

Regulatory Notice

2016-24

Publication Date
September 30, 2016

Stakeholders
Municipal Securities
Dealers, Municipal
Advisors, Issuers,
Investors, General
Public

Notice Type
Request for Comment

Comment Deadline
November 14, 2016

Category
Professional
Qualification

Affected Rules
[Rule G-3](#)

Request for Comment on Draft Provisions to Establish a Continuing Education Requirement for Municipal Advisors

Overview

The Municipal Securities Rulemaking Board (MSRB) is seeking comment on draft amendments to MSRB Rule G-3, on professional qualification requirements, to establish continuing education (CE) requirements for certain associated persons of a municipal advisor. The draft CE requirements would require municipal advisors to develop a CE program and require associated persons of municipal advisors who engage in municipal advisory activities or directly engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons to participate in CE training.

Comments should be submitted no later than November 14, 2016, and may be submitted in electronic or paper form. [Comments may be submitted electronically by clicking here.](#) Comments submitted in paper form should be sent to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board, 1300 I Street NW, Suite 1000, Washington, DC 20005. Generally, all comments will be made available for public inspection on the MSRB's website.¹

Questions about this notice should be directed to Gail Marshall, Associate General Counsel or Bri Joiner, Manager, Professional Qualifications, at 202-838-1500.

¹ Comments generally are posted on the MSRB website without change. For example, personal identifying information such as name, address, telephone number, or email address will not be edited from submissions. Therefore, commenters should only submit information that they wish to make available publicly.



Receive emails about MSRB regulatory notices.

Background

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”)² the MSRB is charged with setting professional standards and CE requirements for municipal advisors. Section 15B(b)(2)(A) of the Securities Exchange Act of 1934 (the “Act”) authorizes the MSRB to prescribe standards of training, experience, competence, and such other qualifications as the MSRB finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons.³ More specifically, in connection with such standards, the Act requires the MSRB to provide professional qualification standards and CE requirements for municipal advisors.⁴

On February 26, 2015, the Securities and Exchange Commission (SEC) approved amendments to MSRB Rule G-3, which established classification and qualification requirements for municipal advisor professionals.⁵ The established registration classifications for municipal advisor professionals under Rule G-3 are: (a) municipal advisor representative and (b) municipal advisor principal.⁶ As Rule G-3 provides, to qualify as a municipal advisor representative or municipal advisor principal, an individual must take and pass the Municipal Advisor Representative Qualification Examination (“Series 50”).⁷

Bearing in mind that many municipal advisor professionals are associated with brokers, dealers or municipal securities dealers (“dealers”), the draft amendments seek to establish robust CE requirements for municipal advisors while balancing the need to avoid unnecessary regulatory overlap with existing CE requirements for dealers.

² Pub. Law No. 111-203, 124 Stat. 1376 (2010).

³ 15 U.S.C. 78o-4(b)(2)(A).

⁴ See 15B(b)(2)(L)(ii)-(iii) of the Act, 15 U.S.C. 78o-4(b)(2)(L)(ii)-(iii).

⁵ See Exchange Act Release No. 74384 (Feb. 26, 2015), File No. SR-MSRB-2014-08 (Nov. 18, 2014).

⁶ *Id.*

⁷ To provide time for an orderly transition to the new professional qualifications regime, associated persons engaged in municipal advisory activities have a one-year grace period, ending on September 12, 2017, to take and pass the Series 50 examination.

Overview of the Continuing Education Requirements for Dealers

Dealers are currently required, pursuant to Rule G-3(i), to maintain a CE program for their “covered registered persons,”⁸ designed to keep such persons informed of issues that affect their job responsibilities and of product and regulatory developments. Rule G-3(i) sets forth a two-pronged approach to CE requirements for dealers consisting of a Regulatory Element and a Firm Element.

The Regulatory Element prong is a computer-based training program developed by the Securities Industry/Regulatory Council on Continuing Education (“CE Council”), of which the MSRB is a member.⁹ The Regulatory Element training is focused on compliance, regulatory, ethical and sales practice standards with the content derived from industry rules and regulations, as well as widely accepted standards and practices within the industry. Although the specific requirements of certain rules may differ among the MSRB and other self-regulatory organizations (SROs), the Regulatory Element training developed by the CE Council is based on standards and principles broadly applicable to all SROs. Rule G-3(i) requires covered registered persons to complete the Regulatory Element within 120 days of the second anniversary of their registration approval date and every three years thereafter.¹⁰

The Firm Element prong of the CE requirements provides that dealers must, at least annually, conduct a “needs analysis” whereby they evaluate and prioritize their municipal securities training needs, develop a written training

⁸ Under Rule G-3(i)(ii)(A), a “covered registered person” is defined as “any person registered with a broker, dealer or municipal securities dealer and qualified as a representative or principal ... or as a general securities principal and who regularly engages in or supervises municipal securities activities.”

⁹ The CE Council is composed of up to 20 industry members from broker-dealers, representing a broad cross section of industry firms, and representatives from the MSRB and other SROs as well as liaisons from the SEC and the North American Securities Administrators Association. See <http://www.cecouncil.com>.

¹⁰ Pursuant to MSRB Rule G-3(i)(i)(A)-(B), each registered person is required to complete the Regulatory Element initially within 120 days after the person’s second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. Any registered person who has not completed the Regulatory Element within the prescribed time frames will have their registrations deemed inactive by the Board until such time the requirements of the program have been satisfied.

plan consistent with that needs analysis and then document that the training was delivered to the covered registered persons. Training for covered registered persons must take into account the dealer's size, organizational structure, scope of business activities, and other factors.¹¹ The Firm Element prong is designed to enhance the securities knowledge, skill and professionalism of each dealer's covered registered persons based on the municipal securities products, services and strategies offered by the dealer. At a minimum, the training required by dealers under Rule G-3 should cover general investment features and associated risk factors, suitability and sales practice considerations and applicable regulatory requirements for the municipal securities products, services and strategies offered by the dealer.¹²

Proposed Continuing Education Program Requirements for Municipal Advisors

The draft CE requirements for municipal advisors would be similar in design to the Firm Element prong for dealers. The MSRB believes a single-pronged CE program for municipal advisors would provide firms (both dealer and non-dealer municipal advisors) with the flexibility to implement a robust and meaningful CE program for those associated persons of the municipal advisor who are qualified as a municipal advisor representative or municipal advisor principal ("covered person").

Similar to the Firm Element requirements for dealers, municipal advisors would be required to annually complete a needs analysis that evaluates and prioritizes their applicable training needs, develop a written training plan and document that training was provided to covered persons. The training plan should be designed to be appropriate for the municipal advisor's business and, at a minimum, cover training on the applicable regulatory requirements and, specifically, a municipal advisor's fiduciary duty obligations. By developing a single-pronged approach, a municipal advisor would have the flexibility to develop training for its covered persons based on the firm's size, organizational structure, scope of business activities and other factors. For example, a municipal advisor that only provides advice to municipal entities

¹¹ *Supra* note 8.

¹² In 2014 the SEC approved amendments to the Firm Element that require dealers to provide municipal securities training to covered persons who are regularly engaged in municipal securities activities. The purpose of the amendment was to enhance the overall securities knowledge, skill and professionalism of associated persons primarily engaged in municipal securities activities. See Exchange Act Release No. 73368 (Oct. 15, 2014), File No. SR-MSRB-2014-05 (Jul. 22, 2014).

on swap transactions would be permitted to design its annual training plan based upon the rules and practices applicable to its limited business model and determine the manner in which such training should be delivered. In such cases, firms could, for example, determine the most effective method of fulfilling their training needs would be to have their covered persons attend an applicable seminar by subject matter experts or utilize an on-line training resource.

Importantly, the minimum requirements under draft amendments to Rule G-3 should not be seen as the sole subject matter for the training. The MSRB believes the minimum standard for training does not negate the need for municipal advisors to consider whether, based on their needs analysis, other training applicable to their municipal advisory activities is appropriate. The establishment of CE requirements for municipal advisors will ensure that all firms provide minimum levels of training to covered persons to ensure a standard of training that is appropriate in the public interest and for the protection of investors and municipal entities or obligated persons.

