MEMORANDUM

TO: File No. 4-610

FROM: Cyndi Rodriguez, Office of Commissioner Elisse B. Walter

DATE: November 21, 2011

RE: Meeting with Representatives of Saber Partners, LLC ("Saber Partners")

On October 24, 2011, Joseph S. Fichera and Christopher Bosland of Saber Partners met with Commissioner Elisse B. Walter; Cyndi Rodriguez from the Office of Commissioner Walter; Alicia Goldin, David Sanchez and Tom Eady from the Division of Trading and Markets; Amy Starr from the Division of Corporation Finance; and Mark Zehner, Kenneth Lench and Andrew Sporkin from the Division of Enforcement to discuss issues related to the municipal securities market. Mr. Fichera followed up by sending the attached letter to Commissioner Walter.

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Joseph S. Fichera
Senior Managing Director & CEO

November 2, 2011

Honorable Elisse Walter
Commissioner
U. S. Securities & Exchange Commission
Washington, DC.

Dear Commissioner Walter:

Thank you for the opportunity to meet last week to discuss the idea of a national municipal bond exchange.

A national municipal bond exchange is a proposal that addresses two aspects of market efficiency: the recent findings by the Brooking Institute's Hamilton "CommonMuni" project relating to the primary market and corresponding reforms in the secondary market.

Andrew Ang (author of the CommonMuni report) and I have been in discussions and working with others to create a platform able to gain traction in the marketplace. Together with a group of buy-side firms, technology developers, data vendors, financial intermediaries and a legacy exchange operator, we are developing a working model for a national municipal bond exchange. We have also recently begun conversations with a major municipal bond issuer about securing their commitment to participate on such a platform.

While the term "exchange" is often used in different ways, we use it as shorthand for an *electronic platform governed by a set of rules – a set of agreed upon standards for those that seek to list on the exchange and those who will buy, sell and trade on it as well.* This is known as the "Rulebook."

Our goal is to foster more efficient interactions among market participants without imposing new top-down regulations or significant regulatory involvement. A core foundation of this initiative is the Rulebook governing the listing of securities on the exchange that would be written in cooperation with a group of elite issuers. As I mentioned in our meeting, I believe that issuers will be less resistant if the "rules of the game" are developed and agreed among the issuers for their own benefit, rather than being imposed by regulators in Washington.

This letter and accompanying material summarize a few key points in the hope you will consider this kind of structural innovation and reform in your upcoming report on municipal market initiatives. The approach we recommend is *not* a "one-size-fits-all" solution. Nor is it a panacea for every problem that exists in the market. We propose a process that will promote best practices among issuers and lead to significant improvements in the secondary market.

I have already met with the Government Accountability Office (at their invitation) to discuss their pending municipal market report and have introduced them to others who are actively engaged in this process (see Appendix A for additional information). We seek to engage with the SEC as well. To outline areas where the agency could provide input consistent with its existing mission and legislative authority, we attach materials in **Appendices** that describe:

A. Why the time is right for a municipal bond exchange;

B. How technological innovation can enhance liquidity and retail participation;

C. The Municipal Bond Industry Recognizes a Problem: Is EMMA the Solution?

D. How the exchange would act as a vehicle for market structure reform;

E. The Carrot and Stick Approach – Our plan to bring leading issuers together around a Rulebook in lieu of a repeal of the Tower Amendment or other federally imposed reform.

A great deal of work is now underway and is proceeding on parallel tracks. Development of the Rulebook is central to all our efforts and *SEC input on this would be both helpful and welcomed.*

To that end, an appropriate next step might be to organize a meeting among SEC staff, my clients and other market participants supportive of the municipal bond exchange concept. I would be happy to help set up such a meeting.

I look forward to an active dialogue on this and other market initiatives and issues.

Best regards,

JSFichera

Joseph S. Fichera
Senior Managing Director &
Chief Executive Officer

Appendices

Appendix A

The Time Is Right for a Municipal Bond Exchange

I. Introduction

The Great Recession continues to retard growth and investment in both the private and public sectors, with disinvestment from municipal bond funds reaching historic levels last fall and recovering somewhat this summer. At the same time, new issue bond sales have stalled in response to concerns over mounting public debt and angst over budgetary capacity to support debt loads.[1] Ratings agencies have lost the trust of many market participants, with credit analysts debating the magnitude of "impending" municipal defaults. Furthermore, even "back-of-the-envelope" credit analysis that was formerly routine (e.g., "it's AAA and therefore OK") has disappeared. The collapse the bond insurance market also contributes to the problem. .

