



RW SMITH & ASSOCIATES, INC

June 4, 2010

Ernesto A. Lanza, General Counsel
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

RE: MSRB Notice 2010-10
Request for Comments on Draft Interpretive Guidance on Prevailing Market
Prices and Mark-Ups for transactions in Municipal Securities

Dear Mr. Lanza:

RW Smith & Associates, Inc. ("RWS") would like to indicate our support of the Comment Letter submitted by SIFMA on the MSRB's recent Notice concerning guidance on prevailing market prices in municipal securities. In addition to the SIFMA comment letter, we would further like to respond as follows.

We note that the MSRB's proposed guidance is closely mirrored to the FINRA guidance on mark-ups (IM-2440-02). We recognize and appreciate that in providing many examples the proposed guidance seeks to take into account the unique characteristics of the municipal markets and large number of outstanding bonds, which certainly helps to differentiate the municipal market from the corporate market. However, RWS believes that the guidance, as written, will still pigeonhole firms, does not fully address the breadth of the municipal market or the market participants, will negatively affect bidding participation resulting in diminished pricing performance in the secondary market, lacks real understanding of the manner and method by which pricing decisions are made by firms that commit capital in the markets, and ultimately would be a detriment to the municipal market overall.

RWS has operated as a municipal securities broker's broker for 25 years. As a broker's broker, the firm acts as the intermediary for its two counter parties, the buyer and the seller, facilitating transactions in the secondary market. In theory and in practice, with over 25-years experience as an agent for the transaction, we can objectively state that a security is worth exactly what someone is willing to pay for it at that moment in time. No more, no less. It is up to a dealer or customer to determine what they are willing to pay for a security or what price they are willing to accept when selling their security; the method by which those levels are determined are individual and unique.

The proposed guidance seeks to interject a Hierarchy system, most elements of which are unworkable on a trading desk in the midst of a real-life trading day, into a trader's individual approach to pricing. Pricing decisions are unique to the firm that is committing

capital and unique to the exact moment when that decision is being made by a committer. Any attempt to inappropriately interject a regulatory Hierarchy system-as-mandate for how those decisions are made in real-time would have the unintended consequence of harming not only the entire market, but would disproportionately negatively affect the exact individuals that the MSRB is trying to protect: the retail investing community. We would suggest that the mandated points contained in the Hierarchy instead be proposed as elements to be considered, potentially along with others, by committers when determining the value of a security. We would further suggest that such policy and associated procedures be documented in the firm's internal supervisory manual, available for internal audit as well as external audit by regulatory agencies.

With the implementation of the RTRS system the market experienced a marked loss of bid liquidity. In 2008, with the decline of the monolines and overall economic downturn the market further lost liquidity. If the proposed MSRB guidance is passed in its current form it can be reasonably predicted by participants in the secondary market that the market, most notably and disproportionately the retail market, will experience the most profound loss of bid liquidity to date. We are very concerned by this potential outcome, as RWS was founded as a retail-focused firm committed to providing institutional level service to the retail investor, specifically on bid wanted auction items.

In conclusion, the MSRB's guidance on prevailing market prices and mark-ups for transactions in municipal securities needs to provide more latitude for human decision-making and the fundamental principals of supply and demand, both of which are essential components for every committer who chooses to bid a security for an investor or the interdealer community. There are countless variables that come into play when an individual elects to determine the value of a security to them on a particular day, at that particular moment, and any attempt to reduce this complex, human-based process to a defined step-by-step Hierarchy is misguided. Moreover, small firms around the country firmly hold that only the person or firm who is willing to risk their capital has the right to enter into that decision making process because, start to finish, it is their money at risk.

We appreciate the opportunity to provide feedback to the MSRB on this very important proposal. If there are any questions or should you wish to discuss this letter further, please feel free to contact me at (801) 733-9909.

Regards,



Paige W. Pierce
President & CEO