.

² Terms not defined herein are as defined in MSRB Notice 2024-14, Request for Information on the MSRB’s Rate Card Process, available at <https://www.msrb.org/sites/default/files/2024-10/MSRB-Notice-2024-14.pdf>

MSRB to make more informed decisions on proper balancing of regulatory fees between classes of regulated parties;

- assess fees on municipal advisors based on their actual market activity levels;
- lower the current percentage cap on year-over-year fee increases to achieve the MSRB's goals of more predictable and less volatile dealer fees; and
- spend down organizational reserves and maintain reserves at more reasonable levels.

Discussion

I. MSRB's Rate-Setting Processes

A. Continue Recent MSRB Efforts to Enhance Transparency Surrounding its Budget

As a starting point, SIFMA appreciates the MSRB's recent efforts to seek input from various stakeholders regarding the budget and fee setting process, including via stakeholder meetings and issuance of the RFI soliciting additional feedback. As stated in our prior comment letters, we urge the MSRB to provide the greatest degree of transparency possible in setting its annual budget and expenses, which directly impact the level of fees imposed on regulated entities. SIFMA notes that the MSRB's expense budget has continued to increase each year over the past couple of years. After a decrease of approximately 6% from 2020 to 2021, the MSRB's expenses increased by 1%, 13%, and 5% in each respective year from 2022 through 2024. Although expenses in general have risen across the board in recent years, this rate of budget growth—which, as further discussed below, is funded primarily by dealers—is not sustainable in the long run.³ To help the MSRB achieve its regulatory mission while maintaining fiscal discipline, it must continue to regularly provide regulated entities and stakeholders transparency regarding planned projects and budgeted expenses to socialize, explain, and justify the reasonableness of any budget or resultant fee increases.

B. Make Fee Distribution Across Regulated Entities More Equitable by Obtaining and Analyzing Municipal Advisor Fee and Retainer Information

In its RFI, the MSRB requests input on the fairness and reasonableness of the fixed-rate professional fee for municipal advisors, as well as how it can better inform its analysis regarding the MSRB's goal to maintain a fair and equitable balance of reasonable fees and charges among regulated entities.⁴ These two issues are inextricably linked, as the MSRB's approach to setting municipal advisor fee rates will dictate the total amount of revenue it collects from that group relative to dealers.

³ Overall, the MSRB's expenses increased 12% from 2020 through 2024 and 19% from 2021 through 2024. The MSRB's annual revenue increased 17% in 2024 and 22 percent overall from 2020 through 2024.

⁴ See RFI at 5-7.

To appropriately balance the fees between dealers and municipal advisors reasonably, fairly, and equitably, the MSRB should focus on the operational expenses required for it to regulate the activities of these market participants and allocate the fees it charges each group accordingly. Dealers pay the MSRB significantly more in fees than municipal advisors. According to the RFI, in 2023 dealers paid fees that accounted for 80% of the MSRB's revenues and municipal advisors paid fees that accounted for 6% of the MSRB's revenues. Specifically, the 538 dealers paid an average of approximately \$72,600 in fees (\$39.1 million total) and the 427 municipal advisor firms paid an average of approximately \$7,000 in fees (\$3 million total). Therefore, on average, dealers paid greater than ten times more than municipal advisors in fees in 2023. The MSRB must be able to explain the discrepancy between the fees assessed to dealers compared to municipal advisors to meet its goal of demonstrating that MSRB fees are fair, reasonable, and equitable.

The MSRB's current approach assesses municipal advisors an annual advisor professional fee based on the number of covered professionals at a particular firm, which is intended to serve as a proxy for the size of relevant business activities conducted by that municipal advisory firm. SIFMA does not agree that merely counting the number of municipal advisors accurately captures a firm's business activity or the cost to the MSRB of regulating that activity. Municipal advisors typically are compensated based on a percentage of the value of a transaction or through a retainer agreement and the number of municipal advisor professionals on a transaction is not proportional to the size of a transaction or retainer fees. Therefore, the number of registered professionals is a poor proxy for the size of a municipal advisory firm's municipal securities business activities.

