

February 25, 2011

Mr. Ronald W. Smith
Corporate Secretary
MSRB
1900 Duke Street
Alexandria, VA 22134

P.O. Box 89000
Baltimore, Maryland
21289-1020
100 East Pratt Street
Baltimore, Maryland
21202-1009
Phone 800-638-5660

Re: *Comments on Pay-to-Play Rule for Municipal Advisors (the "Proposal"), MSRB Notice 2011-04 (January 14, 2011)*

Dear Mr. Smith:

T. Rowe Price Investment Services, Inc. and its affiliates (collectively, "**T. Rowe Price**")¹ appreciate the opportunity to provide comments to the Municipal Securities Rulemaking Board (the "**MSRB**") regarding the Proposal (i) to establish "pay-to-play" and related rules in connection with municipal advisors, and (ii) to make certain conforming changes to its existing pay-to-play rules for brokers, dealers, and municipal securities dealers ("**dealers**"). Our comments and suggestions are below.

MSRB Notice 2011-04 ("**Notice**") has proposed, among other things, a new MSRB Rule G-42 that would create pay-to-play restrictions on political contributions by municipal advisors. The Notice also requests comment on whether the MSRB's existing restrictions on types of solicitors that may be used, Rule G-38, should be amended or eliminated.

1. Rule G-42 Proposal

The Securities and Exchange Commission ("SEC") proposed an amendment to its Rule 206(4)-5, the SEC's pay-to-play rule applicable to SEC registered investment advisers.² This proposed amendment provides that it is unlawful for investment advisers subject to the Rule "to provide or agree to provide, directly or indirectly, payment to any person to solicit a government entity for investment advisory services on behalf of such investment adviser unless such person is (A) a regulated municipal advisor; or (B) an executive officer, general partner, managing member (or, in each case, a person with similar status

¹ T. Rowe Price Associates, Inc., an SEC registered investment adviser and a wholly owned subsidiary of T. Rowe Price Group, Inc., is the program manager for section 529 College Savings Plans issued by two states; its registered broker/dealer affiliate, T. Rowe Price Investment Services, Inc., acts as primary distributor for these Plans and, as a result, is subject to MSRB rules G-37 and G-38. In addition, T. Rowe Price Associates, Inc., together with its advisory affiliates, had \$482 billion of assets under management as of December 31, 2010.

² SEC Release No. IA-3110 (Nov. 19, 2010)("SEC Release IA-3110").

or function), or employee of the investment adviser." The SEC specifically asked if it should "amend rule 206(4)-5 to provide that any person that controls, is controlled by, or is under common control with an investment adviser (and, if that person is an entity, its personnel) would be deemed to be a "covered associate" of the investment adviser if the investment adviser pays or agrees to pay such person (or such personnel) to solicit a government entity on its behalf?"³ T. Rowe Price submitted a comment letter to the SEC in support of allowing investment advisers subjecting its related persons to Rule 206(4)-5 to be able to solicit government entities on behalf of such investment adviser.

We believe it is of critical importance to many advisory firms that are part of large complexes that provide integrated services to certain advisory clients to allow related persons to solicit government entities and to get paid for such services. In our comment letter to the SEC, we made it clear that our experience in dealing with 529 plans and other advisory clients has demonstrated to us that clients and prospective clients often demand to speak with personnel of affiliated entities of the adviser, especially when the advisory relationship will also entail functions such as recordkeeping or the provision of information to plan participants. In a large complex, the personnel the client or prospective client wants to meet may work in areas as varied as Information Technology, Compliance, and Human Resources and are often employed by affiliates of the adviser, such as a registered transfer agent or a separately incorporated Information Technology entity. They may also be registered or associated with an affiliated broker/dealer.

We also clarified the nature of the compensation paid to affiliated individuals within these large, global firms who would be viewed as soliciting under Rule 206(4)-5 when providing information such as that described above. These individuals, in many cases, are not compensated directly if they provide information that may lead to the acquisition or retention of an advisory client.⁴ The payments that typically occur are between the affiliated entities as intra-company transfers to acknowledge the many services that the various affiliates provide to each other. We believe that this structure is common at many firms.

Revising Rule 206(4)-5 to permit any person that controls, is controlled by, or is under common control with an investment adviser (and, if that person is an entity, its personnel) to solicit a government entity on the adviser's behalf, and treating such a person as a "covered associate" of the adviser will better align the SEC's regulation of adviser pay-to-play practices with the MSRB's current and effective regulation in this area. It will also ensure that conflicts of interest are effectively addressed, because these persons will be "covered associates" subject to the same restrictions on political contributions under

³ SEC Release IA-3110 at pages 72-73.

⁴ In fact, in many firms, even those individuals within the complex whose positions are in sales may not be paid commissions for winning advisory business; such successes are simply one consideration when their compensation is reviewed.

which the adviser and its associates operate. This will result in regulation precisely targeted to the potential abuses that compelled the SEC to adopt pay-to-play restrictions for investment advisers.

For these reasons, we also believe strongly that adviser-affiliated entities with employees who solicit on behalf of the adviser should not be required to register with the SEC or the MSRB as municipal advisors. Imposing this new registration requirement will simply add complexity and cost without providing any additional protection from the conflicts of interest identified by the SEC and the MSRB.

Proposed Rule G-42 assumes that investment adviser affiliates that solicit business for the investment adviser from governmental entities will register voluntarily as municipal advisors because only municipal advisors (and certain investment adviser personnel) will be able to solicit this business if the SEC adopts its proposed amendment to Rule 206(4)-5 on this point. However, as noted above, the SEC has asked for comment, as an alternative to voluntary registration, about whether employees of affiliated entities of the investment adviser who solicit on behalf of the investment adviser should be treated as covered persons of the investment adviser, rather than requiring the registration of the affiliates as municipal advisors. The MSRB should wait for the SEC to decide this important point before adopting proposed Rule G-42. Failure to do so will lead to confusion and regulatory uncertainty under the MSRB rule related to the status of affiliates and their employees who solicits.

If the MSRB nevertheless decides to adopt Rule G-42 at this time, the de minimis contribution limits in that Rule and in Rule G-37 should be changed to conform to the limits in Rule 206(4)-5. Otherwise, a large firm will find that most, if not all, of its employees are subject to political contribution restrictions with different parameters. Realistically, this will force most firms to adopt the MSRB standards, undermining the SEC's attempt to allow small contributions to officials for whom the employee cannot vote and slightly higher, but still relatively small, contributions to officials for whom the employee can vote.

2. Proposal to Eliminate or Amend G-38

The MSRB requested comment on whether Rule G-38 should be eliminated or amended. We do not think Rule G-38 should be eliminated. We believe that MSRB Rules G-37 and G-38 have in concert provided effective regulation of pay-to-play issues for dealers. We also believe that the appropriate action for the MSRB to take on these issues will depend in large part on the decisions that the SEC makes on related issues in its proposed amendments to Rule 206(4)-5 (as described above). Until the SEC makes a decision on this point, any move to amend or eliminate current Rule G-38, which permits affiliated employees to solicit municipal business for a broker-dealer, but requires those affiliated

employees to be subject to the same pay-to-play rules as similar employees of the broker-dealer, is premature.

We appreciate this opportunity to comment on this Proposal. If you have any questions concerning our comments or would like additional information, please contact me.

Sincerely,



David Oestreicher
Chief Legal Counsel

CC: Robert Cook, SEC Director of Investment Management
Eileen Rominger, SEC Director of Trading and Markets