In an effort to reduce regulatory overlap for dealer-municipal advisor firms, draft amendments to Rule G-3 to establish CE requirements for municipal advisors would recognize that a dealer-municipal advisor firm could deliver certain training that would meet both the needs analysis for the dealer activity as well as the needs analysis for the municipal advisor activity, so long as the dually registered firm:

- Completes a separate needs analysis for both its municipal advisory activities as a municipal advisor and its municipal securities activities as a dealer;
- Develops a separate written training plan for both the municipal advisory and dealer activities based on each applicable needs analysis;
- Delivers training that is consistent with the written training plans of both the municipal advisor and dealer; and
- Maintains records documenting that such covered persons completed the applicable training.

Economic Analysis

1. The need for CE requirements for municipal advisor professionals and how draft amendments to MSRB Rule G-3 will meet that need.

As noted above, Section 15B of the Act requires the MSRB to provide CE requirements for municipal advisor professionals.¹³ The MSRB believes that CE standards would keep municipal advisor professionals informed of issues and regulatory developments that affect their job responsibilities and, thereby, would help to protect investors and municipal entities.

2. Relevant baselines against which the likely economic impact of elements of the draft amendments should be considered.

The Act requires that the MSRB provide CE requirements for municipal advisor professionals. In addition, municipal advisor professionals are required to take and pass an examination in order to demonstrate their professional qualifications and to understand and comply with several rules specific to municipal advisory activities including, but not limited to Rule G-3, Rule G-42 and Rule G-44.

3. Identifying and evaluating reasonable alternative regulatory approaches.

The MSRB recognizes that there are alternatives to the single-pronged approach to CE program requirements for municipal advisors. For example, the MSRB could have proposed a mandatory regulatory element, overseen and administered by an SRO in addition to the proposed training requirement. At this juncture, the MSRB believes that the need can be addressed without a Regulatory Element. Alternatively, the MSRB could have proposed a more prescriptive CE requirement. At this time, the MSRB does not believe that such a proposal is necessary.

4. Assessing the benefits and costs of the draft amendments.

The MSRB policy on economic analysis in rulemaking addresses consideration of the likely costs and benefits of the rule with the draft amendments fully implemented against the context of the economic baseline discussed above. The MSRB is seeking, as part of this request for comment, data (qualitative or

¹³ *Supra* 15B(b)(2)(L)(ii)-(iii) of the Act, 15 U.S.C. 78o-4(b)(2)(L)(ii)-(iii).

quantitative) relevant to evaluation of the costs and benefits of the proposed amendments.

Preliminarily, the MSRB has evaluated the benefits and costs associated with the draft proposal as follows:

Benefits

CE requirements for municipal advisors -- like other professional qualification standards- promote compliance with applicable laws and regulations and are necessary for the protection of investors, municipal entities and obligated persons. Such requirements may reduce the risk that issuers will receive advice that results in harm and may also reduce the overall cost of borrowing. In addition, CE requirements may contribute to a more competitive market for municipal advisory services.

Costs

The MSRB recognizes that firms may incur programmatic costs, including those associated with conducting a needs analysis, developing and delivering content and maintaining records. However, the MSRB believes that these costs would be relatively small. In addition, the MSRB is proposing to provide firms with significant flexibility to develop training based on their size, organizational structure, and scope of business activities. Because the requirement to conduct CE is a part of the baseline, the MSRB believes that these costs are already incorporated in baseline. The MSRB understands that some small municipal advisory firms may not employ full-time staff to develop and implement CE training. However, the MSRB believes that the proposal provides sufficient flexibility regarding how the requirement is met and that third parties, including the MSRB, may develop course content that would be available to small firms at relatively low cost.

The SEC also acknowledged in its final registration rule that CE requirements would impose certain costs on firms, but concluded that those costs would be unlikely to harm the competitiveness of the market.¹⁴

Effect on Competition, Efficiency and Capital Formation

The MSRB believes that this draft proposal will improve efficiency and capital formation by promoting compliance with existing regulations and ensuring that municipal entities have access to qualified municipal advisors. The MSRB believes that this proposal will not impose any burden on competition that is

¹⁴ See Registration of Municipal Advisors, Exchange Act Release No. 70462 (Sept. 20, 2013), 78 FR 67467 (Nov. 12, 2013).

not necessary or appropriate in furtherance of the purposes of the Act and may have a positive impact on competition by further promoting merit-based factors in the selection of municipal advisors. As noted above, even if costs associated with this proposal cause some firms to exit or consolidate with others, the MSRB supports the SEC's conclusion that this will not materially impact competition.

Questions

The MSRB seeks public comment on all aspects of this proposal and specifically requests comment concerning the following questions. The MSRB welcomes information regarding the potential to quantify the likely benefits and costs of the draft amendments. The MSRB requests comment on any competitive or anticompetitive effects, as well as efficiency and capital formation effects of the draft amendments on any market participants. The MSRB particularly welcomes statistical, empirical and other data from commenters that may support their views and/or support or refute the views, assumptions or issues raised in this request for comment.

- Are there other relevant baselines that the MSRB should consider when evaluating the economic impact of the proposal?
- Do the proposed requirements meet the goal of promoting understanding and compliance of existing MSRB regulations?
- Are there other reasonable regulatory alternatives that the MSRB should consider?
- How likely is it that third-parties will develop CE content that small firms will be able to purchase rather than developing their own content?
- Are there data or studies relevant to the evaluation of the benefits and costs of the proposal that the MSRB should consider?
- In addition to fiduciary duty obligations are there other obligations that should be included, as required, as part of the minimum standards of training?
- In reducing regulatory overlap for dually registered firms, should the MSRB consider other alternatives to the draft CE requirements for municipal advisors?
- Does your firm currently provide your municipal advisor professionals with continuing education regarding the applicable regulatory obligations?
- Do the draft CE requirements for municipal advisors strike an appropriate balance between a principles-based and a prescriptive approach for the development of a CE program? If not, explain why and in what areas the draft CE requirements should be more principles-based or prescriptive.

- Do the draft CE requirements for municipal advisors appropriately accommodate for small and single-person municipal advisors? If not, describe how the draft CE requirements can be modified to be more appropriately accommodating.
- Would the draft CE requirements have the anticipated benefits of protecting municipal entities, investors and the public interest?
- Would the draft CE requirements have an effect on conduct that is required for compliance with any other MSRB rule?

September 30, 2016

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Text of Draft Amendments*

Rule G-3: Professional Qualification Requirements

No broker, dealer, municipal securities dealer, municipal advisor or person who is a municipal securities representative, municipal securities sales limited representative, limited representative - investment company and variable contracts products, municipal securities principal, municipal fund securities limited principal, municipal securities sales principal, municipal advisor representative or municipal advisor principal (as hereafter defined) shall be qualified for purposes of Rule G-2 unless such broker, dealer, municipal securities dealer, municipal advisor or person meets the requirements of this rule.

(a) – (h) No changes.

(i) *Continuing Education Requirements*

(i) *Continuing Education Requirements for Brokers, Dealers, and Municipal Securities Dealers*—This section ~~(i)~~ prescribes requirements regarding the continuing education of certain registered persons subsequent to their initial qualification and registration with a registered securities association with respect to a person associated with a member of such association, or the appropriate regulatory agency as defined in section 3(a)(34) of the Act with respect to a person associated with any other broker, dealer or municipal securities dealer ("the appropriate enforcement authority"). The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

~~(i)~~(A) *Regulatory Element*

~~(A)~~(1) *Requirements*—No broker, dealer or municipal securities dealer shall permit any registered person to continue to, and no registered person shall continue to,

* Underlining indicates new language; strikethrough denotes deletions.

perform duties as a registered person, unless such person has complied with the requirements of section (i) hereof.

Each registered person shall complete the Regulatory Element on the occurrence of their second registration anniversary date and every three years thereafter or as otherwise prescribed by the Board. On each occasion, the Regulatory Element must be completed within 120 days after the person's registration anniversary date. A person's initial registration date, also known as the "base date," shall establish the cycle of anniversary dates for purposes of this section ~~(i)~~ (A). The content of the Regulatory Element shall be determined by the Board for each registration category of persons subject to the rule.

