

February 2, 2026

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW, Suite 1000
Washington, DC 20005

Re: MSRB Request for Comment on MSRB Rule D-15 – Definition of “Sophisticated Municipal Market Professional” (Notice 2025-08)

Dear Mr. Smith:

The American Securities Association¹ (ASA) appreciates the opportunity to provide comments on the Municipal Securities Rulemaking Board’s (MSRB) request for comment on amendments to MSRB Rule D-15 defining the term “Sophisticated Municipal Market Professional” (SMMP). Properly calibrated, the SMMP definition can promote efficient execution and liquidity for institutional investors while preserving meaningful protections for municipal entities and other customers that do not function as sophisticated market participants.

Municipal entity threshold

ASA understands the MSRB’s concern that some municipal entities may meet the current 50 million dollar “total assets” test primarily through ownership of infrastructure and other non-financial assets and therefore may not function as sophisticated municipal market investors. At the same time, ASA believes the proposed 100 million dollar “in municipal securities investments” standard for municipal entities is too narrow and risks excluding entities that do have the sophistication, governance, and advisory support to function as SMMPs.

Regardless of whether the numeric threshold is set at 50 million or 100 million, limiting the test to municipal securities investments for municipal entities is problematic because it is exceedingly difficult to track in practice and diverges from the general net-worth or total-assets concepts that firms already use across markets. This mismatch with existing MSRB and FINRA institutional standards will make compliance more complicated and costly for dealers, particularly where firms must maintain divergent customer categorizations and documentation across rule sets.

¹ ASA is a trade association that represents the retail and institutional capital markets interests of regional financial services firms who provide Main Street businesses with access to capital and advise hardworking Americans how to create and preserve wealth. ASA’s mission is to promote trust and confidence among investors, facilitate capital formation, and support efficient and competitively balanced capital markets. This mission advances financial independence, stimulates job creation, and increases prosperity. ASA has a geographically diverse membership base that spans the Heartland, Southwest, Southeast, Atlantic, and Pacific Northwest regions of the United States.



American Securities Association
1455 Pennsylvania Ave. NW, Suite 400
Washington, D.C. 20004



AmericanSecurities.org
@amersecurities



202.621.1784



If the proposal is adopted in its current form, some municipal entities that today transact as institutional SMMPs could effectively be reclassified as “retail,” disrupting their access to institutional-style execution, liquidity, and more tailored structures. Treating these entities as retail for regulatory purposes would do them a disservice by subjecting them to a framework that does not reflect their actual sophistication, governance structures, or reliance on professional advisors.

Supervisory perspective and uniform definitions

From a supervisory standpoint, ASA member firms consistently indicate that uniform definitions of “institutional” or “sophisticated” status are preferable and should be established on a customer basis rather than transaction-by-transaction. A customer-level framework provides regulatory clarity, reduces compliance friction, and allows firms to maintain consistent customer profiles and documentation across business lines.

Evaluating sophistication on a transaction-by-transaction basis introduces uncertainty, operational complexity, and costs that are not justified by commensurate investor protection benefits. Aligning the SMMP construct with broader institutional frameworks used in other fixed-income markets would support more consistent supervisory practices and lower the risk of inadvertent regulatory misclassification.

In light of these considerations, ASA supports SMMP and institutional definitions that incorporate the following criteria:

- An asset threshold of 50 million dollars in total assets.
- Inclusion of SEC-registered investment advisers and state-registered investment advisers, consistent with FINRA Rule 4451(c) standards.
- A reasonableness standard that permits firms to determine status based on a reasonable analysis, with an optional MSRB affirmation requirement that many firms already incorporate into standard due diligence procedures.

Asset composition and municipal entity sophistication

ASA recognizes that the amount and composition of assets serve as important mitigating factors in assessing the sophistication of municipal entities. Municipal entities—particularly public entities—typically rely on formal investment policies and professional municipal advisors for asset allocation decisions, risk management, and portfolio construction.

The existence or absence of an SMMP designation does not fundamentally alter a municipal entity’s ability to transact or its obligation to follow established investment policy guidelines. In practice, ASA member firms often accept SMMP designations when municipalities voluntarily





provide them but still maintain suitability analyses grounded in the entity's investment policy regardless of SMMP status.

This approach ensures that municipal entities receive protections consistent with their actual investment sophistication and governance framework, rather than solely on the presence of an SMMP form. It also reinforces the primacy of investment policy documents as the controlling standard for suitability determinations, with SMMP status functioning as a transparency mechanism rather than a substitute for customary supervisory and advisory practices.

