



Municipal Securities Rulemaking Board

January 20, 2015

Ms. Pamela Dyson
Acting Director/Chief Information Officer
c/o Remi Pavlik-Simon
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Request for Comment on Collection of Information Provided
for in Rule 15c2-12 under the Securities Exchange Act of 1934

Ladies and Gentlemen:

This letter is submitted by the Municipal Securities Rulemaking Board (“MSRB” or “Board”) in response to the request by the U.S. Securities and Exchange Commission (“SEC” or “Commission”), pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (the “PRA”), for comment on the existing collection of information provided for in Rule 15c2-12 – “Municipal Securities Disclosure” (17 CFR 240.15c2-12) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).¹ As the self-regulatory organization for the municipal securities industry whose mission is to protect investors, municipal entities, and the public interest, and as the sponsor and operator of the Electronic Municipal Market Access (“EMMA®”) system, the official repository for disclosure information on municipal securities, the MSRB is in a unique position to address the disclosure requirements of Rule 15c2-12.

We understand that the public request for comment was made in order to satisfy the requirements of the PRA. We nevertheless believe that this is an appropriate time for the Commission to consider Rule 15c2-12 and potential changes to it in order to improve the rule’s operation. The nature of the municipal securities market and the techniques for raising capital for municipal issuers continue to evolve and change. As we discuss below, we are particularly concerned about the lack of disclosure of bank loans and other debt and debt-like obligations. In addition, since it was last amended in 2010, there have been several years of experience with the rule’s operation. The SEC focused attention on disclosure through its Municipalities Continuing Disclosure Cooperation Initiative (the “MCDC Initiative”). The MCDC Initiative, both from the submissions to the SEC by issuers and underwriters and the evaluations regarding compliance undertaken by even those that did not submit under the MCDC Initiative, may provide insights into the operation of Rule 15c2-12. To assist its consideration of Rule 15c2-12, we encourage the Commission to commence a thorough review of Rule 15c2-12, perhaps beginning with the issuance of a concept release to solicit comment on potential changes to the rule, and engaging with the MSRB and the industry about ways to enhance the quality and timeliness of information

¹ SEC File No. 270-330, F.R. Document 2014-27191 (Filed 11-17-14), available at <https://www.federalregister.gov/articles/2014/11/18/2014-27191/proposed-collection-comment-request>.

made available to the municipal securities market. The MSRB would be pleased to partner with the SEC by providing additional detailed comment, analysis and other information, and by bringing its market expertise to bear.

Importance of the Collection of Information Required by Rule 15c2-12

We appreciate the opportunity to provide the views of the MSRB on the importance of the disclosures required by Rule 15c2-12, taking into account the costs of compliance with that rule, and ways in which the rule can be improved, both in terms of enhancing disclosure and minimizing burdens of compliance. The MSRB has been a leader in promoting the quality, timeliness and accessibility of disclosure in the municipal securities market and views Rule 15c2-12 as the cornerstone supporting that disclosure.²

The MSRB considers the requirements of Rule 15c2-12 to be critical to the quality of information available to investors in the municipal securities market. The importance of those requirements apply both to primary offerings and secondary market trading by conditioning underwriter participation in a municipal securities offering only if there is an offering document meeting specified criteria and a continuing disclosure undertaking by the issuer. The availability of information about municipal issuers and their obligations, especially with the development of EMMA, is essential to the integrity of the municipal securities markets and the protection of investors in those markets.

It is for these reasons that the MSRB has focused extensively, as described below, on improving municipal securities disclosure and access by investors and others to that disclosure.

Efforts by the MSRB to Minimize Costs of Providing Disclosures Pursuant to Rule 15c2-12

The MSRB actively seeks opportunities to reduce the costs of compliance with Rule 15c2-12 and has taken many actions to achieve that objective. We are committed to working with the Commission and the industry to continue that effort.

The MSRB has contributed to controlling the costs of compliance with Rule 15c2-12 by, among other things, creating EMMA as the centralized information repository to replace the

² In 1990, the MSRB established the Municipal Securities Information Library (“MSIL”) system to serve as a centralized repository of primary market documents and in 1993 established the pilot Continuing Disclosure Information (“CDI”) System for voluntary submissions of continuing disclosures. On July 3, 1995, the pilot CDI System was modified to accept material event notices to be submitted by issuers and obligated persons under the SEC’s amendments to Rule 15c2-12 that established the continuing disclosure NRMSIR structure in the municipal securities market. Many of the leading municipal security industry groups undertook an historic first step toward collaboration on creating a more efficient and effective marketplace at the MSRB Disclosure Roundtable on May 31, 2001. On October 22-23, 2001, the MSRB hosted a long-range planning session with these industry groups, then called the “Muni Council,” focusing on the disclosure system in the municipal securities primary and secondary markets.

multiple NRMSIR systems, continuously improving EMMA to enhance its usability and taking other steps, as described below, to assist issuers in complying with their disclosure obligations.