~~(B)~~(2) *Failure to Complete*—Unless otherwise determined by the Board, any registered persons who have not completed the Regulatory Element within the prescribed time frames will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under this section shall cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is inactive for a period of two years will be administratively terminated. A person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of this rule. The appropriate enforcement authority may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

~~(C)~~(3) *Disciplinary Actions*—Unless otherwise determined by the appropriate enforcement authority, a registered person will be required to retake the Regulatory Element and satisfy all of its requirements in the event such person:

~~(1)~~(a) becomes subject to any statutory disqualification as defined in Section 3(a)(39) of the Securities Exchange Act of 1934;

~~(2)~~(b) becomes subject to suspension or to the imposition of a fine of \$5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self-regulatory organization, the appropriate enforcement authority or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding; or

~~(3)~~(c) is ordered as a sanction in a disciplinary action to retake the Regulatory Element by any securities governmental agency, the appropriate enforcement authority or securities self-regulatory organization.

The retaking of the Regulatory Element shall commence with participation within 120 days of the registered person becoming subject to the statutory disqualification, in the case of ~~(1)~~ (a) above, or the completion of the sanction or the disciplinary action becomes final, in the case of ~~(2)~~ (b) or ~~(3)~~ (c) above. The date that the disciplinary action becomes final will be deemed the person's new base date for purposes of this section ~~(i)~~ (A).

~~(D)~~(4) Any registered person who has terminated association with a broker, dealer or municipal securities dealer and who has, within two years of the date of termination, become reassociated in a registered capacity with a broker, dealer or municipal securities dealer shall participate in the Regulatory Element at such intervals that apply (second registration anniversary and every three years thereafter) based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

~~(E)~~(5) Any former registered person who becomes reassociated in a registered capacity with a broker, dealer or municipal securities dealer more than two years after termination as such will be required to satisfy the program's requirements in their entirety (second registration anniversary and every three years thereafter), based on the most recent registration date.

~~(F)~~(6) *Definition of registered person*—For purposes of this section, the term "registered person" means any person registered with the appropriate enforcement authority as a municipal securities representative, municipal securities principal, municipal securities sales principal or financial and operations principal pursuant to this rule.

~~(G)~~(7) *Delivery of the Regulatory Element*. The continuing education Regulatory Element program will be administered through Web-based delivery or such other technological manner and format as specified by the Board.

~~(ii)~~(B) *Firm Element*

~~(A)~~(1) *Persons Subject to the Firm Element*—The requirements of this section shall apply to any person registered with a broker, dealer or municipal securities dealer and qualified as a representative or principal in accordance with this rule or as a general securities principal and who regularly engages in or supervises municipal securities activities (collectively, "covered registered persons").

~~(B)~~(2) *Standards for the Firm Element*

~~(1)~~(a) Each broker, dealer and municipal securities dealer must maintain a continuing and current education program for its covered registered persons to enhance their securities knowledge, skill, and professionalism. At a minimum, each broker, dealer and municipal securities dealer shall at least

annually evaluate and prioritize its training needs, develop a written training plan, and conduct training annually on municipal securities for covered registered persons. The plan must take into consideration the broker, dealer and municipal securities dealer's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of covered registered persons in the Regulatory Element.

~~(2)~~(b) Minimum Standards for Training Programs—Programs used to implement a broker, dealer or municipal securities dealer's training plan must be appropriate for the business of the broker, dealer or municipal securities dealer and, at a minimum must cover the following matters concerning municipal securities products, services and strategies offered by the broker, dealer or municipal securities dealer:

~~(a)~~(i) General investment features and associated risk factors;

~~(b)~~(ii) Suitability and sales practice considerations;

~~(c)~~(iii) Applicable regulatory requirements.

~~(3)~~(c) Administration of Continuing Education Program—A broker, dealer or municipal securities dealer must administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by covered registered persons.

~~(C)~~(3) Participation in the Firm Element—Covered registered persons included in a broker, dealer or municipal securities dealer's plan must participate in continuing education programs as required by the broker, dealer or municipal securities dealer.

~~(D)~~(4) Specific Training Requirements—The appropriate enforcement authority may require a broker, dealer or municipal securities dealer, individually or as part of a larger group, to provide specific training to its covered registered persons in such areas the appropriate enforcement authority deems appropriate. Such a requirement may stipulate the class of covered registered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

(ii) Continuing Education Requirements for Municipal Advisors

(A) Persons Subject to Continuing Education Requirements—The requirements of this section shall apply to any person qualified as a representative or principal with a municipal advisor in accordance with this rule (collectively, "covered persons").

(B) Standards for Continuing Education Requirements

(1) Each municipal advisor must maintain a continuing and current education program for its covered registered persons to enhance their municipal advisory activities knowledge, skill, and professionalism. At a minimum, each municipal advisor shall at least annually evaluate and prioritize its training needs, develop a written training plan, and conduct training annually on municipal advisory activities for covered persons. The plan must take into consideration the municipal advisor's size, organizational structure, and scope of business municipal advisory activities, as well as regulatory developments.

(2) Minimum Standards for Training Programs—Programs used to implement a municipal advisor's training plan must be appropriate for the business of the municipal advisor and, at a minimum must cover the following matters concerning municipal advisory activities, services and strategies offered by the municipal advisor:

(a) Fiduciary duty obligations of municipal advisors; and

(b) Applicable regulatory requirements.

(3) Administration of Continuing Education Program—A municipal advisor must administer its continuing education program in accordance with its annual evaluation and written training plan and must maintain records documenting the content of the programs and completion of the programs by covered persons.

(C) Participation in the Continuing Education Program—Covered persons included in a municipal advisor's plan must participate in continuing education programs as required by the municipal advisor.

(D) Specific Training Requirements—The appropriate enforcement authority may require a municipal advisor, individually or as part of a larger group, to provide specific training to its covered persons in such areas the appropriate enforcement authority deems appropriate. Such a requirement may stipulate the class of covered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

Supplementary Material

.01 - .02 No change.

**ALPHABETICAL LIST OF COMMENT LETTERS ON MSRB NOTICE 2016-24
(SEPTEMBER 30, 2016)**

1. Brena LLC: E-mail from G. Letti dated September 30, 2016
2. Castle Advisory Company LLC: E-mail from Garth Schulz dated September 30, 2016
3. Columbia Capital Management, LLC: Letter from Jeff White, Principal, dated November 11, 2016
4. Financial Services Institute: Letter from David T. Bellaire, Executive Vice President and General Counsel, dated November 14, 2016
5. Lamont Financial Services Corporation: Letter from Robert A. Lamb, President, dated October 21, 2016
6. Lawrence Goldberg: E-mail dated September 30, 2016
7. National Association of Municipal Advisors: Letter from Susan Gaffney, Executive Director, dated November 14, 2016
8. PFM Group: Letter from Leo Karwejna, Managing Director and Chief Compliance Officer, dated November 14, 2016
9. Public Resources Advisory Group: Letter from Marianne F. Edmonds, Senior Managing Director, dated November 14, 2016
10. Roberts Consulting, LLC: E-mail from Jonathan Roberts dated October 14, 2016
11. Third Party Marketers Association: Letter from Donna DiMaria, Chairman of the Board of Directors, dated November 17, 2016

Comment on Notice 2016-24

from G. Letti, Breena LLC

on Friday, September 30, 2016

Comment:

There is a need for simple, accurate, basic information on Municipal Bond investing -- not highly technical jargon, but simple, accurate facts, numbers and current risks.

Brokers, investors and government regulators, who may understand stocks very well, need to learn, simply and quickly, that Municipal Bonds are not stocks and all types of Bonds (Treasuries, Municipals, Corporates and Agencies) are completely different for investing and trading (if possible).

In our experience, highly experienced bond investors and successful traders (a few) understand this adequately, and they tend to have decades of experience.