In addition, two separate municipal advisor firms could have the same number of advisors but participate in a materially different number or total par value of municipal securities underwritings in a particular year. Similarly, a single firm could participate in a different number or total par value of offerings year-over-year, yet it would pay the same level of fees if its number of municipal advisors remains flat. These examples demonstrate that the MSRB's current approach neither accurately identifies municipal advisors' overall impact on the municipal securities market nor on the operational costs to the MSRB of regulating their activities. Accordingly, municipal advisor fees based on revenue tied to municipal securities activity would be more fair, reasonable, and equitable than reliance on the current headcount approach. It would also allow the MSRB to clearly identify the rationale for any differential in the allocation of fees among groups of regulated entities.

As SIFMA has stated in past correspondence regarding the MSRB's Rate Card Process, it is not possible to evaluate whether the level of fees paid by municipal advisors is reasonable, fair, or equitable without knowing their revenues generated from municipal securities business. To achieve its goal of equitably distributing fees across regulated entities, the MSRB should use similar methods to determine the appropriate fee for each type of regulated entity. For example, the underwriting fee assessed on dealers is based on the par values of transactions underwritten. The MSRB should take the same approach to setting fees on municipal advisors that participate in transactions. The MSRB already has this information from Form G-32,

which sets forth each transaction in which municipal advisors participated and the par value of the transaction.

Dealers are also required to disclose their underwriting discount for each transaction in the related official statement offering document. These disclosures allow the MSRB to compute dealer underwriting fees per bond. In addition, dealer activity in secondary market trades is readily ascertainable via dealer trade reports and existing systems at the MSRB. Dealers are also required to disclose their markup or markdown on retail customer confirmations.⁵

The same level of transparency is not available to the MSRB for municipal advisors. The MSRB should adopt a rule requiring municipal advisors to report to the MSRB municipal securities revenue, including but not limited to transaction fees, annual fees, or retainer fees received from issuers or obligors. The MSRB could adopt an approach for municipal advisor reporting similar to the FOCUS reports FINRA-member dealers are required to report. The MSRB should require municipal advisors to submit to the MSRB similar financial information. Moreover, that municipal advisors engage in businesses unrelated to municipal advisory services does not render an assessment method based on revenue unworkable, or even burdensome, because the fees could solely be based on revenues related to municipal advisory activities, which municipal advisors undoubtedly already track. The MSRB, and the public, cannot truly assess the fairness and equity of the MSRB's fee structure unless municipal advisors are required to disclose revenue information generated from the municipal securities aspects of their businesses.

The MSRB should allocate fees between dealers and municipal advisors based on the MSRB's costs of regulating each category of registrants. First, most of the MSRB's rules cover both groups of regulated entities, so the MSRB's cost of rulemaking is now similar for dealers and municipal advisors.⁶ Second, all regulated entities (as well as non-regulated entities) benefit from the information made publicly available through EMMA that is created and reported by broker-dealers. SIFMA's members have spent and continue to spend significant time and resources collecting and reporting valuable new issue, short-term rate reset, and trade reporting information to the MSRB. Ideally, all beneficiaries of this data would contribute their fair share to the costs of creating and servicing this data. It seems counterintuitive that the regulated group that bears the greatest financial burdens in collecting and reporting its valuable transparency information to the MSRB also bears the brunt of fees related to the MSRB collecting and disseminating this information, which is a benefit to all

⁵ The markup or markdown on a particular secondary market trade does not necessarily equate to the dealer's fee on that transaction.

⁶ For example, the MSRB's website allows for the sorting of its rulebook by particular groups under the "Information For" tab. The groups available for filtering include dealers, the general public, issuers, and municipal advisors. When this feature is filtered by municipal advisors, there is a list of 15 of the 48 MSRB General Rules (G-1, G-2, G-3, G-5, G-8, G-9, G-10, G-17, G-20, G-34, G-37, G-40, G-42, G-44, and G-46), six of the 16 MSRB Administrative Rules (A-3, A-7, A-8, A-11, A-16, A-18), and three of the 15 MSRB Definitional Rules (D-11, D-13, and D-14).

stakeholders. We ask that the MSRB acknowledge that municipal advisors receive and use valuable dealer transparency data, and increase fees allocated to municipal advisors accordingly so that this group of municipal market participants pays its fair share to partially cover the MSRB's costs to service and maintain its transparency systems.

