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March 10, 2014

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

Re: Request for Comments to Draft Rule G-42

Ladies and Gentlemen:

I am a sole proprietor doing business as WM Financial Strategies. I have a career devoted entirely to public finance and have been an independent financial advisor (now known as a Municipal Advisor) since 1989. In my capacity as an independent Municipal Advisor, I am writing to set forth my comments relating to the Municipal Securities Rulemaking Board's Draft Rule G-42.

1. Consider the Regulatory Burdens Imposed on Municipal Advisors as Required under the Dodd-Frank Act

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act") mandates the Municipal Securities Rulemaking Board (the "MSRB") to establish rules relating to the conduct and qualifications of Municipal Advisors. In addition, the Dodd-Frank Act states that the MSRB may ***"not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors…"***

In establishing this provision of the Dodd-Frank Act, it is apparent that the intent was to protect small Municipal Advisors from forced regulatory exodus. Prior to the adoption of the Dodd-Frank Act, the writers met with certain Municipal Advisors and were aware that many Municipal Advisors are sole proprietors or associated with small businesses. Clearly the intent was not to reduce the number of Municipal Advisors. The existence of a large number of Municipal Advisors increases competition, thereby reducing cost, and provides Municipal Entities greater flexibility to select a Municipal Advisor best qualified for each of their particular transactions.

In Draft Rule G-42, the MSRB noted that the rules **could result in the consolidation or elimination** of Municipal Advisors. This outcome would be inconsistent with the Dodd-Frank Act and the MSRB should consider such an outcome to be unacceptable. Rules that result in a reduction of the number of Municipal Advisors or the consolidation of Municipal Advisory firms are not in the public interest and will harm Municipal Entities in the following ways:

a) Fewer Municipal Advisors equates to a loss of competition and consequently higher fees,

b) Fewer Municipal Advisors equates to fewer choices which will likely force Municipal Entities to select less experienced or less qualified Municipal Advisors for particular transactions, and

c) Fewer Municipal Advisors will result in less access whereby many Municipal Entities will be unable to engage Municipal Advisors. For example, access to Municipal Advisors in Missouri is already limited. I am the only full-time Municipal Advisor within the St. Louis metropolitan area. In addition to serving St. Louis metropolitan area issuers, I serve issuers in rural areas in Illinois and Missouri in a more than 180 mile radius of St. Louis. On the other side of the state, in the Kansas City metropolitan area, there are only a handful of Municipal Advisors and there is only one other full-time advisor in the balance of the entire state. If the number of Municipal Advisors is reduced, large numbers of Municipal Entities will not have access to Municipal Advisors and will be forced to rely on the advice of local banks or underwriters who have no fiduciary duty to Municipal Entities.

2. Definitions

For purposes of my comments, I have identified three types of Municipal Advisors:

1. "Independent Municipal Advisors" – Municipal Advisors whose primary business is assisting with the structuring and issuance of municipal securities but are not associated with any brokerage firm and are not investment advisors.

2. "Investment/Municipal Advisors" – Independent Municipal Advisors that are also investment advisors.

3. Broker-Dealer/Municipal Advisors – Individuals at brokerage firms who are registered broker-dealers, serve as underwriters and periodically serve as Municipal Advisors.

3. Liability Insurance

In the Request For Comments, the MSRB asked:

"Should the MSRB, in furtherance of its mandate under the Dodd-Frank Act to protect municipal entities and obligated persons, require professional liability insurance by municipal advisors …"

Liability insurance should not be required due to the following:

a) Numerous Municipal Advisors that can't afford insurance policies or cannot obtain insurance regardless of cost would be forced out of business.

b) An unqualified Municipal Advisor does not become a better Municipal Advisor with the acquisition of insurance. The MSRB's goal should be to enhance the qualifications of Municipal Advisors not to force Municipal Advisors out of business.

c) An insurance requirement is likely to result in the elimination of some of the most experienced and qualified Municipal Advisors in the country. Municipal Advisors with more than 35 years of public finance experience are more likely to retire than satisfy complicated disclosure rules or purchase liability insurance.

d) Based on my recent inquiries regarding the availability of insurance, it is unclear whether any insurance is available that provides coverage for the activities of Independent Municipal Advisors. (Insurance is available for Investment/Municipal Advisors and Broker-

Dealer/Municipal Advisors as it relates to their sale of securities activities but may exclude coverage for their activities relating to the structuring and issuance of securities.)

e) Insurance may not be available in every state. Based on my review of insurance to date, I have been unable to obtain professional liability issuance in Missouri regardless of cost.

f) Although no agent has been able to find a policy for me to date, I have been advised that if a policy is located, based on the terms and conditions I have requested for $1,000,000 coverage, the fees would be astronomical and would be more than 10% of my annual net income.