Comment on Notice 2016-24

from Garth Schulz, Castle Advisory Company LLC

on Friday, September 30, 2016

Comment:

I support a continuing education requirement every 5 years. Like other continuing education, make it so you can't fail and make it take no more than 1 hour to complete. Things generally don't change that much from year to year to require more than this, but it will be enough to keep people abreast of the market and regulations.



6330 Lamar, Suite 200
Overland Park, Kansas 66202

Jeff White, Principal
913.312.8077
jwhite@columbiacapital.com

November 11, 2016

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000,
Washington, DC 20005

RE: Request for Comment/Continuing Education Requirements for Municipal Advisors

Dear Mr. Smith:

Thank you for the opportunity to comment on the MSRB's draft provisions related to establishing a continuing education requirement for municipal advisors. Columbia Capital Management, LLC is a non-dealer municipal advisor with breadth across the types of advice we provide, the size and complexity of our issuer and borrower clients and the geographic areas in which we work. In the request for comment (RFC), the MSRB provided a list of questions as a starting point for dialogue on this topic. Please find our thoughts below in response to a number of these questions.

Do the proposed requirements meet the goal of promoting understanding and compliance of existing MSRB regulations? We believe the proposed requirements are likely to be successful in promoting the understanding of MA firms and their representatives of MSRB regulations. We agree with the MSRB's conclusion that structuring the MA CE requirements as a Firm Element-style, single-prong program makes sense for our market.

How likely is it that third-parties will develop CE content that small firms will be able to purchase rather than developing their own content? We think it is not likely that third-parties will develop CE content that is broad enough to encompass the full breadth of the MA's role with respect to governmental issuers and obligated parties. Our experience with third-party Series 50 pilot test preparation materials, for instance, was that they did a sufficient job covering MSRB regulation and general municipal market operations, but that they showed a lack of depth of understanding of the nuances of MA work. Given the relatively small universe of MA firms and the wide range of practice structures across those firms, we do not believe it is likely to be profitable for third-parties to develop high-quality

CE materials. As a result, our expectation is that most MA firms will be left to develop their own CE programs—an outcome that could be onerous for small firms.

In addition to fiduciary duty obligations are there other obligations that should be included, as required, as part of the minimum standards of training?

We think it is likely that a properly developed needs analysis and corresponding training program focused at its core on the MA's fiduciary duty obligations is likely to meet the MSRB's goals with respect to the continuing education requirements.

Does your firm currently provide your municipal advisor professionals with continuing education regarding the applicable regulatory obligations?

We have historically provided ongoing continuing education for our MA professionals in-house using a mix of formal and informal training/education methods. We also leverage free and low-cost resources provided by third-parties—state GFOA conferences, web-based seminars from organizations like the Council of Development Finance Agencies, etc.—to supplement our advisors' continuing education.

Do the draft CE requirements for municipal advisors strike an appropriate balance between a principles-based and a prescriptive approach for the development of a CE program? We believe the MSRB has struck an appropriate balance.

Do the draft CE requirements for municipal advisors appropriately accommodate for small and single-person municipal advisors? If not, describe how the draft CE requirements can be modified to be more appropriately accommodating.

As noted above, we believe it is unlikely that third-parties will be able to provide continuing education materials that cover the full breadth of continuing education requirements for MAs. As a result, this continuing education requirement is likely to be burdensome on small and single-person MA firms. One antidote to this is to recognize that free and low-cost continuing education opportunities through existing programs, such as those we mentioned earlier in our response, will be an important component of a CE program for small and single-person firms. Except for the larger firms in our industry, our experience is that most MA professional development is done through on-the-job training. Small firms may have a challenge balancing this reality with their statutory duty of care.

Would the draft CE requirements have the anticipated benefits of protecting municipal entities, investors and the public interest? Although a formal continuing education requirement is an additional burden on MA firms and their professionals, we recognize that formal CE requirements are fairly standard across other parts of the financial markets and are likely to be beneficial to the ability of MA firms to uphold their fiduciary duty.

Would the draft CE requirements have an effect on conduct that is required for compliance with any other MSRB rule? Because of the inter-relatedness of the

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MSRB rules, we think it is likely that the continuing education requirement is likely to boost compliance generally with other municipal market regulations.

Respectfully submitted,
COLUMBIA CAPITAL MANAGEMENT, LLC

A handwritten signature in black ink, appearing to read "Jeff White", written over the printed name below.

Jeff White
Principal



VIA ELECTRONIC MAIL

November 14, 2016

Ronald W. Smith
 Municipal Securities Rulemaking Board
 1300 I Street NW
 Washington, D.C. 20005

Re: MSRB Regulatory Notice 2016-24, Draft Provisions to MSRB Rule G-3 to Establish a Continuing Education Requirement for Municipal Advisors

Dear Mr. Smith:

On September 30, 2016, the Municipal Securities Rulemaking Board (MSRB) published its request for public comment on Regulatory Notice 2016-24, proposed recommendations to the Draft Provisions to MSRB Rule G-3 to establish a Continuing Education (CE) Requirement for Municipal Advisors (Draft Provisions).¹ The Draft Provisions would require municipal advisors and those who regularly supervise municipal advisors to develop a CE program.

The Financial Services Institute² (FSI) appreciates the opportunity to comment on this important proposal. FSI supports the Draft Provisions, as we believe they establish a flexible, principles-based rule that is harmonized with current FINRA CE requirements.

Background on FSI Members

The independent financial services community has been an important and active part of the lives of American investors for more than 40 years. In the US, there are approximately 167,000 independent financial advisors, which account for approximately 64.5% percent of all producing registered representatives.³ These financial advisors are self-employed independent contractors, rather than employees of the Independent Broker-Dealers (IBD).

FSI's IBD member firms provide business support to independent financial advisors in addition to supervising their business practices and arranging for the execution and clearing of

¹ See Regulatory Notice available at <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2016-24.ashx?la=en>.

² The Financial Services Institute (FSI) is an advocacy association comprised of members from the independent financial services industry, and is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education and public awareness, FSI has been working to create a healthier regulatory environment for these members so they can provide affordable, objective financial advice to hard-working Main Street Americans.

³ The use of the term "financial advisor" or "advisor" in this letter is a reference to an individual who is a registered representative of a broker-dealer, an investment adviser representative of a registered investment adviser firm, or a dual registrant. The use of the term "investment adviser" or "adviser" in this letter is a reference to a firm or individual registered with the SEC or state securities division as an investment adviser.

customer transactions. Independent financial advisors are small-business owners with strong ties to their communities and know their clients personally. These financial advisors provide comprehensive and affordable financial services that help millions of individuals, families, small businesses, associations, organizations, and retirement plans. Their services include financial education, planning, implementation, and investment monitoring. Due to their unique business model, FSI member firms and their affiliated financial advisors are especially well positioned to provide Main Street Americans with the financial advice, products, and services necessary to achieve their investment goals.

FSI members make substantial contributions to our nation's economy. According to Oxford Economics, FSI members nationwide generate \$48.3 billion of economic activity. This activity, in turn, supports 482,100 jobs including direct employees, those employed in the FSI supply chain, and those supported in the broader economy. In addition, FSI members contribute nearly \$6.8 billion annually to federal, state, and local government taxes. FSI members account for approximately 8.4% of the total financial services industry contribution to U.S. economic activity.⁴

Discussion

FSI appreciates the opportunity to comment on the Draft Provisions. FSI fully supports MSRB's goal to ensure that certain professionals, including middle and back-office personnel, understand their responsibilities and the applicable regulations related to municipal securities activities and are subject to periodic testing to ensure they remain knowledgeable. Additionally, educating those who are in a position to identify and escalate indications of wrongdoing is immensely important. In 2014, when MSRB Rule G-3 was adopted, FSI requested clarification on the application of the rule, as FSI members were confused about which individuals would be subject to the Firm Element training. Since then, MSRB has offered clarity through their Response Letter⁵ and has offered webinars⁶ to assist with compliance. Given the essential nature of continuing education and MSRB's willingness to provide important guidance, FSI supports the current Draft Provisions. Our support is discussed in greater detail below.

