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January 9, 2014

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

Dear Mr. Smith:

Thank you for the opportunity to comment on Regulatory Notice 2013-22. Wulff, Hansen & Co. is an 80-year-old FINRA member broker/dealer operating primarily in the municipal securities markets and is also a municipal financial advisor.

We support the proposed elimination of the redundant requirement that firms have a Financial and Operations Principal and we have no opinion on the changes to the activities of a Limited Representative. Our further comments are confined to the Continuing Education aspects of the Notice.

We believe much of the proposal is redundant, overly prescriptive, unduly burdensome, and will result in unintended consequences. Specifically, we believe that:

- *The Notice contains no evidence that the current system is inadequate*
- *The proposal is redundant as applied to FINRA Members*
- *In some cases the proposal would likely result in reduced training*
- *The proposal would likely result in some persons receiving irrelevant training*
- *The proposal exempts some persons who may pose a risk to the public:*
- *The proposed quantitative approach is inconsistent with FINRA's qualitative approach*
- *The proposal is unworkably vague as to the definition of 'primarily engaged'*

Our reasons for these views are outlined below:

The Notice contains no evidence that the current system is inadequate:

Rule G-3 already sets forth an adequate continuing education requirement, and no evidence is presented to support the need for a change or any examples of how the public is being harmed by the alleged insufficiency of those existing rules. Since the proposal will almost certainly increase costs and operational burdens for the industry, it would be appropriate to share the actual evidence or examples that presumably prompted the proposed changes, along with the cost/benefit analysis justifying the proposal.

The proposal is redundant as applied to FINRA Members

Most municipal securities dealers, as FINRA members, are already subject to FINRA Rule 1250, which requires an annual training plan appropriate to the business of the member. If a member is engaged in the municipal securities business but does not provide adequate municipal securities training to those persons involved in that business, the firm is arguably already in violation of FINRA Rule 1250.

In some cases the proposal would likely result in reduced training:

Municipal securities dealers, particularly smaller firms, are already burdened with reduced revenue and constantly increasing costs, particularly regulatory costs, and are consequently always looking for

legitimate and compliant ways to reduce or contain this overhead. Firms which in the past believed that G-3 Firm Element compliance required several hours of training may well view the prescriptive one-hour 'minimum standard' as a safe harbor, allowing them to reduce costs while remaining compliant. The specified one-hour minimum will also complicate the process of identifying and proving a violation of the rule by firms whose programs are deemed inadequate by their examiners but meet the quantitative minimum set forth in the rule.

The proposal would likely result in some persons receiving irrelevant training:

With the rigid one-hour minimum, some firms would be understandably motivated to develop a basic one-size-fits-all program of at least one hour and assign that program to all covered persons regardless of relevance. We realize that the proposal does not mandate such a cookie-cutter approach, but submit that such an outcome is more likely than not, especially in small firms with limited size and resources. Even if supplemented with more job-specific material, forcing all covered persons to receive the same one-hour core would inevitably result in at least some of them receiving training irrelevant to their work.

In addition, the change from 'registered person' to 'covered person' brings under the CE umbrella certain unregistered individuals who have no contact with customers but are engaged in an activity described in G-3(a)(i), such as an internal analyst doing municipal research or financial analysis which goes beyond the clerical or ministerial but is not shared with the public. While we support requiring some sort of CE for all those who would benefit from it, it should be relevant to that person's work. When combined with the existing provisions of G-3(h)(ii)(B)(2), such an analyst would now be specifically required to receive training on, for example, sales practice despite the fact that she has no contact with the public and is not licensed to engage in sales. This wastes time and money and, since training resources are finite, would likely 'crowd out' potential training in areas more relevant to her work.