One of the MSRB's goals in operating EMMA is to ensure an efficient process for submission of documents and information, thus reducing costs for issuers and their agents. For making submissions of primary market and continuing disclosures, the MSRB maintains both a web-based interface for manual submissions and electronic computer-to-computer data connection for automated submissions. Using either of these submission portals, underwriters, issuers or obligated persons can undertake to make submissions on their own or designate third-party submission agents to act on their behalf. To streamline submissions of primary market documents to EMMA, the MSRB receives a real-time feed of new issue descriptive information from Depository Trust and Clearing Corporation's New Issue Information Dissemination System ("NIIDS"). NIIDS data are used to pre-populate MSRB Form G-32, thus eliminating the need for duplicative data entry and resulting in improved data quality in EMMA and throughout the marketplace. The MSRB also maintains real-time feeds of information from CUSIP Global Services and S&P Capital IQ. This information is used, in conjunction with NIIDS data and information submitted on Form G-32, to maintain a database of municipal securities. Using this database, the MSRB has designed advanced search functions and an ability to browse issuers and securities on EMMA to facilitate finding information by investors, market participants and the general public. For submitters of continuing disclosures, this database enabled the MSRB to design a submission interface for associating securities to continuing disclosure submissions by establishing a path that guides issuers, obligated persons and their agents through search functions for locating and associating securities. The MSRB also provides the capability for issuers to easily create and save groups of securities to facilitate future disclosure filings for the same securities. Further, the MSRB maintains real-time feeds of credit ratings from Fitch, Inc., Kroll Bond Rating Agency, Inc. and Standard & Poor's Ratings Services for display on EMMA to augment the continuing disclosures submitted by issuers, obligated persons and their agents.

The MSRB created an online education center in July 2014. The new MSRB Education Center houses all available multimedia educational content produced by the MSRB. Resources cover a wide range of market topics, from understanding the fundamentals of the municipal market and how bonds are issued to exploring how to use EMMA to make more informed decisions. The section for state and local governments includes a dedicated page of resources on disclosure, including a podcast that provides an audio overview of issuers' obligations to disclose key financial information to investors. The MSRB has engaged in a multiyear outreach effort to educate issuers about the free resources available from the MSRB to assist in meeting their disclosure obligations. Among these tools is EMMA's email reminder service, which alerts issuers and their designees when due dates to submit financial disclosures to EMMA are approaching. In a related enhancement, resources to assist users with navigating the EMMA website and utilizing EMMA tools are now consolidated in a section on EMMA called EMMA Help.

The MSRB continues to pursue EMMA enhancements and other measures to reduce costs for submitters of disclosures and enhance the access to disclosures by investors, market

participants and the general public. These initiatives include increased use of automated data feeds from data providers, the ability for issuers and obligated persons to post hyperlinks to other information repositories, and additional help desk resources for the issuer community.

Every month, between seventy and ninety thousand³ visitors access EMMA and take advantage of free and innovative research tools such as advanced securities search, price discovery capabilities, overall market trends and statistics, customized issuer home pages and user friendly access to primary and secondary market disclosure documents. Subscription-based feeds of EMMA disclosures to market participants and data providers further promote broad access to disclosures well beyond the monthly users of the EMMA website. The value of disclosures submitted pursuant to Rule 15c2-12 and made available on the EMMA website cannot be overstated.⁴

Costs of Compliance with Rule 15c2-12

We are cognizant that there are costs associated with compliance with the requirements of Rule 15c2-12. However, timely, complete, free and easy access to understandable information are basic principles of a free and open market generally, and are fundamental to the health and continued viability of the municipal securities market. We note that these costs are taken into account when issuers decide to raise capital in the public markets instead of through alternative means.

Regarding the SEC's estimates of costs related to the MSRB, we now believe, based on current experience, that those estimates are understated. Specifically, we estimate that in FY 2014, the MSRB dedicated 12,699 hours and at least \$10,000 in hardware and software costs to provide a convenient, easy-to-use primary market and continuing disclosure submission platform, to manage those submissions securely, to improve and maintain a user-interface that facilitates ready access by all market participants and stakeholders, and to deploy educational resources and other tools that make the submissions meaningful and useful. MSRB activities are critical to the achievement of the objectives of Rule 15c2-12 and reduce the burden on submitters and users. The growth in the number of hours dedicated by the MSRB since the last PRA comment request is consistent with the growth in number of filings and the costs of operating and maintaining an enhanced and up-to-date electronic access platform.⁵ The higher costs are

³ Based on the most recent twelve months of usage data.