I. FSI applauds the MSRB in their effort to create a principals-based Continuing Education program for Municipal Advisors

Through the rule making process⁷ and discussion with FSI members and MSRB staff, we know the Draft Provisions would mainly impact FSI members who are Series 24 Registered Principals who authorize municipal trades (mainly 529 Plans). Because of the nature of the Independent Business model, FSI members have provided us feedback that it will not be onerous for them to determine which Registered Principals are "regularly engaged" in the supervision of

⁴ Oxford Economics for the Financial Services Institute, The Economic Impact of FSI's Members (2016).

⁵ See MSRB Response Letter available at, <https://www.sec.gov/comments/sr-msrb-2014-05/msrb201405-5.pdf>

⁶ See MSRB Webinars, available at, <http://www.msrb.org/Regulated-Entities/Webinars.aspx>

⁷ On August 26, 2014 FSI submitted a comment letter expressing concern that the MSRB's Continuing Education proposal included rule text that deviated from the language in MSRB's initial Request for Comment. Notably, MSRB's original proposed rule text expanded annual municipal securities training to associated persons who "primarily engage" in municipal securities activities, while the language in MSRB's Proposed Rule Change applies to registered persons who "regularly engage" in municipal securities activities. For this, and several other reasons, FSI could not support the Proposed Rule Change in its form. The MSRB filed a response to FSI's concerns, where they stated that the new phrasing "provides dealers with the flexibility to determine who must participate in the Firm Element continuing education program, so long as the dealers have a reasonable basis for determining which registered persons regularly engage in or supervise municipal securities activities."

municipal securities. FSI commends MSRB for choosing a flexible and less prescriptive approach to this rule making, and encourages MSRB to continue doing so in future rulemaking. FSI members agree that firms are best suited to evaluate their municipal securities activities to determine who is “regularly engaged” in such activities and appreciate the MSRB providing them that flexibility.

II. FSI applauds the MSRB for harmonizing the Continuing Education Requirements with FINRA Rules

FSI has previously expressed its support for the harmonization of FINRA and MSRB rules and appreciates MSRB’s efforts to continue to pursue harmonization where it makes sense.⁸ Currently, MSRB Rule G-3(h) (ii)(A) is harmonized with FINRA’s Rule 1250(b) Firm Element Continuing Education Requirements. As such, broker-dealers have the necessary clarity to efficiently determine which individuals are subject to both FINRA and MSRB continuing education requirements. This clarity saves firms both time and money that can then be directed toward other important compliance efforts.

Conclusion

We are committed to constructive engagement in the regulatory process and welcome the opportunity to work with MSRB on this and other important regulatory efforts.

Thank you for considering FSI’s comments. Should you have any questions, please contact me at (202) 393-0022.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. T. Bellaire". The signature is fluid and cursive, with a large initial "D" and "T" and a distinct "Bellaire" ending.

David T. Bellaire, Esq.
Executive Vice President & General Counsel

⁸ *Id.*

LAMONT**Financial Services Corporation**

New Jersey · California

October 21, 2016

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW
Suite 1000
Washington, D.C. 20005

Dear Mr. Smith,

Thank you for the opportunity to comment on the proposed continuing education requirements for municipal advisors. In reviewing the proposed rule, it strikes me that a phased in implementation period would be the only appropriate way to make the rule effective. I am responding from the point of view of an independent municipal advisor with no broker-dealer activities.

The rule first requires a needs assessment, which is the appropriate first step. However, there are not yet any materials that are commercially available for municipal advisors to assist in performing these needs assessments. A needs assessment should provide a way to measure the training needs of the municipal advisor representative and principal on topics regarding the MSRB and SEC rule sets and to measure core competence with regard to the ability to effectively provide municipal advisory services to their clients.

However, except for the material being developed by the Board for its professional qualifications testing and its educational and outreach programs, there are not a lot of materials out there to either perform the assessment or to use for training purposes. As a result, passage of a CE rule without a sufficient phase-in period could have small municipal advisors unable to comply with the rule because of the lack of commercially available materials. Further, if each firm then has to develop its own materials, the cost in lost productive work time will be significant and the quality of any training will be dependent on the municipal advisor preparing the materials. Thus, the Board may be out over its skis in considering this rule at this point because the development of commercial training resources for municipal advisors has not been significant to date. This could then lead to a deficiency finding in SEC exams.

Before developing the rule, consideration should be given to how professionals are actually trained in the municipal securities business. After some basic training in municipal bonds and bond math, as well as some basic training on DBC or Munex bond sizing software, the remainder of the training is done by giving the professionals increasing responsibilities progressively under a mentoring relationship with a more senior professional. Such on-the-job training is very effective as a training program and leads to career advancement. At small municipal advisors, most training is done in this fashion.

It does have its limits, however, since it is heavily dependent on the mentoring relationship. Bad habits may pass from the mentor to the learner. If the mentor takes short cuts, those same habits are likely to be learned as well. Thus, it seems to me that the goal should be to have a needs assessment and training program that takes advantage of the mentoring relationship, encourages a fulsome development of ethical standards and fiduciary duty principles to guide careers, and also provides content training so that the learner can grow and advance in his/her career in municipal advisory work.

In my opinion, the best source of training materials regarding the MA fiduciary duty rule and other MSRB rules has been in webinar materials developed by the Board. I believe the Board should continue to develop materials that will help educate professionals in the field and that can be used to earn continuing education credit. I believe the focus should be a target audience of people who are supervising or mentoring people in this business so that the on the job training that happens daily will be more effective and compliant. The industry must adopt a mindset such that fiduciary responsibility will become automatic in the way that a municipal advisor approaches every problem. The mentor must also be acutely aware of the core set of regulations and his/her supervisory responsibility.

For independent municipal advisors, it is also important to train municipal advisor representatives to spot non-compliant activity from other advisors or investment bankers which is not permissible under the rules, and to report such to their supervisor or CCO. During a negotiated financing, the municipal advisor representative is like the beat cop in the neighborhood, working with the finance team but also being the issuer's advocate to insure that the issuer's rules are being followed. This is particularly true during a primary offering where the rules are stated on the wire and should be followed by all members of the syndicate and selling group.

Continuing educational training should be focused on mentors or supervisors, since less experienced people are likely already in an on-the-job training experience. The mentors and supervisors may have already passed the Representative exam and may be candidates for the MA Principal exam, so they will need an increased level of training which is not yet commercially available. If mentors and supervisors are trained, then they will better train the municipal advisors that work with them.

At this point, continuing education credit will mostly develop from attendance at conferences or committee conference calls from membership in organizations like the National Society of Compliance Professionals which is very rules based, or participation in organizations which is related to the business of the advisor. Certain national associations, such as NAMA, may be a good source for providing continuing education to municipal advisors. Attendance at outreach programs run by the MSRB or the SEC should also be part of a continuing education credit program. Web-casting these programs would be a cost effective way to provide training.

Ideally, web based education programs will be developed by commercial vendors. The Board already knows the amount of work and time required to develop a training module,

which has been several years from concept to finished product, and should recognize that a CE requirement without CE resources is going to be frustrating and difficult to explain. The concept behind the rule is fine, but implementation of the CE rule without the available resources will seem unfair at best when firms that are trying to comply with being regulated get criticized by their examiners for failing to have an effective training program in place. Thus, I think a phase-in of the rule is the most appropriate action.

Thank you for allowing me to comment on the proposed rule. The rule is fine conceptually, but resources other than those prepared by the Board are not yet commercially available. My objective is to both improve compliance with the rules and to improve the quality of municipal advisor performance in the industry.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Lamb', with a long horizontal flourish extending to the right.

Robert A. Lamb
President

Comment on Notice 2016-24

from Lawrence Goldberg,

on Friday, September 30, 2016

Comment:

I believe that the regulatory direction SEC/MSRB is continuing with this latest Request for Comments suggest overregulation & increasing interference wth & restriction of business conduct, Thank you



November 14, 2016

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street, NW Suite 1000
Washington, DC 20005

RE: Regulatory Notice 2016-24: Establishing Continuing Education Requirements for Municipal Advisors

Dear Mr. Smith:

The National Association of Municipal Advisors (NAMA), representing Municipal Advisory Firms and Municipal Advisors (MAs) from across the country, is pleased to provide comments on the MSRB's new continuing education (CE) requirements for Municipal Advisors proposal.