Leveling the regulatory playing field and not giving preferences to particular business models is important. We urge the MSRB to consider a truly fair and equitable balance of fees among regulated entities, taking into account the revenue earned from each regulated business line, which more accurately identifies the MSRB's costs to regulate those activities. To do this, the MSRB should require municipal advisors to self-report their municipal securities-related revenues. While SIFMA understands that changing the fee methodology may be seen as burdensome in the short term for registered municipal advisors, it would lay the groundwork for a fairer and more balanced long-term fee model and be no more burdensome than the regulatory reporting required of registered dealers.

C. Decrease Volatility in Dealer Fees

The MSRB currently caps at 25% the maximum amount of any allowable year-over-year increase to a Rate Card Fee. As SIFMA has stated in the past, an increase of 25% (or potentially more, because the cap is not binding) is inherently unstable and unpredictable. This approach is directly at odds with the MSRB's stated purpose of achieving fee predictability through its Rate Card Process. A more reasonable maximum cap on Assessment Rate increases would be no more than 15%, barring unforeseen situations such as if the MSRB's reserve levels are below a reasonable target. Regardless, if the MSRB is in a position where it needs to increase its overall targeted revenue for the Rate Card Fee by more than 10%, or any of the Assessment Rates by more than 15%, the MSRB should use its reserves to offset such increases (assuming operational reserves are at reasonable target levels).⁷ To demonstrate its commitment to fee predictability, the MSRB should include this approach in its rules. Amending MSRB rules to require use of operational reserves prior to significantly raising Assessment Rates (by 15% or more) would discourage such rate increases unless there was a substantial need, further incentivize fiscal discipline, and allow the MSRB to spend down reserves to more reasonable levels. SIFMA assumes that fee increases not tied to market activity would occur only if there was a dramatic and unexpected downturn in new issue and secondary market activity in the municipal securities market, and if so, the MSRB should only increase fees as minimally as possible. Industry members will be skeptical of attempts by the MSRB to dramatically increase fees in market downturns and the MSRB's rules should reflect its commitment to take all reasonable efforts to avoid any such dramatic fee increases.

With respect to setting rates for dealers, the MSRB should consider using actual trailing 12-month average market activity levels instead of projecting anticipated market activity levels using 3-year, 5-year, and 10-year historical average levels. Replacing market activity projections with the actual level of trailing 12-month average market activity would eliminate

⁷ As discussed below, SIFMA believes a reasonable target for the MSRB's reserve level is six months of operating expenses.

the need to reconcile differences between projections and actual market activity levels, which would significantly reduce fee volatility year-over-year. This approach also would more accurately tailor fee rates by tying them to broker-dealers' recent market activity levels.

For the same reasons discussed above with respect to municipal advisor fees, SIFMA members do not support a flat or single fee for dealers as we believe it would not be more fair or reasonable than tying dealer fees to their level of market activity.

II. Reduce MSRB's Organizational Reserves

The MSRB has acknowledged that it has maintained excessive reserves for years, and those reserves largely have been funded by fees on the broker-dealer community. SIFMA urges the MSRB to significantly reduce its organizational reserve levels. The MSRB sets its reserve level target annually as part of its budget process and SIFMA believes the current target remains unnecessarily high, which is unfair for dealers that continue to pay the vast majority of fees to support the MSRB's budget.⁸ Given that the MSRB is a regulator with the ability to charge and collect mandatory regulatory fees, which ensures access to annual revenues sufficient to fund its core regulatory obligations, the MSRB's reserve level target should not exceed six months of operating expenses.⁹ SIFMA believes the Annual Rate Card fees should be reduced to reflect such a goal, recognizing that predictable and incremental fee changes are preferable to rebates, credits, and fee holidays.

SIFMA members would support fee reductions in the following fiscal year in the event revenue generated from actual market activity is greater than projected revenue. However, as discussed above, SIFMA believes such fee reductions would be unnecessary if rates were based on trailing 12-month average market activity levels instead of projections modeled from historical activity. Furthermore, with respect to the prospect of a multi-year rate card model, SIFMA members would not necessarily oppose that approach, as long as there would be an adjustment mechanism in the Rate Card, or a new Rate Card, if necessary, if the MSRB's reserves rose past a specified excessive level. For example, if the MSRB instituted a Rate Card that established fees for three years, and the MSRB's revenue was higher than expected in the first two years, such that MSRB generated reserves of one year of operational reserves, the MSRB would be required to reset fees pursuant to the Rate Card prior to the expiration of the three years.

