

September 30, 2010

Ms. Leslie Carey  
Associate General Counsel  
Ronald W. Smith, Senior Legal Associate  
Municipal Securities Rulemaking Board  
1900 Duke Street, Suite 600  
Alexandria, VA 22314

Re: Notice 2010-27, Request for Comment on Rule G-23 on the Underwriting Activities of  
Financial Advisors

Dear Ms. Carey:

Reference is made to the comment letter submitted today by the Securities Industry and Financial Markets Association with respect to the above-captioned notice.

Representatives of BMO Capital Markets GKST Inc. participated in the formulation of the SIFMA comment letter. We strongly support the content and the conclusions of the SIFMA letter but wish to offer the following additional thoughts and comments as we are extremely concerned about both the substantive and procedural aspects of this proposal.

Rule G-23 has been in effect for over 30 years and has been considered and reconsidered for changes comparable to what is now being proposed, usually as a result of self-interested complaints. In these constrained financial markets, issuers need all possible flexibility. There is a limit to how far a regulatory body can go toward protecting an entity against itself. Issuers employ counsel and others to review their agreements. To suggest that an issuer is incapable of understanding an arrangement it is entering into is always a dangerous concept. Freedom of choice is an essential element in the healthy functioning of the financial markets to maximize credit availability. We, therefore, support the retention of current Rule G-23 and its requirements for disclosure and consent.

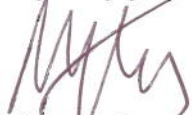
We especially reiterate the SIFMA letter reference to possible effects on obligated persons. Arrangements with many of them—mostly small and infrequent issuers—are too amorphous to be categorized at their inception. Pigeonholing such an arrangement without the flexibility of change to meet market conditions and demand could easily deprive a potential issuer of market access. Those obligated persons are no different from corporate issuers and the fact that they may ultimately issue municipal securities through a conduit does not call for rigid regulation as we don't believe corporate issuer investment banking relationships are subject to any such strictures.

As to the procedural aspects of this Proposal, the Notice starkly states, “The MSRB is considering these amendments in view of a request that it do so by the Securities and Exchange Commission (‘SEC’) and upcoming changes to the MSRB’s enabling legislation relating to the regulation of municipal advisors (including but not limited to acting as financial advisors to issuers) and the applicability of a federal fiduciary standard to their activities.” The MSRB exists precisely because Congress never gave the SEC (either in 1975 or 2010) the ability to directly regulate the municipal securities industry. Therefore, the MSRB should not consider the SEC’s request or its rationale and logic with any more weight than that of any other party. The MSRB would be shirking its responsibility if it simply followed the SEC’s dictates. As to a federal fiduciary standard, every adviser has had to deal with a fiduciary obligation under state or common law long before now (and even before the SEC was created). The current Rule G-23 recognizes a conflict—conflicts can be dealt with through appropriate disclosure and consent and have been successfully done so for over 30 years in this context.

In short, revising this Rule will make a greater number of financings more complicated and therefore, either make more expensive or restrict or eliminate altogether access to the credit markets to those who now have the least access. Such a result would occur for no reason other than because of some not new theoretical legal argument about a fiduciary standard, complaints by certain parties in their own self-interest and concern for those who are fully capable of making informed choices.

We thank you for the opportunity to comment.

Very truly yours,



Robert J. Stracks  
Counsel

RJS/mlm