NAMA supports qualification testing, including the Series 50 exam, and continuing education requirements. However, we believe the current proposal is premature. Therefore, we request that such CE standards on Municipal Advisors not be enacted until the various issues raised below are addressed and the proposal is strengthened and clarified.

An area of concern that NAMA continues to raise is that the MSRB should review how the new MA regulatory framework is functioning in practice before implementing even more additional rules such as new continuing education requirements for MAs. Additionally, for this proposal and others, the MSRB is specifically required by Section 15B(b)(2)(L)(iv) of the *Exchange Act* to consider the impact of its rules – including continuing education requirements – has on small MAs.

On the heels of numerous new MA rules, the Series 50 exam, and a forthcoming Series 54 exam, all within a short amount of time, we suggest that the MSRB step back and complete an analysis on the impact that the implementation of all of the new rules and qualification standards have on MAs, and then determine the scope of continuing education standards and what is best to include in Rule G-3 and supplemental guidance.

Economic Impact of the Proposal and Accommodating Small and Single Person Firms

In conjunction with an evaluation on the cumulative effect all rulemaking has on Municipal Advisors, and especially small firms, the economic impact of these continuing education requirements should be considered. The MSRB is specifically required by the *Exchange Act* to ensure that there are no undue burdens on smaller firms with the development of its rulemaking. This includes in the context of this proposal, the costs of developing an annual needs assessment, updating policies and procedures (for

many this includes hiring an outside advisor), and reviewing and implementing such plan on an annual basis. In particular, the MSRB should be cognizant that in the release accompanying the Final Municipal Advisor Rule the Commission specifically recognized the demonstrable economic value that municipal advisors provide to a client. *See* Securities Exchange Act Release No. 70462 (September 20, 2013), 78 FR 67467 (November 12, 2013) at footnote 1830 and accompanying text. Certain of those studies recognized the specific economic value provided by independent municipal advisors. Throughout the Final Municipal Advisor Rule, the Commission also weighed the impact of municipal advisory firms exiting the market. Central to their conclusion that exits from the market would not negatively impact the market was their expectation that over 100 new Municipal Advisors would register with the Commission each year with only 30 exiting per year. *See* Securities Exchange Act Release No. 70462 (September 20, 2013), 78 FR 67467 (November 12, 2013) at footnote 1719 and accompanying text. However, the net gain of municipal advisors in the last year has been significantly less than what the Commission expected in the Final Rule, and we have yet to see the full impact of MAs who may leave the business following the Series 50 testing deadline in September, 2017.

In evaluating the potential economic harm of the proposal may have on MAs, the MSRB should recognize the multiple roles a principal in a small MA firm or a sole-practitioner MA has to their clients and under the rulemaking regime already imposed by the MSRB. In addition to providing MA services to their clients, they serve as the Chief Compliance officer with multiple additional ongoing and annual responsibilities as well as adhering to documentation expectations for their transactions and other recordkeeping duties, and complying with professional qualification standards. The additional requirements of continuing education for all MAs and especially sole practitioners and smaller firms, should be considered along with the already existing regulatory burdens of the MSRB rulebook, and not create an overwhelming economic or administrative burden on these professionals.

Promoting Understanding and Compliance of Existing MSRB Regulations

The proposal specifically states that an annual ‘needs analysis’ must be completed, as well as a focus on fiduciary duty obligations within the training for MAs. While the proposal does not impose prescriptive criteria for MAs to meet, and allows for flexibility so that it can readily apply to firms of various sizes and practice, the proposal would benefit from additional details and expectations when firms develop the “needs analysis.” Such details and expectations could come in the form of several sample needs analysis, particularly for small MA firms that work primarily with municipal entities – the most common type of Municipal Advisor. Rather than having several hundred firms spend significant time and resources guessing as to what a “needs analysis” should look like – the MSRB could expend relatively minimal effort to provide representative samples or additional guidance based on experience with “needs analyses” for broker-dealer firms. Such additional information would promote a better understanding of and compliance with the MSRB Rulebook, and help firms more efficiently develop an appropriate and robust roadmap to promote professional development. As we have commented before on other rulemaking, additional guidance and information will assist with demonstrating the CE analysis is completed and the obligations determined in that analysis are met, when OCIE staff request documentation during an exam.

For your consideration, further description, options and/or guidance on the development of the “needs analysis’ would benefit MAs. These include –

- how Firms should identify and evaluate applicable training needs, including those related to the fiduciary duty standard and regulatory issues that arise with current practices for clients, as well as anticipated or forthcoming responsibilities for clients;
- what content should be included in a written plan;
- acceptable delivery mechanisms for meeting CE requirements; and
- how to document training was completed. On this issue, the Notice does not contain proposed changes to recordkeeping requirements (G-8/G-9), however, it is more than likely that MAs will be required to produce documentation to examiners that they are abiding by Rule G-3.

Other Items

- Because some Municipal Advisors have obligated persons clients and not municipal entity clients, we propose the following technical change to proposed Rule G-3(i)(ii)(B)(2)(a): (a) standards of conduct applicable to municipal entity and obligated person clients; and
- The proposal does not make a distinction for requirements applicable to supervisors, only for “covered persons.” Clarity on this item and notation if different standards will apply, would be helpful.

Continuing education requirements are imperative to ensuring that MAs are held to a professional standard that strengthens their professional responsibilities to municipal entities. NAMA is supportive of the effort to begin including CE within the regulatory framework applicable to registered and licensed MAs. However, this proposal would benefit from first a substantive and detailed evaluation of the application of all MSRB rulemaking on MAs in practice and use that information to provide guidance for implementing a needs analysis, as well as provide additional details on how best to develop such analysis. Only after these issues have been addressed and the proposal has been resubmitted for public comment should the MSRB implement new CE standards for MAs.

We would welcome the opportunity to work with the MSRB and identify ways to enhance the proposal to benefit MAs and the industry as a whole.

Sincerely,



Susan Gaffney
Executive Director



November 14, 2016

VIA ELECTRONIC SUBMISSION

Attn: Ronald W. Smith
Municipal Securities Rulemaking Board
1300 I Street NW
Washington, D.C. 20005

Re: MSRB Regulatory Notice 2016-24, Request for Comment on Draft Provisions to Establish a Continuing Education Requirement for Municipal Advisors

Dear Mr. Smith:

On behalf of Public Financial Management, Inc., and PFM Financial Advisors LLC (collectively, referred to as “PFM” or “We”), PFM appreciates and thanks the Municipal Securities Rulemaking Board (the “MSRB” or “Board”) for the opportunity to comment on the MSRB’s proposed draft provisions to establish continuing education requirements for municipal advisors. PFM, which has been in existence for over 40 years, is one of the nation’s largest independent municipal advisors and is the top-ranked municipal advisor in the nation in terms of both number of transactions and total dollar amount according to Thomson Reuters as of December 2015.

PFM welcomes the implementation of continuing education requirements for municipal advisors because we believe there are inherent benefits of ongoing continuing education which would assist municipal advisors in expanding their knowledge and promoting compliance with applicable regulations necessary within the current regulatory environment. However, PFM would like the MSRB to consider the following in its implementation of the proposed continuing education requirement for municipal advisors: 1) The creation of core elemental requirements or supplemental outlines to assist municipal advisors interpretation of fundamental needs in developing training plans; 2) The further regulatory consistency with FINRA requirements and development of cost-conscious web-based training that will assist municipal advisors with the affordability and process of complying with continuing education requirements; and 3) The institution of a reasonable phase in period that considers additional requirements for municipal advisor principals which more likely consists of at least a two-year timeframe for implementing the proposed continuing education requirements.