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⁸ The MSRB's 2024 Annual Report, published on January 21, 2025, shows that the MSRB's reserves increased from \$42,970,578 in 2023 to \$48,443,979 in 2024, an increase of 12.7% (the MSRB's reserves consist of two categories: (1) Cash and Cash Equivalents, and (2) Investments). See p. 35.

⁹ Therefore, based on the approximately \$49 million in total operating expenses listed in the 2024 Annual Report for the year ended September 30, 2024, SIFMA recommends that the MSRB seek to reduce its organizational reserves by more than half, to around \$24.5 million.

III. Conclusion

SIFMA appreciates the opportunity to comment on the RFI regarding the MSRB's Rate Card Process, as well as the thoughtful approach the MSRB is taking to solicit input from stakeholders on the process. As discussed above and in the attached appendix, SIFMA continues to believe the MSRB's funding model can be improved. We look forward to continued engagement with the MSRB as it reviews input received in response to the RFI and seeks to develop the Rate Card Process for calendar year 2026. Please do not hesitate to contact Leslie Norwood with any questions by phone at (212) 313-1130, or by email at lnorwood@sifma.org or Gerald O'Hara by phone at (202) 962-7343, or by email at gohara@sifma.org.

Sincerely,



Leslie M. Norwood
Managing Director and Associate General
Counsel



Gerald O'Hara
Vice President and Assistant General
Counsel

cc: Ernesto Lanza, Chief Regulatory and Policy Officer
Omer Ahmed, Chief Financial Officer
Billy Otto, Assistant Director, Market Regulation

Appendix

A. Rate-Setting Process for Dealers

Market Projections

1. ***Are there reasonable tolerances or limits for year-to-year fee fluctuations? What is a reasonable basis for determining such limits? If thresholds or limits are established, should they be the same for both fee increases and fee decreases?***

The 25% increase cap should be reduced to 15%, and a similar limit on decreases in any fee category should be instituted to reduce overall fee volatility.

2. ***What types or sources of data should the MSRB consider when determining projections for market activity levels on which to base the fee rates? Should the Rate Card Process rely solely on historical market activity averages (e.g., 3-year; 5-year; 10-year averages) to project future market activity?***

Instead of using 3-year, 5-year, and 10-year historical averages to create projections of future market activity levels, the MSRB should charge fees based on average market activity levels during the immediately preceding 12 months. This would tailor fee rates to actual market activity levels and reduce fee volatility by eliminating the speculation involved in projecting out anticipated market activity levels as well as the need to reconcile fees based on inaccurate projections.

3. ***How should differences between projected and actual market activity levels be reconciled, if at all, through the fee-setting process?***

As discussed, using the 12-month trailing average of actual market activity levels would eliminate the need to reconcile projected and actual market activity levels.

Market Activity Fees

1. ***What is a reasonable basis for determining each fee's relative share of the total revenue collected from market activity fees? Are there additional or alternative market activities that currently are not subject to assessment that would be appropriate as a basis for determining more fair and equitable fees? What data should the MSRB consider when determining the appropriate allocation of total revenue to collect from each of the market activity fees?***

The MSRB should analyze average market activity in the preceding 12 months to assist in determining each fee's relative share of the total revenue collected from market activity fees going forward.

- 2. To reduce fee volatility, should the MSRB consider using an alternative model to assess fees that are not tied to market activity (e.g., fixed fees)? If so, what is a reasonable basis for determining what portion of MSRB fees should be assessed using an alternative model?***

Only a small portion of MSRB fees should be assessed on headcount. The MSRB should assess fees based on the cost to regulate each group of market participants. The fairness of the MSRB's fee model should be tested against a determination of market participant fees relative to their business activity. We believe market activity fees should be based on the actual level of market activity during the preceding 12 months.

- 3. Would a flat or single fee for dealers be fairer and more equitable than distinct market activity fees? If so, what would be a reasonable basis on which to base and determine a flat or single firm fee?***

A flat fee for dealers would not be more fair or equitable than distinct market activity fees. SIFMA believes it is important to consider business activity levels for each group of regulated entities.

