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June 29, 2012

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

Re: Request for Comment on Elimination of Large Trade Size Masking on Price Transparency Reports (MSRB Notice 2012-29)

Dear Mr. Smith:

The Investment Company Institute¹ is pleased to provide comments on the Municipal Securities Rulemaking Board's proposed amendments to enhance the transaction data publicly disseminated from the MSRB Real-Time Transaction Reporting System ("RTRS").² ICI supports the efforts of the MSRB to increase the price transparency of trades in the municipal securities market. We are concerned, however, that the proposal could adversely impact market liquidity, especially for certain infrequently traded issues. To address this concern, we offer an alternative approach, discussed further below, to allow for a more gradual change in the price transparency of large trade size transactions.

MSRB Rule G-14 currently requires brokers, dealers and municipal securities dealers ("dealers") to report all transactions in municipal securities to RTRS within fifteen minutes of the trade. The transaction information disseminated from RTRS (via either subscription services or through the Electronic Municipal Market Access (EMMA[®]) website) includes the exact par value on all transactions with a par value of \$1 million or less but includes an indicator of "1MM+" in place of the exact par value on transactions where the par value is greater than \$1 million. The exact par value of such transactions is disseminated from RTRS five business days later to help to preserve the anonymity of trading parties while not detracting in a substantial way from the benefits of price transparency. As described in the Release, this anonymity allows dealers to take positions that in turn, allows them to provide liquidity for the municipal securities market.

¹ The Investment Company Institute is the national association of U.S. investment companies, including mutual funds, closed-end funds, exchange-traded funds (ETFs), and unit investment trusts (UITs). ICI seeks to encourage adherence to high ethical standards, promote public understanding, and otherwise advance the interests of funds, their shareholders, directors, and advisers. Members of ICI manage total assets of \$13.4 trillion and serve over 90 million shareholders.

² See *Request for Comment on Elimination of Large Trade Size Masking on Price Transparency Reports*, MSRB Notice 2012-29 (June 1, 2012) ("Release"), available at <http://www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2012/2012-29.aspx>.

To ensure that all market participants have access to the same amount of information at the same time about each transaction disseminated from RTRS, the MSRB is proposing to discontinue the practice of masking the exact par value on transactions of \$1 million or more and including the exact par value on all transactions disseminated in real-time from RTRS. The MSRB is proposing this change to address findings by the Government Accountability Office, which observed in a recent report that certain market participants are able to determine, through their relationships with dealers, the par amount of these large transactions.³ The GAO Report referenced pricing transparency in the context of fair pricing in the municipal securities market. The Report noted that due to the fragmented nature of the municipal securities market, as compared to individual investors, institutional investors “were generally better equipped to make independent assessments of the value of a security.”⁴

ICI supports efforts by the MSRB to improve the price transparency of the municipal securities market. In general, enhanced transparency would be beneficial for all market participants that invest in municipal securities because it permits better price discovery. Maintaining the integrity of the \$3.7 trillion municipal securities market to ensure fair, orderly, and transparent markets is critical to ICI members who provide access to the 26 percent of investors—many of them retail—that invest in this market through registered investment companies.⁵

We are concerned, however, that this increased transparency could diminish market liquidity. As the MSRB recently explained, the municipal securities market is an over-the-counter market with 90 percent of all trades in 2011 conducted on a principal basis.⁶ Furthermore, secondary market liquidity for investors is provided by dealers that are willing to risk their capital pending the location of customers who are willing to purchase a block of bonds.⁷ The Release explains that the five-day delay was intended to address concerns raised by some industry participants during the implementation of RTRS in 2004. Specifically, these industry participants were concerned that where the market for a specific security is thin and only one or two dealers are active, revealing the exact par amount of large trades on a real-time basis would allow other dealers to identify the dealer, including information about a dealer’s inventory (*i.e.*, size of position and acquisition cost), and institutional investors involved in the trade—information that could be used to trade against the dealer’s position and reduce the incentive for a dealer to take large positions in these circumstances. This in turn could have unintended

³ See U.S. Government Accountability Office, *Municipal Securities: Overview of Market Structure, Pricing, and Regulation*, GAO-12-265 (January 17, 2012) (“GAO Report”), available at <http://www.gao.gov/assets/590/587714.pdf>.

⁴ *Id.* at 11. Notably, the GAO Report’s recommendations included additional information gathering and analysis by the regulators, but did not specifically include changes to the pricing disclosure regime. *Id.* at 49.

⁵ Investment Company Institute, 2012 Investment Company Fact Book, *A Review of Trends and Activity in the Investment Company Industry*, 52nd Edition, available at www.icifactbook.org.

⁶ See Letter on the “Volcker” rule proposal from Alan D. Polsky, Chair, Municipal Securities Rulemaking Board, to Office of the Comptroller of the Currency, *et al.* (January 31, 2012), available at <http://www.msrb.org/msrb1/Industry-Letters/MSRB-Comment-Letter-on-Volcker-Rule.pdf> at 3.

⁷ *Id.*

Mr. Ronald W. Smith

June 29, 2012

Page 3 of 3

consequences for all market participants (retail and institutional) because an impairment of liquidity (*e.g.*, caused by the unwillingness of dealers to continue their active role in the municipal securities market) could outweigh the benefits of any increased price transparency. Neither the MSRB nor the GAO have provided evidence that the original concerns that motivated the masking of large trade size prices in 2004 are no longer relevant.

We nevertheless recognize the efforts the MSRB has made to achieve their goal of ensuring the fairest and most accurate pricing of municipal securities transactions. This goal, however, must be carefully balanced against the need to maintain adequate liquidity in the municipal securities market. We therefore recommend that the MSRB adopt an alternative approach that would minimize the potential effect of increased price transparency of large trade size transactions on market liquidity. For example, rather than completely discontinuing the practice of delaying the dissemination of the price of large size transactions, MSRB should consider phasing in the changes over a period of time through gradual reductions in the timeframes for such delays and/or increases in the par value of trades subject to delayed disseminations (*e.g.*, \$5 million). This approach would help protect the identities of dealers who take large positions in these securities (and therefore help preserve dealers' willingness to provide liquidity), while at the same time enhancing the price transparency of the municipal securities market. It also would give the MSRB time to evaluate any effects on market liquidity and then make any necessary adjustments as appropriate.

* * * *

We look forward to working with the MSRB as it continues to examine this and other important issues. In the meantime, if you have any questions, please feel free to contact me directly at (202) 218-3563 or Jane Heinrichs, Senior Associate Counsel, at (202) 371-5410.

Sincerely,

/s/ Dorothy Donohue

Dorothy Donohue
Deputy General Counsel—Securities Regulation

cc: Lynette Kelly, Executive Director
Municipal Securities Rulemaking Board