



# 3PM

THIRD PARTY MARKETERS ASSOCIATION

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June 13, 2011

Ronald W. Smith, Corporate Secretary  
Municipal Securities Rulemaking Board  
1900 Duke Street, Suite 600  
Alexandria, VA 22314

*Re: MSRB Notice 2011-28: Request for Comment on draft Rule G-44 (on supervision of municipal advisory activities), as well as associated draft amendments to Rule G-8 (on books and records) and G-9 (on records preservation)*

Dear Mr. Smith;

I am writing to you today on behalf of the Third Party Marketers Association (“3PM”) to express the thoughts and concerns of members of our association regarding aspects of the rule proposed in MSRB Notice 2011-28.

Most of our members are affiliated with, or registered as, Municipal Advisers (“MAs”). To qualify for membership in our association, all must be registered in good standing as broker-dealers, investment advisers, or both. As such, in connection with existing regulations, most have implemented robust systems of supervision, including the components you have enumerated in the rule and supplementary checklist<sup>1</sup>. Furthermore, the oversight of the majority of the business activities engaged in by third party marketers are covered by existing FINRA/SEC/State regulations in the areas of due diligence, suitability, recommendations, correspondence with the public, protection of non-public information, customer complaints, training and continuing education, AML, BCP, ethical behavior and high standards for business conduct, supervisory control systems and political contributions. Provided the written policies and procedures firms have already implemented to address these areas are tailored and/or expanded to include the firm’s municipal advisory activities or specific rules issued by the MSRB that are not explicitly covered by current policies, we believe that the existing written policies and procedures should adequate to meet the requirements of rule G-44, and that separate and distinct policies should not be required. We request your clarification whether or not a separate policy manual will be required.

We also have specific questions regarding licensing and registration which are impacted by this rule proposal, and which remain unanswered. Through committees, outreach participation, and in other communications, several of our members have expressed 3PM’s belief that existing licensure, including but not limited to the Series 7, and 24, should qualify for an exemption from any newly developed

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<sup>1</sup> Not all states require state-registered investment advisers to implement written policies and procedures. As such, some advisers may not have written policies in place.

Municipal Adviser license. We continue to believe that requiring third party marketers carrying any of these exams to take additional exams would not add significant benefit, because of the comprehensive nature of the license material already mastered by the individual as described in greater detail below.

### **Representative Registration**

Passing the Series 7 examination qualifies a candidate for the solicitation, purchase, and/or sale of all securities products, including corporate securities, municipal securities, municipal fund securities, options, direct participation programs, investment company products, and variable contracts. Third party marketers who offer or consult with fund related vehicles (registered or unregistered securities) are required to take and pass the Series 7. We believe that this robust course of study should exempt an individual from further MA licensure for the same reasons that it supersedes the Series 52, Municipal Securities Representative.

### **Principal Examinations**

The vast majority of topics covered by the Series 53, the Municipal Securities Principal exam, including origination and syndication, trading and operations (46% of the exam) are irrelevant to our activities. Of the more relevant topics, General Supervision and Sales Supervision, much of the content is already covered by other examinations such as the Series 24, a license many of our members already hold and which is relevant to oversight of third party marketers.

While we understand that the MSRB is still weighing its options in this area we do not believe that a supervisory system can be established in the absence of the MSRB's determination regarding qualifications. We encourage the MSRB to first reach its decision regarding licenses prior to effecting G-44. The reasons for this include the following:

- In the absence of clear guidelines, municipal advisory firms may base their supervisory systems on a hierarchy that will not ultimately meet the qualification requirements of the MSRB, causing firms undue effort and expense to unwind and revise their systems
- Small firms in particular may be overburdened by needless costs if the effort they exert to establish and implement a supervisory system is later effectively overturned by virtue of a licensing or qualification requirement they had not considered

In summary of our position on G-44, we urge the MSRB to consider that although our members are newly registered as MA's, our businesses are mature and ongoing and, importantly, have been regulated and examined under a robust system of rules, regulations, policies and qualification requirements.

We did not want our comments to be submitted without expressing our appreciation for the extent to which MSRB has reached out to the municipal adviser community through its Notices, Outreach

meetings, committees and other means. It is in this spirit of cooperation that we offer our comments to the proposed rules.

Regards,

//Lisa Roth//

Lisa Roth  
Board Director, Third Party Marketers Association

### **About The Third Party Marketers Association (3PM)**

3PM was formed in 1998. Today, the Association is comprised of more than 50 member firms. 3PM was formed to maintain a standard of excellence in the industry and to share information and ideas among independent sales and marketing firms. The Association helps to cultivate relationships and business opportunities among its members, and works to provide them with information and ongoing education about the investment management industry. 3PM's goal is to enhance our profession's standards, integrity and business practices. This is accomplished by advancing ongoing agendas in the areas of regulation and compliance as well as adherence to the highest standards and best practices utilized throughout the financial services industry.

A typical 3PM member firm consists of two to five highly experienced investment management marketing executives with, on average, 10+ years of experience of selling success in the institutional and/or retail distribution channels. The Association's members run the gamut in terms of the products they represent. Approximately 25% of the Association's members work with traditional separate account managers covering strategies such as domestic and international equity, as well as fixed income. The majority work in the alternative arena. Members represent fund products such as mutual funds, hedge funds, private equity, fund of funds and real estate. Approximately half of 3PM's members offer both types of product offerings.

3PM member firms that work with traditional separate account managers are typically registered under the investment adviser rules with the States in which they solicit business. Since the Association's members do not manage money they generally are not eligible to register directly with the SEC. For the Association's members that work with Fund products, these firms are either registered with FINRA as broker/dealers or work as Registered Representatives of an established broker/dealer to offer securities. Regardless of the structure within which 3PM members operate, they do fall under the scrutiny of some regulatory authority.

*For more information on 3PM or its members, please visit [www.3pm.org](http://www.3pm.org).*