B. Rate-Setting Process for Municipal Advisors

- 1. Municipal advisors are currently subject to an annual assessment for each of their covered professionals. Is this fee structure fair, appropriate, and sustainable?***

As stated above, SIFMA does not feel that merely assessing fees on municipal advisors based on the number of their covered professionals is fair, appropriate, or sustainable. The MSRB should assess fees based on the cost to regulate each group of market participants. The fairness of the MSRB's fee model should be tested against a determination of market participant fees relative to their business activity.

- 2. Municipal advisors may provide advice in different contexts such as transaction-related advice on a new issuance of municipal securities or a transaction in a municipal financial product, or advice from time-to-time or on an on-going basis relating to existing or anticipated issuances of municipal securities or municipal financial products currently held by a client.***

Municipal advisors also may engage in paid solicitation activities. Should the MSRB consider assessing fees based on some or all of these activities? If so, what would be a reasonable basis for measuring activities in each of these areas so as to produce a fair and appropriate fee obligation?

MSRB should take all municipal advisor business activity into consideration when determining the fairness, appropriateness, and sustainability of their fees. The MSRB could adopt an approach for municipal advisor reporting similar to the FOCUS reports FINRA member dealers are required to report. The MSRB should require municipal advisors to submit to the MSRB similar financial information. Moreover, that municipal advisors engage in businesses unrelated to municipal advisory services does not render an assessment method based on revenue unworkable, or even burdensome, because the fees could solely be based on revenues related to municipal advisory activities, which municipal advisors already track.

- 3. Should the MSRB consider using an alternative model to assess municipal advisor fees based on metrics other than the number of covered professionals or the municipal advisor activities described in Question B.2 above? If so, what would be a reasonable basis for determining fees under such an alternative model?***

Yes. The MSRB should assess fees based on the cost to regulate each group of market participants. The fairness of the MSRB's fee model should be tested against a determination of market participant fees relative to their business activity.

C. Fee Distribution Across Regulated Entities

- 1. What methodologies are most appropriate for determining the fair and reasonable distribution of fees among regulated entities? In describing an alternative methodology, please include consideration of the practical implications of establishing and maintaining such a methodology.***

The MSRB should distribute fees among regulated entities based on the cost of regulating each type of entity. The fairness of this model can be analyzed by examining fee data per market activity for each type of entity.

- 2. What, if any, other regulatory burdens or unintended consequences could be anticipated from a change in the relative share of fees between municipal advisors and dealers?***

Although requiring municipal advisors to report business activity levels and fees to the MSRB would add a burden, SIFMA feels that this requirement would be no more burdensome than those historically borne by broker-dealers.

D. Management of Organizational Reserves

- 1. In lieu of annual adjustments to fees, should the MSRB consider alternative methods to return surplus revenue to regulated entities arising from differences between the revenue generated from projected versus actual market activity (e.g., temporary fee reductions; cash rebates; fee credits)?**

No. Rebates, credits, and temporary fee reductions are unnecessarily confusing and operationally burdensome on the dealer community. Adopting fee levels based on 12-month trailing averages of market activity should eliminate or mitigate this issue.

- 2. Please comment on the value of establishing a multi-year rate card model to provide stability in fees over a longer period in time while using organizational reserves to address any revenue shortfalls. Please discuss any alternative methods or models the MSRB should consider for providing stable and consistent fees while managing its reserves to target levels.**

SIFMA is neutral on the length of each fee-setting cycle, although a rate card which resets fees annually may be more responsive to changing market conditions over a multi-year rate card model. Again, utilizing fee levels based on 12-month trailing averages of market activity should help to address this issue. In addition, we urge the MSRB to create more reasonable targets for its reserve levels and use organizational reserves, which currently are excessive, wherever possible to fund its regulatory mission.

- 3. Please comment on the value of establishing a “rate stabilization fund” within the MSRB’s organizational reserves dedicated to stabilizing fees. Using 5-year historical market activity averages, a 1% increase in each of the three market activity fees would equate to approximately \$0.4 million annually. What would be an appropriate size for such a rate stabilization fund? Would this be a reasonable approach to mitigating fee volatility while avoiding excess reserves?**

SIFMA sees no reason for establishing a segregated “rate stabilization fund.” We see this as merely another rationale to maintain excess reserves. As discussed above, we believe the MSRB should spend down its current reserves and set a more reasonable reserve target of six months of operating expenses going forward.