



August 14, 2019

Ronald W. Smith, Corporate Secretary  
Municipal Securities Rulemaking Board  
100 I Street NW  
Washington D.C. 20005

Re: Notice 2019-13, Request for Comment on Rule G-23

Ladies and Gentlemen,

Zions Public Finance, Inc. and Zions Bank Public Finance are jointly submitting these comments to the Board. Zions Public Finance, Inc. is a registered Municipal Advisory firm and is a wholly-owned subsidiary of Zions Bancorporation, N.A. a nationally-chartered banking institution dba Zions Bank. Zions Bank Public Finance is a division of Zions Bancorporation, N.A. and is a registered bank-dealer.

The Request for Comment dated May 20, 2019 invites market participants to comment generally, but also in response to several specific questions. Our comments are as follows:

In our opinion, Rule G-23 has been generally effective in curbing abuses from broker-dealers attempting to switch roles from Municipal Advisor to Underwriter. We think these prohibitions should not be watered down but should remain in place and even potentially be strengthened.

An area that could be strengthened is illustrated by the following example. We have recently seen cases where a broker-dealer is hired as Municipal Advisor, provides specific advice concerning the financing of a project, then the issuer determines (perhaps with the advice of the Municipal Advisor) to finance the project through a separate interlocal entity with which the broker-dealer has an underwriting contract. Because the issuer is now a separate entity, the broker-dealer feels free to act as underwriter for the project. This activity seems to at least violate the spirit of G-23 and should be more explicitly prohibited in any new or revised rulemaking.

We now respond to some of the specific questions you ask in the Request for Comment:

### Question 3.

*Considering the implementation of MSRB's and SEC's municipal advisor rules, are there ways the MSRB could achieve Rule G-23's purpose without retaining it as a standalone rule? For example, should the MSRB eliminate Rule G-23 and address any need for regulatory requirements and exceptions through enhancements to other MSRB rules, such as Rule G-42?*

We feel that the provisions of Rule G-23 could fit nicely within Rule G-42 as long as such a move does not change the substance of its provisions.

### Question 5.

*Rule G-23's prohibition on role switching currently extends to dealer financial advisors acting as placement agent for the issuance of municipal securities.*

- a. *As it pertains to placement agent activities, is the prohibition sufficiently clear as to what activities are, or are not permissible for dealer financial advisors? Should the MSRB provide interpretive guidance regarding the scope of activities that a dealer financial advisor may perform under Rule G-23 without being regarded as a placement agent for purposes of the rule's prohibition on role switching?*

In our opinion, this aspect of the rule needs to be clarified. We have interpreted the rule to allow a Municipal Advisor to prepare and distribute a request for bids package for a direct purchase sale and to evaluate and provide advice to the issuer regarding the subsequent bids, as long as the advisor is acting in its advisory role, is paid by the issuer and not by the purchaser, is not affiliated with the purchaser, and does not negotiate specific terms of the bid absent the presence of the issuer. The ability to provide this type of service is not sufficiently clear in the rule.

We would strongly object to any attempt to restrict this type of activity to that of a "placement agent". Such a restriction would introduce higher costs and burden the transaction without any corresponding benefit to the issuer or the process.

### Question 6.

*Rule Should the MSRB make any amendments to the Role Switching Exceptions? For example –*

- c. *Should Rule G-23 provide an exception for competitive bid underwritings? If so, should such an exception be limited to small issuances (e.g., \$15 million or less in aggregate principal amount)?*

In our opinion, issuers would benefit from an additional bid, even if it came from a firm affiliated with its Municipal Advisor. This is especially true for smaller, infrequent issuers. If the bidding platform is

secure, and the winning bid is based on a pre-determined formula, we see little opportunity for abuse.

*d. Should Rule G-23 provide an exception for a dealer financial advisor if it disengages as financial advisor and a successor financial advisor is engaged by the issuer? If so, should the rule impose a cooling off period?*

No such exception should be made. It would be immediately abused by teams of broker-dealers and advisors acting in concert.

Thank you for the opportunity to provide comment on this Rule. Feel free to contact us with any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "James Livingston", with a long horizontal stroke extending to the right.

James Livingston  
Executive Vice President