A central exchange-based trading venue for high quality, well-known issuers could set a transforming precedent for the entire market that, over time, would address many, though perhaps not all, of the problems outlined above.

A central electronic trading venue coupled with an agreed-upon Rulebook drafted by leading issuers should quickly yield the following benefits:

- Improved disclosure of financial information for investors
- Improved transparency and efficiency that will improve the value of municipal bonds for investors thereby lowering costs for borrowers
- Reduced costs for taxpayers and customers of not-for-profit institutions.

II. Background

According to research supported by The Brookings Institute's Hamilton Project,[2] the municipal market remains opaque, fragmented and provides no reliable and efficient mechanism for investors to resell securities. This structural inefficiency and illiquidity creates a spread between what a bond may be worth and what someone may be willing to pay for it, as investors demand higher interest rate from municipal issuers to compensate for their increased liquidity risk.

At the same time, the Dodd-Frank Wall Street Reform and Consumer Protection Act required the Government Accountability Office (GAO) to undertake a study of the municipal securities market, due by the end of 2011. Among other things, the GAO is to report to Congress on the mechanisms for trading, quality of trade executions, market transparency, trade reporting and price discovery. In addition, the GAO is set to recommend steps to improve trading transparency, efficiency, fairness and liquidity.[3]

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[1] In many states issuers are facing double-digit declines in sales tax revenues year-on-year.

[2]http://www.brookings.edu/~/media/Files/rc/papers/2011/02_municipal_bond_ang_green/02_municipal_bond_ang_green_paper.pdf

[3] Sections 976, 977 and 978 of the Dodd-Frank Act describe three significant studies about the municipal markets: (1) a comparison of the municipal and corporate securities markets, specifically to include GAO recommendations about the retention or repeal of the Tower Amendment; (2) an analysis of the various operational aspects of the municipal securities market, with a view to suggested improvements affecting transparency, efficiency, fairness and liquidity of the market; and, (3) recommendations for the funding of the Government Accounting Standards Board.

Appendix B

Technological Innovation Can Enhance Liquidity and Retail Participation

I. Introduction

Applying today's computing technology, a municipal bond exchange platform supported by a rigorous "Rulebook" could facilitate a deeper and more liquid market, including much greater retail participation. Retail participation in the municipal market has changed profoundly over the past few years. According to MSRB in the first six months of 2011, 84% of the trades in the municipal securities market (by number of transactions, not notional value) were in amounts of $100,000 or less.[4]

Experienced municipal issuers have long recognized that retail investors generally offer better borrowing terms, but because this investor segment executes in smaller size and the market continues to rely on outmoded distribution mechanisms, these investors are increasing difficult for most issuers to reach. The problem is compounded further by the absence of bond insurance, which previously "homogenized" many municipal bonds and reduced the asymmetry of information presented to retail investors. The absence of bond insurance makes the secondary market less liquid and makes it difficult for retail investors to evaluate new issuances.

Media coverage of municipal defaults has also created "headline risk" for state and local issues by overemphasizing default risks. The heightened fear about credit quality has caused significant outflows from mutual funds. Liquidity in the secondary market is further inhibited by the failure of dealers and other traditional intermediaries to act as market makers.

The lack of secondary market liquidity has become a significant problem. Some market observors are recommending an agency model that incorporates a central platform to enable investors to interact with one another and with issuers.[5] Under the agency model, dealers would continue to play an important role providing investors with access to the central platform but without giving dealers asymmetric access to information about prices. Price transparency and equal access to information is the *sine qua non* of the exchange model, and equal access to pricing data would minimize the liquidity premium identified in the recent Brookings Institute Hamilton Group study.

While all investors stand to benefit from lower transaction costs and improved transparency, retail investors stand to gain the most.

It has been one of the great oddities and contradictions in modern finance that equity trading technology allows – indeed, encourages - small investors to buy an issuer's $2.00 stock whose investment risks are great; while at the same time, existing bond market technology inhibits small investors from buying highly-rated, tax-exempt municipal bonds by, among other things, requiring minimum $5000.00 investments akin to $5000.00 per share in the equity markets. Investors can, of course, choose the mutual fund option. But they then have to pay fees that they may not need nor want. Providing investors with better, fairer, more direct access to the municipal bond market offers investors and issuers important benefits. Deploying an exchange-based model is the best path towards this goal.

