

June 30, 2008

Justin R. Pica
Uniform Practice Policy Advisor
Municipal Securities Rulemaking Board
1900 Duke Street
Suite 600
Alexandria, Virginia 22314

Re: MSRB Notice 2008-24: Plan for Increasing Information Available for
Municipal Variable Rate Demand Obligations

Dear Mr. Pica:

The Securities Industry and Financial Markets Association (“Association”)¹ appreciates this opportunity to respond to Notice 2008-24 issued by the Municipal Securities Rulemaking Board (“MSRB”) on March 23, 2008 (“Notice”) in which the MSRB requests comment on its proposal to create a centralized system for the collection and dissemination of market information about Variable Rate Demand Obligations (“VRDOs”) that would increase the amount of information available to market participants.

The Association fully supports the development by the MSRB of a system to display remarketing information on a website. Under the proposal of the MSRB, dealers, who act as Remarketing Agents, would report to the MSRB results of interest rate resets on VRDOs by no later than the end of the day that the interest rate is reset. Information about VRDOs submitted by or on behalf of a Remarketing Agent would be displayed immediately after receipt on an MSRB web site.

The specific Reset Information about VRDOs proposed to be collected and disseminated includes:

- CUSIP Number
- Name of Remarketing Agent

¹ The Association, or “SIFMA,” brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA’s mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public’s trust and confidence in the markets and the industry. SIFMA works to represent its members’ interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

- Date of interest rate reset
- Interest rate for the next reset period
- Length of the interest rate reset period
- Length of Notification Period
- Whether interest rate is “set by formula” or “set by Remarketing Agent”
- Minimum and maximum rates, if any
- Minimum denomination
- Type of liquidity facility(ies)
- Expiration date of each liquidity facility

In addition to the Reset Information listed above, the MSRB also proposes to receive notification of interest rate conversions, including the date of the conversion and the new interest rate mode. The MSRB proposes to require receipt of such Conversion Information by the end of the day on which an interest rate conversion occurs.

1. The MSRB requests comments on whether the items of information proposed to be collected and disseminated about VRDOs is appropriate and if there are additional items of information that should be added to this list of information.

The Association considers the Reset Information proposed to be collected and disseminated to be appropriate. In Notice 2008-15,² the MSRB recently proposed collection and dissemination of Reset Rate Information and Bidding Information in connection with auction rate securities. We commented that the Bidding Information part of that proposal involves certain information obtained by auction agents rather than by broker-dealers.³ In the current Notice, the Reset Information proposed for submission to the MSRB for VRDOs should be known by the Remarketing Agent. As we commented in respect of the Reset Rate Information for auction rate securities, most of the Reset Information set forth in the Notice for VRDOs does not change on each reset date. Therefore, we again recommend that the Remarketing Agent be allowed to establish a template at the time of a new issue, when interest rates are first reset, to set-up the Reset Information that is relatively static. At the time of each interest rate reset, the Remarketing Agent would submit the CUSIP number, date of interest rate reset, and the

² MSRB Notice 2008-15 (March 17,2008): Request for Comment: Plan for Increasing Information Available for Municipal Auction Rate Securities.

³ SIFMA Comment Letter on Notice 2008-15, dated April 21, 2008.

interest rate for the next period. At the time of a conversion to a new mode, the Remarketing Agent would then amend the template with the Conversion Information proposed in the Notice.

We do note, however, that reporting the interest rate for the next reset period is a departure from the current practice under Rule G-14 of price reporting VRDOs in dollar amounts. It is our understanding that a number of issuers prefer dollar amount publication of VRDO transactions rather than interest rate reporting, and we therefore recommend that you discuss this issue with representatives of issuers.

2. The MSRB requests comments on the current and anticipated volume of VRDOs that are bought by retail customers.

Estimating the volume of VRDOs bought by retail customers is problematic because there is no generally accepted understanding of the meaning of a “retail” customer and because there may be significant differences in the market for VRDOs based on the terms of the issue. A natural person may be considered a retail customer by many firms regardless of the person’s net worth. Thus, a highly sophisticated individual may be considered a retail customer, while a less sophisticated institution will be an institutional customer. Broker-dealers usually consider bond funds, unit investment trusts and ordinary trusts to be institutional accounts, regardless of the underlying beneficiary or investor. The terms of an offering may affect the configuration of customers. An issue specifically designed for money market funds, which meets the requirements of SEC Rule 2a-7, will probably have fewer retail buyers than a variable rate obligation of a well-known issuer in, for example, a yearly rate mode.