With respect to the MSRB’s proposal that municipal advisors conduct “a needs analysis” and “develop training plans,” PFM requests that the MSRB assist by providing guidance towards municipal advisors development and execution of training plans by providing more specific guidance on required subjects with further interpretive guidance describing information to be covered on core concepts within the municipal industry. The MSRB core subjects or outlines created and deemed



“Core Competency” training would discuss applicable regulatory and fiduciary duty obligations, for instance, and provide more guidance with respect to topics including, but not limited to, product suitability and risks, documenting suitability and client transactions, refundings, use of derivatives, and emerging regulatory topics, etc. We believe that by providing Core Competency subject requirements or outlines on a range of various topics (basic as well as more advanced), the MSRB would not only be promoting professional knowledge within the industry, but would be helping to ensure a level of consistency in educational information so as to enhance the quality and standard of training received by all municipal advisors. We envision that the MSRB’s continuing education program would largely parallel the Firm Element that registered persons of broker-dealer firms are required to take pursuant to FINRA regulation. The MSRB topic subjects or outlines created would serve to supplement training initiatives in that each firm in its discretion would determine what subjects or outlines were relevant to its firm’s lines of business and training needs. The Core Competency training subjects or outlines would be in addition to any annual training created or attended by municipal advisors pertaining to a firm’s specialized scope of business. By providing training in this manner, we believe this would be a more appropriate approach to directly aid in the promotion of municipal advisor qualifications.

PFM also advocates for consistency in the development of an individual municipal advisor representative element similar to requirements for individual Broker-Dealer representatives under FINRA regulation. Moreover, PFM requests that the MSRB provide cost-conscious web-based training courses and free online outlines so that municipal advisors, particularly smaller advisors, will not be hindered or unnecessarily burdened by the cost of complying with the MSRB’s continuing education requirements.

Lastly, PFM believes that the implementation phase for continuing education should be considerate of upcoming municipal advisor principal registration and licensing requirements. The addition of significant continuing education requirements must include recognition of the need for principal municipal advisors requirements as well. We believe a two-year implementation period beginning from the finalization of the municipal advisor principal exam would be appropriate. PFM has a long-standing commitment to professional training, and dedicates significant resources on training and education. We strongly believe in continuing professional education for the mutual benefit of our municipal advisory representatives, and issuer clients. With some important modifications for consistency with existing regulation, we support the MSRB’s proposal for continuing education requirements.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo Karwejna", is written over the typed name and title.

Leo Karwejna
Managing Director
Chief Compliance Officer



150 SECOND AVENUE NORTH, SUITE 400
ST. PETERSBURG, FLORIDA 33701
TEL: (727) 822-3339 | FAX: (727) 822-3502

PUBLIC RESOURCES ADVISORY GROUP

November 14, 2016

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street, NW Suite 1000

Washington, DC 20005

Re: Request for Comment on Draft Provisions to Establish Continuing Education Requirements for Municipal Advisors

Dear Mr. Smith:

Thank you for the opportunity to comment on the MSRB's draft provisions related to continuing education provisions for municipal advisors. Public Resources Advisory Group has welcomed development of standards for municipal advisors, and we continue to adapt our practice as necessary to include the requirements of MSRB regulation. As we consider this new request for comment we do want to inform the MSRB of the cost of implementing the new regulatory regime. PRAG, like other non-broker-dealer MA firms, has had to develop compliance procedures, hire compliance personnel and divert time of existing personnel from other duties in order to document compliance with MSRB rules. The transition has been burdensome for us as it has been for all independent MA firms.

We recognize that continuing education is a necessary part of the regulatory framework and we already provide continuing education on fiduciary responsibility, SEC rules and MSRB rules. However, we suggest that implementation of continuing education requirements be delayed until the "grace period" for the Series 50 exam has passed and implementation of the Series 54 exam has occurred. We also suggest more conversation about development of a needs assessment and of continuing education materials. We are not confident that third party providers will step into this space and have concern about both the cost and time required for the development of appropriate materials.

We suggest that the MSRB delay implementation of any continuing education requirement so that these issues and those raised by other commenters can be addressed.

Sincerely,

PUBLIC RESOURCES ADVISORY GROUP

Marianne F. Edmonds

Marianne F. Edmonds
Senior Managing Director
Public Resources Advisory Group

Comment on Notice 2016-24

from Jonathan Roberts, Roberts Consulting, LLC

on Friday, October 14, 2016

Comment:

Our firm is a Municipal Advisor (not related to a broker dealer). Our practice and written supervisory procedures specifically address that our firm will not engage in any municipal advisory services with a municipal entity as client. That is, we serve only obligor clients. The continuing education references a need to include fiduciary duty as part of the curriculum - which duty is not a requirement in respect to the business practices of our firm. We propose that this not be required if it is not applicable to the respective Municipal Advisor..



OUTSOURCED GLOBAL MARKETING OF ALTERNATIVE + TRADITIONAL INVESTMENTS

November 17, 2016

Ronald W. Smith, Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street, Suite 1000
Washington, DC 20005

Re: MSRB Notice 2016-24: Request for Comment on Draft Provisions to establish a continuing Education Requirement for Municipal Advisors

Dear Mr. Smith;

I am writing to you today on behalf of the Third Party Marketer's Association ("3PM") to express the thoughts and concerns on behalf of the members of our association regarding the draft provisions proposed in MSRB Notice 2016-24.

3PM understands and agrees with the MSRB that Municipal Advisors ("MAs") should be required to implement a continuing education program that would be "designed to keep covered registered persons informed of issues that affect their job responsibilities and/or product and regulatory development." In fact, many of 3PM's members are already required as broker dealers to maintain a robust continuing education program and several who are registered as MAs have already included training relevant to MAs to their programs.

3PM believes that MSRB's proposal of a single pronged approach, like the Firm Element prong for dealers, is the appropriate alternative for Municipal Advisors.

While we appreciate the MSRB's efforts to reduce regulatory overlap for dealer-municipal advisor firms, we believe that by requiring firms to complete separate needs analyses, written training plans and other documentation for its municipal advisory and broker dealer activities, is in fact creating, rather than reducing, regulatory overlap.

Rationale

Existing CE programs include many factors that impact the business activities of our member's firms, not just the activities related to a single regulatory authority. For many firms, training programs this year will likely include topics such as Cyber Security, Due Diligence, KYC, Suitability, AML and Ethics – topics

that apply to all of our members' businesses. It seems unnecessary for the MSRB to require us to restate the same information regarding our training in separate reports for separate regulatory authorities as suggested by this proposal.

Furthermore, for most firm's operating as Municipal Advisors (MAs), the services they provide as MAs are separate and distinct business lines. This however is not the case for MA-Solicitor firms. Our approach to our business is consistent across most aspects, and differs only when we are offering product to Municipal entities.

Examination of our business shows that the work our members do to identify investment managers with products they would like to represent, the vetting of these product sponsors, the training done on the product, the on-going monitoring of the product sponsor, the suitability of investors, the marketing and sales approach taken, the product positioning for a strategy, etc. is all the same regardless of the type of institutional investors we are targeting. Where the difference arises is that for most solicitations our members either fall under the purview of FINRA or the States, however for solicitations to Municipal Entities (Public Pension Plans) we fall under the purview of the MSRB.

To further complicate matters, members who are dual registrants are generally examined by FINRA. Given this, we do not see the benefit to examiners in segregating the elements of our training that apply to our MA business from other areas being evaluated by FINRA.

Several of 3PMs members have already expanded their CE Programs to include specific training for MA Representatives that covers the firm's MA activities. Member firm accomplished this using one of two methods. Some accomplished this by adding new sections to their existing needs analysis, training plans and other reports about the firm's MA activities and what training would be required in this area. Other firms merely expanded their reports to include content related to their MA business activities and training requirements. Both approaches emphasize the fact that there is no need to recreate the wheel or go through the motions to duplicate information for different regulatory authorities so long as representatives are being made aware of their regulatory responsibilities and are being educated in areas specifically related to their firm's MA activities.

Furthermore, several of our members operate not only as broker dealers but also as investment advisers and have been implemented CE programs that cover both businesses for years. It seems duplicative that an approach that has been used for many years and has worked to meet the needs of different regulatory authorities must now be undone to meet the requirements established by a new regulator.

