BDA Bond Dealers of America

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February 2, 2026

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

Comments on MSRB Notice 2025-08

Dear Mr. Smith,

The Bond Dealers of America (BDA) is pleased to provide comments on MSRB Notice 2025-08, "Request for Comment on MSRB Rule D-15 Defining the Term Sophisticated Municipal Market Professional" (the "Proposal"). BDA is the only DC-based group exclusively representing the interests of securities dealers and banks focused on the US fixed income markets.

We believe Rule D-15 has worked well in providing a means to distinguish sophisticated, mostly institutional, largely professional municipal market investors from the rest of the market. As the MSRB rulebook provides, these sophisticated investors do not require the same level of attention as those who may have less market knowledge and are often individual, retail investors. We agree with the Board's proposal to exempt Sophisticated Municipal Market Professionals (SMMPs) who are Investment Advisors (IAs) registered with the SEC from the current requirement to provide an affirmation of their status as SMMPs as a condition of the Rule. We disagree with the proposal to raise the threshold for treatment as SMMPs for state and local governments—not as issuers but as investors in municipal securities—from the current $50 million to $100 million and apply it not to total assets but to municipal securities holdings.

Registered Investment Advisers

Under Rule D-15, three categories of investors potentially qualify for treatment as SMMPs. These are (1) banks, savings and loan associations, insurance companies, or registered investment companies, (2) IAs registered with the SEC or a state securities commission, or (3) any other person or entity with total assets of at least $50 million. In addition to ensuring a customer is in one of those categories, a dealer must have a reasonable basis to believe that the customer is capable of evaluating investment risks and market value independently in order to consider them a SMMP. Finally, the customer must affirmatively indicate that they are using independent judgement in making municipal securities investment decisions and have access to market information.

The Proposal states "investment advisers registered with the Commission generally maintain over $100 million in regulatory assets under management and owe a fiduciary duty to their clients, with investment advisers not meeting such threshold generally being subject to state registration" and "Commission-registered investment advisers are typically very sophisticated." We fully agree. RIAs are virtually always sophisticated and have the capability to make independent investment decisions. They are professionals who bear a fiduciary duty to their customers and often have access to more market information than the dealers they trade with. The fact that they are RIAs by itself speaks to their sophistication.

State-registered IAs are also by their nature sophisticated even though they tend to be smaller than SEC-registered IAs. As we stated in our 2023 letter on treatment of IAs under Rule D-15, "we do not believe the size of the RIA is a driving factor in the RIA's sophistication or their ability to otherwise meet the requirements of SMMPs. State-registered RIAs generally bear a fiduciary duty to their customers comparable to the fiduciary duty imposed by SEC RIA rules. We urge the Board to reconsider the D-15 proposal and include state-registered RIAs in the proposed exemption from the requirement to obtain a SMMP attestation. A separate affirmation requirement is superfluous."

We agree with the Board's proposal to eliminate the requirement for SEC-registered IAs to provide an affirmation in order for a customer to be a SMMP and we believe this treatment should be applied to state-registered IAs as well.

Portfolio threshold for state and local government SMMPs

Under Rule D-15, one of the definitional categories of SMMP is "any other person or entity with total assets of at least $50 million." The Proposal seeks to "change the threshold for municipal entity customers to $100 million in municipal securities investments." This would be an unnecessary change that would be difficult to administer and comply with and which would severely limit municipal entity choice.

Status as a SMMP investor is 100% voluntary. Investors may provide or rescind SMMP affirmations at will at any time. This applies to all categories of investors, including municipal entities that are SMMPs. If any state or local government entity wants to be treated as a retail account and not a SMMP, they can simply decline to complete an SMMP affirmation or, if they have already completed one, inform their dealer that they wish to rescind it. SMMP status is designed as "opt in".