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[4] See Municipal Securities Rulemaking Board web site for period January 1, 2011 through June 30, 2011, (http://emma.msrb.org/MarketActivity/ViewStatistics.aspx) last accessed October 31, 2011.

[5] See http://www.ft.com/cms/s/0/048cd472-008b-11e1-930b-00144feabdc0.html#ixzz1cNQEt3Z6.

Appendix C

The Municipal Bond Industry Recognizes a Problem: Is EMMA the Solution?

While the limitations in MSRB's "EMMA" platform are well known (and will not be discussed at length here,) it is significant to note that the EMMA website was discussed at length at the MSRB board meeting on October 26-28. A significant technological overhaul was recommended.

These discussions and recommendations are clear indications that the market recognizes a need for fairer access to pricing data and greater transparency[6]. In our view, the proposed overhaul of EMMA does not go nearly far enough, particularly for retail investors. Moreover, it is fair to question whether EMMA has a sufficiently agile and adaptable technological foundation that can be modified to provide retail investors with equal access to pricing and financial disclosure data, or whether the market would be better served by deploying a modern platform built-to-suit. This is a serious question that deserves close consideration and analysis

I would be happy to provide access to experts who can provide guidance.

[6] MSRB recently approved the display on EMMA of yields on trades between dealers. Once completed, EMMA will display the same yield and price information currently available for customer trades. The Board also agreed to eliminate the duplicate submission of data by dealers to both EMMA and other platforms. The MSRB will begin necessary technology development and rulemaking to create a straight-through-processing system between EMMA and the New Issue Information Dissemination System operated by the Depository Trust and Clearing Corporation. *These initiatives clearly indicate that the market seeks benefits that are embedded in an exchange-based system.*

Appendix D

The Exchange: A Vehicle for Structural Reform Beginning with a Specific Market Segment

I. Introduction

Independent market research has shown that the current market structure relies on an antiquated and flawed model. Municipal bonds trade primarily on a principal basis with a very small number of dealers providing liquidity for a large number of issuers and asset managers.

To become more efficient, the bond market needs a new market structure that incorporates a broad base of authorized participants and brokered transactions. Approved participants on both sides of the market should be able to trade among themselves with the help of brokers as has long been common in the stock market.

Enabling interested and qualified issuers to list municipal bonds on an exchange would be a good catalyst for structural reforms in the secondary market. However, to be successful, the exchange would not be another "big bang" but a controlled implementation. It would provide reform that regulators seek in exchange for demonstrated savings for both issuers and investors through improved liquidity.

II. Methodology: Apply Technology to Established "Best Practices"

We *do not* propose to list every CUSIP on the exchange at the outset; indeed, some issuers will not qualify for listing due to deficiencies in their accounting and financial disclosure practices.

Thus, the exchange would begin with an *elite group of leading issuers* that already employ best practices for accounting, financial disclosure and reporting. These issuers would set standards (via the exchange Rulebook) for other issuers to follow, and the exchange would make their financial information available to the public, which is increasingly concerned with credit quality. This approach offers several benefits.

1. Issuers would have a mechanism for making their offerings more readily available to investors, together with current, actionable financial information investors need to make informed decisions.

2. The exchange's technology platform would include a searchable database that would match investor interests with available offerings by allowing CUSIPs to be sorted, organized and compared by factors such as issuer, coupon, yield, maturity, duration, spread and/or credit worthiness much more easily and rapidly than is presently possible via the MSRB "EMMA" web site.

3. Both buyers and sellers would be able to better evaluate initial offering prices, historical market prices and the overall availability of bonds of individual issuers, rather than just the bonds of a specific *issue*. This is especially important to retail investors who generally have neither the resources nor the technology to develop and maintain comprehensive lists of CUSIPs assigned to a particular issuer.

4. *All member firms would have access to the exchange's searchable database containing financial information about all listed issuers. This would provide investors a very broad*

and useful view of the market with important information about pricing, financial condition and credit quality equally available to all market participants.