The proposal exempts some persons who may pose a risk to the public:

Under current rules, registered representatives regularly doing a municipal business are presumably already receiving regular training in that area and any representative doing even very occasional municipal securities business should already be receiving at least some municipal training from time to time. Implementing the proposal would allow a firm to cease providing any meaningful municipal training whatsoever to such an 'occasional' actor, while continuing to allow him, though relatively unfamiliar with municipals, to do municipal business with the public. In such a case the firm, though doing nothing, would be compliant with G-3 leaving the FINRA rule (if the firm is a FINRA member) as the only remaining protection for the public.

The proposed quantitative approach is inconsistent with FINRA's qualitative approach:

The vast majority of municipal securities firms are also members of FINRA, to whom the MSRB has delegated examination and enforcement of MSRB rules. The proposed prescription is at odds with FINRA's policy in this area, which avoids setting explicit time or content requirements. FINRA's approach allows the CE program to reflect the diverse business models across various firms. Even within a single municipal securities firm – and of course across widely differing firms – the municipal training needs of a traditional retail broker have little connection with those of an institutional municipal trader, a public finance banker, or a municipal credit analyst. The conflict between the quantitative and qualitative approaches could pose problems and create uncertainty during real-world examinations by FINRA examiners trained to think in qualitative terms.

At first glance 'one hour' seems a simple concept, but when viewed in a real-world context it raises questions. How is the prescribed hour to be measured? Some people can perform tasks and gain understanding of a given amount of material in 30 minutes, while others may need two hours or more to arrive at the same understanding. Must the faster person be assigned additional work while the slower one has satisfied his requirement? Such an outcome is neither fair nor reasonable. The Regulatory Element training program, where persons assigned the same material take widely varying times to complete it, is a good example of what we mean.

The proposal is unworkably vague as to the definition of ‘primarily engaged’:

The proposed requirement applies to all those who are ‘primarily engaged in the municipal securities business’. What does this actually mean? Implementing the proposal would require each firm, presumably on at least an annual basis and at a cost, to analyze each and every person to determine whether the requirement would apply to him or her for the coming year. Without a clear definition of ‘primarily engaged’, this means that each firm must *guess* as to who should actually be covered. Imagine a registered representative who in 2014 generates 55% of her business from municipals and 45% from equity transactions. Is she ‘primarily engaged’? She probably is. In 2015, these ratios are reversed. Is she now exempt from the requirement? How do we know?

If she is indeed exempt, we find ourselves with a person doing a substantial municipal securities business who is nevertheless exempt from the one-hour requirement. If she is not exempt, imagine that another agency, imitating the MSRB’s program, has imposed a comparable requirement for those ‘primarily engaged’ in the equity business. In that scenario we would find ourselves in the paradoxical position of having the same person defined as being ‘primarily engaged’ in two separate businesses at the same time.

Should the proposal be adopted, it will clearly be vital for MSRB to provide detailed guidance as to the standards by which firms identify their ‘covered persons’. Such standards would be best set forth in the rule itself.

In summary, we strongly urge the MSRB to reconsider this proposal in light of the comments received and the unintended consequences that would result. In an industry as complex and diverse as America’s municipal securities business, rigid prescriptive measures like this one or the existing specifics in Rule G-3(h)(ii)(B)(2) are a poor substitute for the standard of ‘reasonableness’ which is the best protection for investors.

As an alternative, if Rule G-3 must be modified we suggest doing so as follows:

- Modify the current definition of covered registered persons in Rule G-3(h)(ii)(A) by adding the qualifying word ‘municipal’ to the existing “securities sales, trading and investment banking activities”
- Expand the current definition of covered persons by removing the direct customer contact qualification, thus covering all registered persons engaged in municipal securities activities, including dealer-to-dealer activity
- Replace the prescriptive standards in G-3(h)(ii)(B)(2) with language requiring that covered persons receive training appropriate and relevant to their job functions. This would eliminate the waste that results from requiring firms to train people like traders and investment bankers in areas not relevant to their work.
- Add a requirement that covered persons must be provided with appropriate Firm Element training related to municipal securities at least annually

Thank you again for the opportunity to comment.

Sincerely,

Chris Charles
President