Recommended alternatives to the proposal

ASA encourages the MSRB to consider alternatives to the proposed 100 million dollar “in municipal securities investments” threshold that would better balance investor protection, market access, and operational feasibility.

In particular, ASA recommends that the MSRB:

- Retain the existing 50 million dollar “total assets” threshold while strengthening or clarifying the Rule D-15(b) sophistication analysis for municipal entities, with explicit attention to asset composition, prior investment experience, and the use of professional advisers.
- Implement a more flexible test that combines a total-asset measure with qualitative sophistication review, rather than relying on a single bright-line requirement limited to municipal securities investments.

A flexible framework of this kind would enable dealers to apply a principled, risk-based analysis that recognizes both the diversity of municipal entities and the sophistication of those that actively participate in the municipal securities markets. It would also better align the SMMP construct with institutional categorizations used in other markets, reducing fragmentation and unnecessary compliance burdens.

Market impacts and rule harmonization

ASA is concerned that overly restricting SMMP eligibility for municipal entities will have adverse consequences for market structure and municipal financing costs. Limiting SMMP status as proposed could reduce municipal entities' access to institutional-style execution, liquidity, and customized structures that support efficient capital formation and risk management.

In addition, the MSRB itself has acknowledged that some dealers that currently transact only with SMMPs may reduce or discontinue business with certain municipal entities rather than build separate non-SMMP compliance frameworks. Fragmenting the market in this way would





be counterproductive for issuers and investors, particularly in less liquid segments of the municipal market.

ASA is also concerned that a lack of alignment between the MSRB's SMMP framework and parallel FINRA institutional standards will make it more complicated for firms to apply and supervise rules across product lines. Divergent definitions increase the risk of error, raise supervisory costs, and ultimately may reduce the availability of services for municipal entities that fall into ambiguous categories under the proposal.

Investment adviser affirmation

ASA supports eliminating the Rule D-15(c) affirmation requirement for Commission-registered investment advisers, given their fiduciary duties, regulatory oversight, and typical scale. For these advisers, the current affirmation requirement adds paperwork and friction without meaningfully enhancing investor protection, because their advisory relationships already operate under a robust regulatory and supervisory regime.

Dealer sophistication determinations and costs

ASA strongly supports keeping the dealer's "reasonable basis" sophistication determination at the center of the SMMP analysis, with any refinements framed in principles-based terms that can scale across firms and client types. Dealers are best positioned to evaluate their customers' sophistication in light of the customer's overall profile, governance, and advisory relationships.

By contrast, approaches that require intensive transaction-by-transaction or entity-by-entity documentation akin to some of the more costly alternatives discussed in the MSRB's economic analysis would impose significant operational burdens. The resulting costs would be borne by municipal entities and investors through reduced access to liquidity providers and higher transaction costs.

Overall position

In sum, ASA supports the MSRB's goal of tailoring protections for municipal entities while reducing unnecessary burdens for clearly sophisticated investors. However, ASA believes the proposed 100 million dollar "in municipal securities investments" threshold is too rigid and too narrow a basis on which to define municipal entity sophistication.

ASA therefore recommends that the MSRB:

- Adopt a more flexible approach to municipal entity eligibility that retains a total-assets concept (for example, 50 million dollars), supplemented by a clarified qualitative sophistication analysis under Rule D-15(b).





- Emphasize customer-level, uniform sophistication determinations using criteria such as asset thresholds, firm type (including SEC- and state-registered investment advisers), and a reasonable basis analysis, rather than a transaction-by-transaction approach.
- Recognize asset composition and reliance on professional advisers as mitigating factors in municipal entity sophistication assessments.
- Finalize the proposed affirmation exemption for SEC-registered investment advisers and consider whether a subset of state-registered advisers should be treated similarly, subject to appropriate safeguards.
- Maintain investment policy as the controlling standard for suitability determinations, with SMMP status serving as a supplemental transparency tool rather than a replacement for sound supervisory practices.

ASA appreciates the MSRB's engagement with stakeholders on these important issues and welcomes the opportunity to discuss these recommendations further.

Sincerely,

Jessica Giroux

Jessica R. Giroux
Chief Legal Officer
American Securities Association



American Securities Association
1455 Pennsylvania Ave. NW, Suite 400
Washington, D.C. 20004



AmericanSecurities.org
@amersecurities



202.621.1784