⁴ The National Federation of Municipal Analysts' 2010 Industry Contribution Award recognized the MSRB's contributions to improved timeliness and quality of disclosure in the municipal market through the creation of EMMA. The National Association of State Treasurers' State Debt Management Network recognized the MSRB's commitment to excellence in municipal market disclosure, including the MSRB's continued enhancements to EMMA.

⁵ The costs to operate the EMMA system are significant and go beyond what is entailed to merely store and make disclosures available on a public website. Operating the EMMA system entails ongoing maintenance and support, including updates to system security measures and operational hardware and software, daily handling of inquiries

attributable in part to the increase in the number of filings with EMMA and the increased attention being paid to compliance with the disclosure requirements of Rule 15c2-12 following the SEC's National Examination Risk Alert issued in March 2012 and as a result of the MCDC Initiative.

We Urge the Commission to Revisit Rule 15c2-12

There are various ways to enhance the quality of disclosure in the municipal securities market that the Commission can explore, both with respect to primary offerings and continuing disclosure. These could include changes to Rule 15c2-12 itself but they are not necessarily limited to changes to the rule. For example, the Commission could provide additional interpretive guidance that would foster improved disclosure practices.⁶ Also, the Commission could recognize and encourage private sector initiatives to improve municipal securities disclosure.⁷

The MSRB believes that the availability of timely disclosure of additional debt in any form and debt-like obligations is essential to foster market transparency and to ensure a fair and efficient municipal market. The MSRB is aware of the increasing use of bank loans and direct-purchase debt as financing alternatives to public offerings in the municipal securities market for funding capital improvement projects or refunding outstanding bonds. Specifically, these debt obligations are not subject to Rule 15c2-12 and, therefore, are not required to be reported through filings on EMMA.⁸ The MSRB is concerned that bank loans or other debt-like obligations such as swap transactions, guarantees and lease financing arrangements, that create significant financial obligations and which similarly do not get currently reported, could impair the rights of existing bondholders, including the seniority status of such bondholders, or impact the credit or liquidity profile of an issuer.

In connection with considering changes to Rule 15c2-12, the Commission could look to Form 8-K as precedent for events that might be appropriate to include for continuing disclosure

and requests for technical assistance by end-users and submitters, regular updates to system infrastructure reliability and redundancy measures, and continuous enhancements in response to user needs and market developments.

⁶ See letter from Michael G. Bartolotta, Chair of the MSRB, to Commissioner Elisse B. Walter, dated August 8, 2011 (making certain recommendations).

⁷ The MSRB has compiled some of these private sector initiatives at <http://www.msrb.org/EducationCenter/Issuers/Disclosing/Preparing/Resources-for-Developing-Disclosure.aspx> in order to make them more readily available to preparers of municipal disclosure. Our reference to industry best practices do not constitute an endorsement of such best practices, nor are they intended to create legal standards.

⁸ In April 2012, the MSRB issued a notice encouraging voluntary disclosure of bank loan documents by state and local governments to EMMA. MSRB Notice 2012-18 encourages the voluntary filing of bank loan information either by submitting a summary of the key terms of the bank loan to EMMA, or by submitting the bank loan financing documents. EMMA presently permits issuers and their agents to voluntarily submit bank loan information under the EMMA continuing disclosure service.

by municipal issuers as additional material events. One such event would be Item 2.03 – Creation of a Direct Financial Obligation or an Obligation Under an Off - Balance Sheet Arrangement of a Registrant. Requiring similar reporting by municipal issuers would address our concerns about these obligations that are not subject to Rule 15c2-12 and therefore are not now reported.

We note that the analogous reporting by corporate issuers is required even though these issuers are subject to a quarterly financial reporting regime while municipal issuers only are required to file annual financial statements and those statements typically do not have to be made available until six months or more after the end of the fiscal year. We believe comprehensive disclosure of additional debt in any form and debt-like obligations can provide current or prospective bondholders and other market participants with key information that is useful in assessing current holdings of municipal securities or in making investment decisions regarding transactions in municipal securities.

We appreciate the opportunity to provide the views of the MSRB on the importance of the disclosures required by Rule 15c2-12, taking into account the costs of compliance and ways in which the rule can be improved, both in terms of enhancing disclosure and minimizing burdens of compliance. The MSRB has been a leader in promoting the quality, timeliness and accessibility of disclosure in the municipal securities market and views Rule 15c2-12 as the cornerstone supporting that disclosure. We look forward to working with the Commission to continue our joint efforts toward improving municipal disclosure for the benefit of investors. If the Commission or its staff have any questions or if we can provide additional information, the MSRB will be happy to respond.

Very truly yours,



Kym Arnone
Chair

cc: The Honorable Mary Jo White, Chair
The Honorable Luis A. Aguilar, Commissioner
The Honorable Daniel M. Gallagher, Commissioner
The Honorable Michael S. Piwowar, Commissioner
The Honorable Kara M. Stein, Commissioner

Stephen Luparello, Director
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