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August 19, 2019

VIA ELECTRONIC MAIL

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street, NW Suite 1100
Washington, DC 20005

RE: MSRB Notice 2019-13

Dear Mr. Smith:

Acacia Financial Group, Inc. (“Acacia”) is a national municipal advisory firm that serves a wide range of municipal bond issuing clients including high profile issuers, local small issuers and infrequent issuers. We appreciate the opportunity to comment on Municipal Securities Rulemaking Board (MSRB) Notice 2019-13 related to MSRB Rule G-23 in connection with the MSRB’s retrospective rule review initiative.

Acacia believes that the prohibition on role switching, enacted with the 2011 amendments to Rule G-23, has been successful for its intended purpose and should remain in place. The amendments were made because the Securities and Exchange Commission (SEC) with support from the MRSB concluded that “a dealer financial advisor’s ability to underwrite the same issue of municipal securities, on which it acted as financial advisor, presented a conflict that is too significant for the existing disclosure and consent.” In addition, even in the case of competitive underwriting, the perception on the part of the issuers and investors that such a conflict may exist was sufficient to cause concern that permitting role switching was not consistent with “a free and open market in municipal securities” which the MSRB is mandated to protect. We believe that the reversal of Rule G-23 would undermine the intent of the Exchange Act to establish clear lines between interests that are public and interest that are private and promotes a culture of conflict that the Exchange Act serves to eliminate. Furthermore, under the Dodd Frank Act municipal advisors pursuant to G-42 are held to the highest standard of conduct as having a fiduciary duty to put its client’s interest before its own. Therefore, permitting a dealer financial advisor (municipal advisor) to role switch would discount the fiduciary obligation placed on municipal advisors and create further confusion between the role of a municipal advisor and the role of an underwriter.

We do not believe that MSRB Rule G-23, as currently implemented, causes any harm to issuers, restrains their ability to engage with qualified dealers or limits market access in any way.

As recognized by both the SEC and the MSRB in 2011, the conflict presented by role switching is too great to cure by disclosure notification. Consequently, the MSRB recognized the best way to protect issuers was by eliminating this potentially abusive practice. As active municipal advisors pricing on average 2-3 deals per week, many on a competitive basis for small and less frequent issuers, we have observed no negative impact on our clients and therefore urge the MSRB to keep intact the prohibition on role switching.

Sincerely:



Kim M. Whelan
Co-President



Noreen P. White
Co-President