



VIA ELECTRONIC DELIVERY

April 20, 2023

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

Re: Comments Concerning MSRB Notice 2023-02, *Request for Comment Regarding a Retrospective Review of the MSRB's Time of Trade Disclosure Rule and Draft Amendments to MSRB Rule D-15, On Sophisticated Municipal Market Professionals*

Dear Mr. Smith:

Thank you for the opportunity to submit comments pursuant to the above-referenced MSRB Notice 2023-02 (the "Notice"). AKF Consulting LLC dba AKF Consulting Group is a registered Municipal Advisor that works solely with State issuers of municipal fund securities including 529 Savings Plans and 529A ABLÉ Plans. We also advise State Administrators of Auto-IRA Programs, which, as currently structured, fit within the definition of municipal fund securities under MSRB Rule D-12.¹ Since our formation in 2002, we have had the privilege of working with 49 State Administrators across 37 States. We recognize and value the important role that the MSRB plays in regulating brokers, dealers, and municipal advisors in the municipal fund securities market, and recommend best industry practices reflected in the MSRB rules to our State issuer clients that are otherwise outside of the MSRB's jurisdiction.

With this in mind, our comments solely address Question 1 under Time of Trade Disclosure Obligations with Respect to 529 Savings Plans (page 19 of the Notice). While AKF professionals collectively understand the dealer obligations and business practices addressed in Questions 2 through 4, we base our comments on our service as a fiduciary to the State issuers of municipal fund securities.

1. Should the MSRB consider amending Rule G-47 or creating a separate standalone rule to expressly clarify and define dealer's time of trade disclosure obligations regarding 529 savings plans? If proposing a new standalone rule, should the MSRB codify existing Rule G-17 interpretive guidance addressing out-of-state disclosure obligations, as part of that effort?

AKF Consulting appreciates that when Rule G-47 was adopted, it specifically did not codify the August 7, 2006 *Interpretive Guidance on Consumer Protection Obligations Relating to the Marketing of 529 College Savings Plans* (the "Guidance"). In our view, codification was likely unnecessary since college savings

¹ State-run Auto-IRA Programs are subject to the rules and regulations applicable to Roth IRAs



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market participants understood and even embraced the Guidance’s directives regarding matters such as out-of-state disclosures from the start. To that end, specific points have been included in the Voluntary Disclosure Principles adopted by the College Savings Plans Network, which have been amended over time to reflect regulatory developments and evolving best practices.

Notwithstanding the clarity of the Guidance and the universal implementation of the disclosures it includes, we would support a new, standalone rule that expressly applies to 529 College Savings and ABLE Plans as municipal fund securities. In taking this position, we recognize that 529 College Savings and ABLE Plans (and by analogy, State-run Auto IRAs) are more like mutual funds than traditional municipal debt obligations. To that point, the time of trade disclosures should incorporate the concepts that apply to continuously offered securities as opposed to securities that are offered at one time, with set terms and durations. Having such a rule would acknowledge the magnitude of the market overall for State-run Investment Plans, which in our view, include 529, ABLE and Auto-IRA Plans. Importantly, a dedicated rule would eliminate any uncertainties about the consumer protections that must be in place for investors in any of these important programs.

In our role as fiduciaries to State issuers of 529, ABLE and Auto-IRA Plans, we work with our clients to ensure that each one understands its obligations and responsibilities under applicable federal securities laws. A clear, concise rule that addresses material time of trade disclosures in connection with the municipal securities issued by these Plans would, in our view, assist State issuers and consumers by clarifying dealers’ obligations and promote consistent application of the Guidance within the industry.

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Thank you again for providing an opportunity to comment on the Notice. Please contact us if you have any questions or if you would like additional information.

Sincerely,

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