5. The platform will also include comprehensive order management software capable of processing not only firm bond orders but also requests for quotes (RFQs), indications of interest (IOIs), and latent portfolio holdings.

III. Operational Considerations

The approach we recommend is *not* a "one-size-fits-all" solution. Nor is it a panacea for every problem that exists in the market. Rather, by using technology already available today, coupled with the "Rulebook" described in Appendix D below, market participants who become early adopters will be able to take part in the development and testing of "best practices" that will result in narrower bid/ask spreads, improved disclosure practices and greater market efficiency.

The exchange will permit traders to express orders not only in terms of price *but also in terms of yields and yield spreads which is consistent with common bond-market practice.* The exchange also will accommodate direct order-entry by participants on both the buy and sell sides of the market. Matching orders will be executed automatically using standard time and price priority rules. Orders that are close to matching will be negotiated directly by the counterparties, brokered by the specialists or offered at auction, as circumstances require.

IV. Agile and Extensible Technology

The exchange's technology platform has been designed to accommodate advanced trading operations. For example, the system will soon be enhanced to enable bond orders with no opposing bids or offers to be automatically routed to member firms that previously expressed RFQs, IOIs or latent positions to sponsor negotiations. The platform will be able to alert traders about market opportunities according to conditions they specify such as time, price, size, etc.

Perhaps most importantly, the platform will be capable of interfacing with other electronic fixed-income liquidity pools (e.g., MuniCenter, Bond Desk, and TradeWeb), traditional trading firms, and financial networks like Reuters and Bloomberg. In short, the exchange platform will bring buyers and sellers together and enable them to effect transactions quickly and efficiently.

Appendix E

An Issuer-Driven "Rulebook" – The Carrot & Stick

I. Introduction

Issuers have brought bonds to market using electronic trading platforms in the past. Several brokerage consortiums operate alternate trading systems (ATS's) and electronic crossing networks (ECN's) to distribute bonds in their inventory.

However, today's principal ECN's (e.g., MarketAxess, Bond Desk, Muni Center, TradeWeb) only offer the bonds that are in the inventories of the dealers that own those platforms. Furthermore, to minimize the risk of the dealers, the prices displayed by on these platforms are almost always subject to negotiation.

A much more transparent and efficient solution is available: A central trading venue founded upon an issuer-approved Rulebook that establishes a level playing field for both buyers and sellers. The Rulebook is the key consideration and will be one of the defining characteristics of the exchange.

Unlike the ATS and ECN models, the proposed exchange would operate as a self-regulatory organization (SRO) with rules that govern the securities that are listed for sale. Listing on the exchange would be strictly voluntary; therefore, any issuer unwilling or unable to comply with the exchange's rules governing financial disclosure, accounting practices or post-issuance reporting would be free to conduct business elsewhere. As liquidity begins to coalesce around the exchange (as it inevitably will because of its distinguishing Rulebook, best practices and other elements), market forces will create incentives for more and more issuers to adopt best practices consistent with the Rulebook.

II. Expected Benefits

The benefits from this "bottom-up," SRO exchange approach would be particularly helpful to the municipal bond market. As discussed earlier, local issuers often resist federal intervention and the imposition of federal rules and standards.

Conversely, a small group of leading issuers that adopts a common set of rules to govern the way their securities are brought to market and traded should attract buy-side participation. And buy-side participation will draw more issuers in a self-reinforcing process.

Experiences with other financial markets demonstrate that a properly drafted Rulebook and a self-regulatory exchange structure can provide a useful mechanism for implementing structural market reforms that will improve transparency, liquidity, and fairness for all participants. This should be equally true of the municipal bond market.[7,8]

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[7] See, for example, "The Consequences of Poor Disclosure Enforcement in the Municipal Securities Market," prepared by Peter J. Schmitt, DPC Data, Fort Lee, NJ dated February 19, 2009. The study found a measurable segment of apparent bad practices. These practices were characterized by an intersection of poor disclosure by issuers and obligors on the one hand, and on the other hand, poor use of available disclosure information by the buy and sell sides of the municipal market.

[8] In December 2000, Paul M. Healy and Krishna G. Palepu of Harvard University's Graduate School of Business presented a paper entitled "A Review of the Empirical Disclosure Literature: to the 2000 JAE Conference. This study discusses observed positive effects of voluntary disclosures to stakeholders other than investors.