Nevertheless, the Association has asked a number of member firms to apply their own definitional criteria for a retail customer and estimate the likely percent of retail customers for an ordinary \$500,000 issue in a weekly rate mode. The firms have reported that, in general, less than 2% of primary market sales of VRDOs are to retail customers.

3. The MSRB requests comments on whether the end of the day would be the appropriate time to require submission of Reset Information and Conversion Information.

The Association agrees that the end of the day on which interest rates are reset, or there is a conversion, is the appropriate time for submission of Reset Information and Conversion Information to the MSRB. End of day submission would coincide with end of day trade reporting under MSRB Rule G-14 for short term securities.

4. The MSRB asks whether Remarketing Agents anticipate difficulty in being able to collect such information about VRDOs for purposes of providing it to the MSRB, and whether there are technical or

operational difficulties associated with providing information about VRDOs to the MSRB.

Remarketing Agents contacted by the Association do not anticipate difficulty in being able to collect the Reset Information and Conversion Information. Since new systems always present technical and operational challenges, the Association recommends that staff of the MSRB meet with a task force of operational personnel representing a number of Remarketing Agents to discuss details of implementation.

5. The MSRB asks whether there are documents concerning VRDOs that are not currently required to be filed with the MSRB that should be filed with the MSRB and made publicly available.

Rule G-36 requires filing an official statement, and amendments to an official statement, with the MSRB. The official statement should contain an adequate summary of the liquidity facility, if any, and the credit facility, if any, that are in place at the time of a primary offering. During the life of a bond issue, these facilities are likely to expire and be renegotiated, and liquidity facilities may be amended apart from the expiration date. These contracts are between the issuer and the provider of the facility, and the Remarketing Agent may not be apprised of changes if there is no impact on the mechanics of the remarketing or no material changes in the rights of bondholders. The Remarketing Agent should not be responsible for filing a document with the MSRB when it is not a party to the document or the document is not otherwise required to be delivered to the Remarketing Agent.

At the time of conversion of VRDOs, the remarketing may result in a “primary offering” within the meaning of SEC Rule 15c2-12 (e.g. the converted securities are in a yearly mode), and a new official statement will be prepared and filed with the MSRB.⁴ Separately, the issuer and remarketing agent will consider whether a conversion constitutes an underwriting of securities pursuant to interpretation of Rule 10b-5 under the Securities Exchange Act of 1934. If there is an underwriting, a new disclosure document is likely to be prepared describing new material information, including any changes to the liquidity facility or credit facility. Unless there is a limited placement, the new disclosure document will be filed with the MSRB, even if the securities are exempt under Rule 15c2-12 as securities in \$100,000 denominations and subject to a tender option at least every nine months. It is also the case that issuers will often prepare a new disclosure document to describe a new liquidity facility or new credit facility regardless of any Rule 15c2-12 or Rule 10b-5 requirement because they are guided by the material event notice requirements of Rule 15c2-12 (listing “substitution of credit or liquidity providers, or their failure to perform” and “modifications to rights of security holders” as material events) despite the securities being exempted securities under Rule 15c2-12.

⁴ MSRB Notice 2008-17 (March 25, 2008): Submission of Official Statements to the MSRB under Rule G-36 in Connection with Certain Remarketings of Outstanding Issues.

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These disclosures are currently filed with the nationally recognized municipal securities information repositories and presumably would be filed with the MSRB and displayed on EMMA when the EMMA continuing disclosure facility becomes effective.

For all the above reasons, the Association does not recommend a new document filing requirement pursuant to the proposed rule change.

We appreciate this opportunity to comment on the proposal. If you have any questions concerning these comments, or would like to discuss these comments further, please feel free to contact the undersigned at 212.313.1130 or via email at lnorwood@sifma.org.

Respectfully,

A handwritten signature in black ink, appearing to be 'L. Norwood', written over a faint, light-colored signature line.

Leslie M. Norwood
Managing Director and
Associate General Counsel

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cc: ***Securities Industry and Financial Markets Association***
Municipal Executive Committee
Municipal Legal Advisory Committee
Municipal Operations Committee
Municipal Credit Research, Strategy and Analysis Committee
Regional Dealers Fixed Income Committee