

VIA ELECTRONIC MAIL

March 24, 2017

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

Re: File Number 2017-04 Request for Comment on Draft Amendments to MSRB Rule G-21 (Advertising) and on Draft Rule G-40 (Advertising by Municipal Advisors)

Dear Secretary Smith:

On February 16, 2017, the Municipal Securities Rulemaking Board (MSRB) announced proposed draft amendments to MSRB Rule G-21 and new draft MSRB Rule G-40 (Proposed Rule).¹ The Proposed Rule would update, as well as harmonize, Rule G-21 with certain provisions of the advertising rules of other financial regulators. Further, consistent with the MSRB's regulation of dealers under Rule G-21, draft Rule G-40 would address advertising by municipal advisors.

The Financial Services Institute² (FSI) appreciates the opportunity to comment on this important proposal. We support the Proposed Rule both for its content and because it serves to further harmonize rules applicable to our members across regulatory jurisdictions.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the US, there are approximately 167,000 independent financial advisors, which account for approximately 64.5% percent of all producing registered representatives.³ These financial advisors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (IBD).

FSI's IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of customer transactions. Independent financial advisors are small-business owners with strong ties to

¹ See Proposed Rule, available at, http://www.msrb.org/~/_media/Files/Regulatory-Notices/RFCs/2017-04.ashx

² The Financial Services Institute (FSI) is an advocacy association comprised of members from the independent financial services industry, and is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has been working to create a healthier regulatory environment for these members so they can provide affordable, objective financial advice to hard-working Main Street Americans.

³ The use of the term "financial advisor" or "advisor" in this letter is a reference to an individual who is a registered representative of a broker-dealer, an investment adviser representative of a registered investment adviser firm, or a dual registrant. The use of the term "investment adviser" or "advisor" in this letter is a reference to a firm or individual registered with the SEC or state securities division as an investment adviser.

their communities and know their clients personally. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Main Street Americans with the financial advice, products, and services necessary to achieve their investment goals.

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate \$48.3 billion of economic activity. This activity, in turn, supports 482,100 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly \$6.8 billion annually to federal, state, and local government taxes. FSI members account for approximately 8.4% of the total financial services industry contribution to U.S. economic activity.⁴

Discussion

FSI appreciates the opportunity to comment on the Proposed Rule. FSI commends MSRB for taking efforts to update their rules and in the process, harmonize this rule with other regulator's similar rules.

I. FSI strongly supports efforts to harmonize Rule G-21 with other financial regulations

The Proposed Rule would harmonize Rule G-21 with the advertising rules under FINRA Rule 2210, Communications with the Public. Specifically, Rule G-21(a)(ii), harmonizes the definition of "form letter," with FINRA Rule 2210's definition of "correspondence." Currently, Rule G-21 defines a form letter, in part, as a written letter distributed to 25 or more persons. FINRA Rule 2210(a)(2)'s definition of correspondence, however, defines correspondence, in part, as written communications distributed to 25 or fewer persons. The MSRB has acknowledged that the one-person difference between Rule G-21 and FINRA Rule 2210 has created confusion and compliance challenges for dealers. To respond to this concern, the Proposed Rule eliminated that one-person difference and a form letter, in part, is defined as a written letter distributed to more than 25 persons.⁵ The Proposed Rule also amends Rule G-21(e) to incorporate the provisions included in the SEC's amendments to its registered investment company advertising rules.⁶ The draft amendments to Rule G-21(e) replace the money market mutual fund disclosure required by current Rule G-21 with a modified version of the money market mutual fund disclosure currently required by SEC rules.⁷

⁴ Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2016).

⁵ See Proposed Rules, available at, <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2017-04.ashx>

⁶ The SEC has been making amendments to their advertisement rules many times over, for example, since 2007, the SEC has twice amended Rule 482 under the Securities Act of 1933. See Securities Act Release No. 9616 (Jul. 23, 2014), 79 FR 47736 (Aug. 14, 2014) (in part, amending Rule 482 to address money market fund reform); Securities Act Release No. 8998 (Jan. 13, 2009), 74 FR 4546 (Jan. 26, 2009) (in part, revising Rule 482 to clarify that the rule does not apply to a summary prospectus or to a communication that is not deemed a prospectus under Section 2(a)(10) of the Securities Act of 1933)

⁷ See Proposed Rules, available at, <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2017-04.ashx>

II. FSI strongly supports further harmonization of regulatory requirements through the adoption of Rule G-40

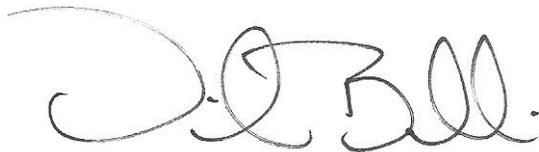
Draft Rule G-40(b) is substantially similar in all material respects to the draft amendments to Rule G-21(b), and retains the long-standing strict liability standard for professional advertisements set forth in Rule G-21. This is consistent with FINRA Rule 2210. The liability standard, as amended in 2010, requires municipal advisors to deal fairly with all persons and not engage in any deceptive, dishonest, or unfair practice.⁸ Draft Rule G- 40 reiterates that the obligations of a municipal advisor for fair dealing extend to advertising conduct and content.⁹ The regulatory consistency will benefit FSI members in removing the burden of complying with two separate inconsistent rule requirements and eliminating any unnecessary confusion as they tailor their compliance to a single consistent standard. The consistency in regulations has the additional important benefit to investors. When firms are confident that they are complying with industry regulations and requirements, this allows them to focus their resources in other areas and streamlines their operations. Furthermore, FSI strongly supports regulatory harmonization because greater coordination and cooperation amongst the regulators increases regulatory transparency, reduces regulatory arbitrage, promotes product innovation, and increases confidence in our markets. As such, FSI strongly supports MSRB's efforts to develop consistent advertising requirements.

Conclusion

We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with MSRB on this and other important regulatory efforts.

Thank you for considering FSI's comments. Should you have any questions, please contact me at (202) 803-6061.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. T. Bellaire", with a stylized flourish at the end.

David T. Bellaire, Esq.
Executive Vice President & General Counsel

⁸ See MSRB Rule G-17, available at <http://www.msrb.org/Rules-and-Interpretations/MSRB-Rules/General/Rule-G-17.aspx>

⁹ See Proposed Rules, available at, <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2017-04.ashx>