Sound rulemaking should be grounded in demonstrated investor harm or market failure. The Board has not provided good a reason for changing the definitional threshold solely for municipal entity customers. We are not aware of any specific enforcement cases, for example, where a municipal entity with a municipal securities portfolio of less than $100 million was taken advantage of in a municipal securities trade, much less market-wide issues with the definition. The only reasoning in the Proposal for this change is "the MSRB has heard concerns from some industry participants that the threshold of total assets of at least $50 million might not account for municipal entities that would easily meet this threshold by way of owning assets such as schools, bridges or fire stations." Has the board attempted to estimate the number of municipal entities with total assets greater than $50 million and municipal portfolios less than $50 million that regularly buy municipal securities and need the protection of the Proposal? We believe that is a very small universe and is not a sufficient basis for amending the Rule.

Beyond the lack of a demonstrated problem, the Proposal fails to account for its practical effect. It appears that the Board has also not attempted to estimate the number of municipal entities that would be negatively affected by this proposal. From our experience, very few municipal entities have municipal securities portfolios of at least $100 million. Under the proposal, the MSRB would be effectively restricting municipal entity choice and forcing all or nearly all state and local government entities into retail municipal accounts whether they like it or not. A rule change of this breadth and scope is not justified by any of the support the Board has provided for the amendment. And before implementing a change of this type, the Board should have a better idea of the specific scope of its effect.

The Proposal would create a further discrepancy between how sophisticated investors are defined in FINRA and MSRB rules. FINRA has no separate requirement in Rule 4512—the FINRA rule which defines

"institutional account," roughly the equivalent of SMMP in the FINRA rulebook—related to municipal entity customers. They are appropriately regarded like everybody else. FINRA Rule 4512 applies to a much broader universe of investments than MSRB Rule D-15, and the FINRA Rule applies to US Treasury securities, federal agency securities, taxable corporate bonds, and other taxable investments that municipal entities regularly invest in. State and local government generally do not even typically buy municipal securities in large volume because municipal entities mostly have no need for tax-exempt interest. So even if the Board amends Rule D-15, municipal entities with assets greater than $50 million will continue to be treated as institutional accounts for the vast majority of their investments under FINRA rules. And having unnecessarily divergent FINRA and MSRB regulations governing similar functions is inefficient and contributes to inadvertent noncompliance.

Defining municipal entity customers with municipal securities portfolios of less than $100 million as non-SMMPs would subject their accounts to the full panoply of MSRB regulatory requirements that are designed to protect retail investors. These include time of trade disclosures, suitability and best execution requirements, Rule G-30 pricing requirements, Rule G-13 quotation requirements, and Rule G-10 annual notification requirements. Complying with these regulatory requirements is expensive, and this expense is reflected in trade costs borne by customers. If the proposal to raise the SMMP threshold for municipal entities is adopted, the additional costs associated with servicing affected customer accounts would ultimately be borne by the municipal entities themselves.

Moreover, the $100 million threshold would be difficult to administer. It may not be possible to determine the size of a municipal entity's municipal securities portfolio, and officials of the entity may not even know. The inability to readily and accurately determine the size of a municipal entity's municipal portfolio calls into question the administrability of the proposal.

We believe state and local officials entrusted with investing public funds should be, and largely are, capable of evaluating investment risks and market value independently, both in general and with regard to municipal securities. They are professional investors, even if investments comprise only a portion of their job, and they owe a duty to their tax- and rate-payers to fully understand their investment decisions. Municipal entities with assets greater than $50 million should be and in our observation are sophisticated market participants and should be treated as such under MSRB rules.

We appreciate the MSRB's attention to amending Rule D-15. We believe the proposal to eliminate the attestation requirement for SEC-registered IAs is sound and should be extended to state-registered IAs as well. Indeed, we urge the Board to go even further and consider eliminating the attestation requirement altogether in order to bring Rule D-15 more in line with FINRA Rule 4512. And we believe raising the SMMP threshold for municipal entities from $50 million of assets to $100 million of municipal securities would introduce needless complexity and costs for both dealers and customers. Please call or write if you have any questions.

Sincerely,

Michael Decker
Senior Vice President, Research and Public Policy