We believe it is inconsistent for the MSRB to propose to implement a risk based approach to CE Requirements on one hand while mandating a very prescriptive process on the other. The benefits of a principles based approach is that it allows firms to meet their requirements in a manner that is appropriate to their size and business activities. Having MAs follow specific reporting / documentation

requirements is at odds with this approach and is forcing firms with different business models to fit into a one-size fits all solution.

In addition to the information above, we also wanted to share our opinions on some of the questions posed in 2016-24:

Are there other reasonable regulatory alternatives that the MSRB should consider?

3PM believes that the single prong approach to Continuing Education is an appropriate alternative.

How likely is it that third-parties will develop CE content that small firms will be able to purchase rather than developing their own content?

We believe that it is very likely that third-parties will develop CE content that small firms can purchase at reasonable prices. In fact, several of the industry's CE providers began offering MA training modules as part of their firm-element product offerings over a year ago. We believe this trend is likely to increase now that industry participants are required to sit for and pass the Series 50 exam within the next year and will continue to expand once the MSRB's rules regarding continuing education are approved.

Are there data or studies relevant to the evaluation of the benefits and costs of the proposal that the MSRB should consider?

While we are not aware of any formal studies relevant to the benefits and costs of the proposal that the MSRB should consider, we would once again like to raise the significant financial and personnel resources that would be incurred by small, dually registered small firms if they are required to complete separate documentation for its specific MA CE training program. We further reiterate that we believe that MA firms will still be able to ensure compliance with the proposed CE requirements and meet the requirements commensurate with their firm's size and business activities without having to duplicate their CE documentation for each regulatory authority training is held for.

In addition to fiduciary duty obligations are there other obligations that should be included, as required, as part of the minimum standards of training?

Given that the MSRB has not proposed a Regulatory Element to their CE proposal, we believe that the Board should reiterate to MAs the importance ensuring their representatives understand what their regulatory responsibilities are and how they relate to their firm's business activities. While we do not believe that a specific requirement to include MA rules is necessary, reminding the industry of their duties to ensure personnel understand and comply with these regulations is never a bad thing and can be accomplished by including such training as part of their Firm Element training program.

In reducing regulatory overlap for dually registered firms, should the MSRB consider other alternatives to the draft CE requirements for municipal advisors?

Yes, we believe that dually registered firms should have the option to combine all its training requirements into one aggregate program that would address the firm's size, organizational structure, scope of business activities and other factors. While we would not be averse to including separate sections of these reports to address a firm's municipal advisory activities we do not believe that a full set of additional reports for this business line is required to ensure that MA take their CE responsibilities seriously or to the extent required by this proposed regulation.

Does your firm currently provide your municipal advisor professionals with continuing education regarding the applicable regulatory obligations?

While 3PM has not formally surveyed all its members who are registered as MAs, we are aware of several 3PM members that currently provide municipal advisor professionals with continuing education regarding their MA business activities, rules and regulations.

Do the draft CE requirements for municipal advisors strike an appropriate balance between a principles-based and a prescriptive approach for the development of a CE program? If not, explain why and in what areas the draft CE requirements should be more principles-based or prescriptive.

3PM believes that the MSRB's approach to allow firms to implement a principles-based approach is appropriate. The MA business is unique in that it encompasses a very diverse range of business models. Given this, a prescriptive approach would require some firms to follow rules that did not apply to their business models to remain in compliance. It is already difficult for firm such as third party marketers to fit into the scheme of several existing rules, a prescriptive approach to CE would require our members to employ additional resources to try to understand how these rules apply to their firms.

Do the draft CE requirements for municipal advisors appropriately accommodate for small and single-person municipal advisors? If not, describe how the draft CE requirements can be modified to be more appropriately accommodating.

In general, the MSRB has been very thoughtful in the accommodation of small and single-person municipal advisory firms. In respect this this rule proposal however, we do believe that small firms, who are also registered broker dealers could benefit by allowing these firms to combine all its training requirements into one aggregate program that would address the firm's size, organizational structure, scope of business activities and other factors. While we would not be averse to including separate sections of these reports to address a firm's municipal advisory activities we do not believe that a full set of additional reports for this business line is required to ensure that MA take their CE responsibilities seriously or to the extent required by this proposed regulation.

Would the draft CE requirements have the anticipated benefits of protecting municipal entities, investors and the public interest?

3PM believes that requiring firms to engage in a CE requirement is beneficial to investors and helps to not only protect the public interest, but to also protect firms and their representatives. The requirement to provide annual training is not overly burdensome and firms are permitted to implement this training in a manner that is appropriate to their firm's size and business activities. We believe a program that reinforces both the firm and each representatives' requirements is necessary.

It is our hope that by implementing a CE program and adhering to a strong supervisory system that firms will better have an opportunity to identify bad actors.

Would the draft CE requirements have an effect on conduct that is required for compliance with any other MSRB rule?

We do not believe that the CE requirements proposed by the MSRB will have much of an effect on firms that are already registered and adhering to the requirements imposed by other regulatory authorities.

Although broker dealers do not currently have a formal "fiduciary requirement", many firms operate as if they do, always putting the interests of their clients or in our case the investors we are recommending product to ahead if our own. This is attributable to several factors. First is that FINRA requires firms and representatives to meet a high ethical standard and prohibits representatives from engaging in certain activities that could create conflicts of interest and cause a firm to not act in the best interest of investors. Second, FINRA has issued guidance on conflicts of interest and has encouraged firms to evaluate any conflicts of interest that could be cause by their business model or firm practices. FINRA has also suggested that firms identify ways to mitigate any conflicts and change those practices that could lead a representative to engage in activities that is not in their client's best interests.

In addition, as previously mentioned several of our members also operate as investment advisors who are required to commit to a Code of Ethics and have a fiduciary responsibility to their clients or in our case the investors we are recommending product to.

Furthermore, while the industry does in fact have some bad actors that will never adhere to the appropriate conduct, that is not the standard in the third-party marketing arena. While our industry has experienced some instances where bad actors tainted the reputation of the industry at large, most third party marketers are professional, ethical and act responsibly. It is exact this rationale that led 3PM to issue a series of industry best practices that members are required to attest to on an annual basis.

Given this, we believe that it is time for rule makers, including Congress and the regulatory authorities, to recognize that most professionals and firms operating as federal registrants in the third-party marketing industry actually do the right thing on behalf of investors, their clients and employees.

Thank you for the opportunity to share our thoughts with you regarding this proposal. Please feel free to reach out to me at (585) 364-3065 or by email at donna.dimaria@tesseractcapital.com should you have any questions or require additional information pertaining to the proposed CE Requirements for MAs.

Regards,

<<Donna DiMaria>>

Donna DiMaria
Chairman of the Board of Directors, Third Party Marketers Association

About The Third Party Marketers Association (3PM)

3PM is an association of independent, outsourced sales and marketing firms that support the investment management industry worldwide.

3PM Members are properly registered and licensed organizations consisting of experienced sales and marketing professionals who come together to establish and encourage best practices, share knowledge and resources, enhance professional standards, build industry awareness and generally support the growth and development of professional outsourced investment management marketing.

Members of 3PM benefit from:

- Regulatory Advocacy
- Best Practices and Compliance
- Industry Recognition and Awareness
- Manager Introductions
- Educational Programs
- Online Presence
- Conferences and Networking
- Service Provider Discounts

3PM began in 1998 with seven member-firms. Today, the Association has more than 35 member organizations, as well as significant number of prominent firms that support 3PMs and participate in the Association as 3PPs, Industry Associates, Member Benefit Providers, Media Partners and Association Partners.

A typical 3PM member-firm consists of two to five highly experienced investment management marketing executives with, on-average, more than 10 years' experience selling financial products in the institutional and/or retail distribution channels. The Association's members run the gamut in products they represent. Members work with traditional separate account managers covering strategies such as domestic and international equity, as well as fixed income. In the alternative arena, members represent fund products such as mutual funds, hedge funds, private equity, fund of funds and real estate. Some firms' business is comprised of both types of product offerings. The majority of 3PM's members are currently registered with FINRA or affiliated with a broker-dealer that is a member of FINRA.

For more information on 3PM or its members, please visit www.3pm.org.

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