

October 17, 2018

Submitted Electronically

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

RE: Request for Comment on Application of Content Standards to Advertisements by Municipal Advisors under MSRB Rule G-40

Dear Mr. Smith:

On behalf of the Bond Dealers of America (“BDA”), I am submitting this letter to provide comments to the MSRB’s Regulatory Notice 2018-25 (Request for Comment on Application of Content Standards to Advertisements by Municipal Advisors under MSRB Rule G-40) (the “Notice”). BDA is the only DC-based group representing the interests of securities dealers and banks exclusively focused on the U.S. fixed income markets. We welcome this opportunity to present our comments.

The BDA believes that a number of the mock advertisement examples in the Notice are too general or simple to provide meaningful guidance.

The BDA supports the use of mock advertisements as a compliance resource. However, we are concerned that some of the mock advertisements in the draft compliance resource are too simplistic and do not yield guidance on difficult interpretative questions related to the application of content standards to advertisements. For example, in Advertisement No. 1 the advisor states “[w]e always lower our client’s borrowing costs,” which represents a fairly obvious example of a promissory statement not permitted under Rule G-40. More nuanced and complex examples are needed to assist municipal advisors to implement and comply with these new requirements and ensure that examiners have enough details in the compliance resource related to content standards for advertisements.

Following each mock advertisement, the BDA believes the MSRB should provide examples of acceptable content for each concern listed within the advertisement.

The BDA believes that the MSRB needs to be more clear in explaining, for each advertisement, what type of content would comply with the rule—not just what does not comply. The lack of corrections to the mock advertisements creates more confusion and ambiguity as to what is permissible under the content standards. The BDA believes if the mock advertisements contained examples of, or at least specific guidance on, acceptable content, they would result in more helpful guidance.

The BDA disagrees with the MSRB approach in Advertisement No. 2 in which the MSRB states that the reference to DEF Statistical Service does not provide sufficient basis for evaluating the claim.

The BDA believes that MSRB's approach in Advertisement No. 2 does not reflect correctly interpret Rule G-40. Rule G-40 requires that any advertisement "must be based on the principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular municipal security or type of municipal security, municipal financial product, industry, or service." With respect to Advertisement No. 2, the BDA believes that Rule G-40 requires the municipal advisor to have a "sound basis" for the claim. But the MSRB's interpretation goes beyond the requirements of Rule G-40. The MSRB's interpretation would require the municipal advisor's reference to "DEF Statistical Service" to be publicly accessible to the client such that the client can validate the claim from publicly available sources. The BDA does not read Rule G-40 as containing this requirement.

* * *

Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in blue ink that reads "Nicholas".

Mike Nicholas
Chief Executive Officer