If the MSRB's goal is to reduce the number of Municipal Advisors in conflict with the mandate under the Dodd-Frank Act then, and only then, should liability insurance be required.

4. Disclosures Regarding Liability Insurance

In the Request For Comments, the MSRB asked:

> *"Are there lower-cost alternatives to requiring disclosure of the amount of professional liability coverage carried by the municipal advisor that would provide comparable benefits to clients of municipal advisors?"*

There is no direct cost to "requiring disclosure;" nor is there any direct benefit. The MSRB should consider the following: Have any studies been completed that show professional liability coverage benefits issuers? Are underwriters required to disclose their insurance coverage to issuers? Did the Dodd-Frank Act suggest that Municipal Advisors should make disclosures regarding insurance or did the Dodd-Frank Act require rules relating to standards of training, experience, and competence?

Based on my understanding of the foregoing, I am recommending that the MSRB omit from the Rule liability insurance coverage disclosures.

In the event the MSRB determines that disclosures are required consider the following:

Uniformity of disclosure is imperative.

Municipal Entities may assume that all of the three types of Municipal Advisors, defined above, have or could have liability insurance with comparable terms; however, as already indicated, Broker-Dealer/Municipal Advisors and Investment/Municipal Advisors may have access to insurance that Independent Municipal Advisors are not able to obtain. Furthermore, the liability insurance coverage provided for Broker-Dealer/Municipal Advisors, Investment/Municipal Advisors and Independent Municipal Advisors may be entirely different. It is important that disclosures be based on the same terms of coverage otherwise it may appear to issuers that Municipal Advisors that are Broker-Dealer/Municipal Advisors and Investment/Municipal Advisors have insurance even if they have no insurance coverage relating to the structuring and issuance of municipal securities. Stated differently, if Municipal Advisors are required to disclosure whether or not they have liability insurance, those that have insurance should be required to precisely describe the securities activities that are and are not covered.

5. Draft Rule G-42 has Unachievable Provisions

Draft Rule G-42 states that "With respect to a client that is a municipal entity, a Municipal Advisor may only recommend a municipal securities transaction or municipal financial product that is in the client's best interest". The requirement to **recommend the best transaction** goes well beyond traditional fiduciary duties. This provision needs to be rewritten as follows: With respect to a client that is a municipal entity, a municipal advisor may only recommend a municipal securities transaction or municipal financial product that **it reasonably believes** is in the client's best interest".

Municipal Advisors working in conjunction with their clients must make judgment calls based on current circumstances. Municipal Advisors must deal with changing regulations and changing market conditions that make it impossible to determine the "best transaction" except with twenty-twenty hindsight. The following are examples of situations that require judgment calls that will not necessarily result in the best transaction:

a) Should an issue be delayed when rates are rising?

b) For advance refunding issues, should the client proceed in a low interest rate environment or wait until a date closer to the call date?

c) When Build America Bonds ("BABs") were available, a choice had to be made whether to issue traditional tax-exempt bonds or BABs. Today, many issuers of BABS regret having issued such bonds in light of the sequestration reduction of subsidy.

Financial decisions are not black and white. The role of a Municipal Advisor should be to work with the client with the objective of achieving excellent and appropriate financial results.

6. Fees Should Not be Treated as a Conflict of Interest Requiring Disclosure

In February 2011, the MSRB proposed Rule G-36 that included APPENDIX A - "Disclosure of Conflicts of Interest With Various Forms of Compensation." APPENDIX A outlined the following fee arrangements: (i) fixed fees, (ii) hourly fees (iii) contingent fees (iv) fees paid under a retainer agreement, and (v) fees based upon the amount of the transaction. In APPENDIX A, the MSRB suggested that with the exception of fees paid under a retainer agreement (an uncommon method of compensation for Municipal Advisors) each of the other compensation arrangements has potential conflicts of interest. Recently, the MSRB released questions and answers relating to its February 6 webinar on Rule G-42 titled "MSRB Responses to Webinar Questions." In the MSRB Responses to Webinar Questions, the MSRB noted the 5 fee arrangements described above and stated that "Each of these forms of compensation has associated potential conflicts of interest."

The concept that every type of fee or that a particular fee arrangement creates a conflict of interest that requires disclosure should be eliminated from the Rule. Disclosure of fees based on "potential" conflicts of interest is inappropriate due to the following:

a) A Municipal Advisor's fiduciary duty should govern whether the particular fee arrangement is appropriate.

b) A "potential" conflict of interest attributable to a fee arrangement is not a conflict of interest and the fiduciary duty will curtail any improprieties.

c) Unnecessary disclosures are likely to confuse rather than assist Municipal Entities. The confusion is enhanced since the MSRB does not provide viable alternative fee arrangements that can be offered. Based on the MSRB's view of fee arrangements, each alternative would create a conflict requiring further disclosure.

d) Unlike underwriters that must disclose their contingent fee arrangements, a Municipal Advisor is required to act in the best interest of their clients. Accordingly good advice will prevent a fee arrangement from creating a "conflict."

e) Municipal Advisors should work to provide the best results for the client rather than attempting to mitigate problems that don't exist.

f) The MSRB rules should focus on serving the best interests of Municipal Entities rather than attempting to prevent conflicts of interest that don't exist.

Rather than disclosing potential problems with a particular fee arrangement, a Municipal Advisor should work with the client to establish a fee arrangement that best meets their needs. In the MSRB's August 2013 report for issuers titled "Financial Considerations for Hiring Municipal Advisors" the MSRB wrote that it is essential for a state or local government issuer to determine whether the proposed compensation arrangement will meet its needs. In the report, the MSRB also indicated that "Depending on the nature and extent of work to be performed by the municipal advisor, an issuer may favor one type of compensation structure over another. Consequently, the goal of Municipal Advisors should be to establish reasonable fees that meet the needs of the issuer.

For my clients, I establish fee arrangements that I believe are in their best interest based on the specific transaction under consideration. Depending on the transaction, my fee may be based on an hourly rate or a fixed fee that is (i) contingent upon the completion of a transaction or project, (ii) non-contingent, or (iii) non-contingent with a contingent component. Prior to commencement of services, I review the scope of the transaction and services to be provided and thereafter set forth the fee arrangement in writing.

The following are a few examples of the fee arrangements I utilize for specific types of transactions:

I am often engaged to structure and arrange the sale of municipal securities after a determination has already been made by the municipality to issue securities to finance a specific capital project (e.g. voters have approved a specific amount of general obligation bonds). For these municipal securities issues I generally charge a fixed fee that is contingent on the completion of the transaction. Many of my clients are small issuers with limited budgets that plan to pay costs of issuance, including financial advisory fees, from the proceeds of the securities. When capital funding is required, municipal issuers rely on the expertise of their financial advisor to develop marketable bond structures and to actively locate broker-dealers willing to underwrite the issue.

I also charge contingent fees for refunding transactions. The feasibility of these transactions is dependent upon market conditions. As part of an authorizing resolution or contract, I generally predefine the level of savings to be derived (e.g. 3% of present value savings or other generally accepted feasibility criteria). I believe this arrangement eliminates any conflict of interest by insuring that the transaction will be terminated if pre-determined savings will not be realized. Furthermore, if interest rates rise I want to advise my clients not to proceed with the transaction. I do not want to be paid and to be the only party that benefits from a terminated refunding.

Contingent fee arrangements benefit Municipal Entities by insuring that their governmental funds will not be drawn upon for payment of fees if the transaction is not completed.

For projects that require a significant amount of planning or feasibility analysis and that may be terminated as a result of my analysis or recommendations, I typically charge either a fixed fee with all or a portion of the fee being non-contingent or an hourly non-contingent fee.

In each of the situations mentioned above, the fee is intended to provide the most appropriate option for my clients. Therefore, the MSRB should not require conflict of interest disclosure of fee arrangements that do not inherently create conflicts of interest.

7. Mitigation of Fee Conflicts of Interest

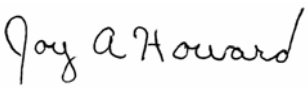
The proposed rule requires that typical fee arrangements be treated as a conflict of interest requiring disclosure. Additionally, the rule requires that "Such disclosures also must include an explanation of how the advisor addresses or intends to manage or mitigate each conflict." As noted above, there is no way to mitigate a fee conflict of interest since the MSRB has suggested that every fee arrangement creates a conflict of interest. The inability to mitigate a "fee as a conflict of interest" is further justification to eliminate treating fees as creating conflicts of interest.

8. Summary

Prior to the 1970's there were very few Municipal Advisors. While the use of Municipal Advisors has increased since that time, a substantial percentage of bond issues continue to be completed without a Municipal Advisor. As a result, many municipal transactions have higher than necessary costs of issuance, higher than necessary interest rates, and detrimental financial covenants. The MSRB must consider whether the proposed rule will result in improved Municipal Advisory activities or result in an exodus of Municipal Advisors. The MSRB must consider whether it is in the public interest to have a large pool of qualified Municipal Advisors from which issuers may make a selection. Alternatively, the MSRB can impose rules that eliminate a large number of Municipal Advisors, increase Municipal Entities' costs due to lack of competition, and encourage Municipal Entities to work solely with underwriters that have no fiduciary duty to their clients.

I respectfully request that the MSRB modify the Draft Rule G-42 as described herein.

Sincerely,



Joy A. Howard
Principal