



UNITED STATES  
**SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, D.C. 20549

OFFICE OF THE  
INVESTOR ADVOCATE

October 29, 2015

**Submitted Electronically**

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

**RE: Regulatory Notice 2015-18  
Request for Comment on Draft Amendments to MSRB Rule A-3 to Lengthen the Term of Board Member Service**

Dear Mr. Smith:

Pursuant to Section 4(g)(4) of the Securities Exchange Act of 1934 (“Exchange Act”),<sup>1</sup> the Office of the Investor Advocate at the U.S. Securities and Exchange Commission (“Commission” or “SEC”) is responsible for, among other things, analyzing the potential impact on investors of proposed rules of self-regulatory organizations (“SROs”).<sup>2</sup> In furtherance of this objective, we routinely review and examine the impact on investors of significant rulemakings of the Municipal Securities Rulemaking Board (“MSRB” or “Board”). As appropriate, we make recommendations and utilize the public comment process to help ensure that the interests of investors are considered while rulemaking decisions are made.

We appreciate this opportunity to provide comments in regard to Regulatory Notice 2015-18, Request for Comment on Draft Amendments to MSRB Rule A-3 to Lengthen the Term of Board Member Service.<sup>3</sup> In sum, we support the MSRB’s proposed amendments to MSRB Rule A-3 and agree that lengthening the term of Board member service to four years will “improve continuity and institutional knowledge of the Board from year to year, while retaining the benefits of the regular addition of new members.”<sup>4</sup>

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<sup>1</sup> 15 U.S.C. § 78d(g)(4).

<sup>2</sup> This letter expresses solely the views of the Investor Advocate. It does not necessarily reflect the views of the Commission, the Commissioners, or staff of the Commission, and the Commission disclaims responsibility for this letter and all analyses, findings, and conclusions contained herein.

<sup>3</sup> MSRB, Regulatory Notice 2015-18, *Request for Comment on Draft Amendments to MSRB Rule A-3 to Lengthen the Term of Board Member Service* (Oct. 5, 2015), <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2015-18.ashx?n=1>.

<sup>4</sup> *Id.*

On July 13, 2015, we submitted a comment letter opposing other amendments related to Rule A-3 as set forth in MSRB Regulatory Notice 2015-08.<sup>5</sup> The prior proposal sought to modify the standard of independence for the Public Investor Representative on the Board.<sup>6</sup> Recently, the MSRB announced that it no longer intended to pursue the proposed changes to the independence standard, and we are pleased with that decision.<sup>7</sup>

A stated goal of the earlier proposal was to lessen the burden of recruiting highly qualified prospects for Board service, particularly for the Public Investor Representative seat. Although we opposed the change to the membership qualifications for the Public Investor Representative seat, our comment letter underscored the importance of having a knowledgeable and experienced Board, and we expressed support for the MSRB's desire to attract a robust pool of qualified candidates.<sup>8</sup> More specifically, we indicated that lengthening the Public Investor Representative's term of service would support the goals of MSRB's proposal more effectively than amending the membership qualifications.<sup>9</sup> Although the current amendments to Rule A-3 would lengthen the term of member service for the entire Board rather than just the Public Investor Representative, we believe this is a reasonable approach.

Given the highly specialized nature of the MSRB's work, Board members may face a steep learning curve on many of the issues presented before them. We believe that lengthening the term of Board member service will give Board members – particularly Public Representatives – more time to develop the institutional knowledge and experience required for fully engaged and effective oversight of the MSRB. In our view, this is in the best interest of investors because it may lessen the Board's natural dependence upon the Regulated Representative Board members who, presumably, have greater experience on certain issues.

In determining the appropriate length of Board member service, a balance must be struck between a term that is too brief and one that is too long. A term that is too abbreviated will not allow Board members to become fully acclimated to the MSRB's mission and activities, thereby likely diminishing the ability to contribute as individual Board members. A term that is too lengthy would hamper the addition of fresh, new perspectives and may reduce Board member independence. In evaluating the appropriate balance, we look to the structure of similar organizations, each with a mission to protect investors. As relevant here, the members of the Financial Industry Regulatory Authority's Board of Governors serve three-year terms,<sup>10</sup> and members of the Public Company Accounting Oversight Board serve five-year terms.<sup>11</sup> Moreover, SEC Commissioners serve five-year terms,<sup>12</sup> and

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<sup>5</sup> Rick Fleming, Investor Advocate, Comment Letter regarding *MSRB Regulatory Notice 2015-08, Request for Comment on Draft Amendments and Other Issues Related to MSRB Rule A-3 on Membership on the Board* (July 13, 2015), <http://www.msrb.org/RFC/2015-08/OIAD.pdf>

<sup>6</sup> MSRB, Regulatory Notice 2015-08, *Request for Comment on Draft Amendments and Other Issues Related to MSRB Rule A-3 on Membership on the Board* (Jun. 11, 2015), <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2015-08.ashx?n=1>.

<sup>7</sup> See Press Release, MSRB Holds Quarterly Meeting (Aug. 3, 2015), <http://www.msrb.org/News-and-Events/Press-Releases/2015/MSRB-Holds-Quarterly-Meeting-July-2015.aspx>.

<sup>8</sup> Fleming, *supra* note 5.

<sup>9</sup> *Id.*

<sup>10</sup> FINANCIAL INDUSTRY REGULATORY AUTHORITY, <https://www.finra.org/sites/default/files/Election-Notice-63015.pdf> (last visited Oct. 8, 2015).

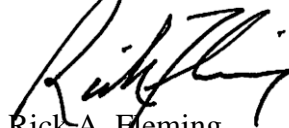
<sup>11</sup> PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD, <http://pcaobus.org/About/Pages/default.aspx> (last visited Oct. 8, 2015).

<sup>12</sup> SECURITIES AND EXCHANGE COMMISSION, <http://www.sec.gov/about/commissioner.shtml> (last visited Oct. 8, 2015).

members of the SEC's Investor Advisory Committee serve four-year terms. Taking into consideration the terms of membership of similar organizations, we believe the proposed four-year term for Board members is appropriate.

Thank you, again, for the opportunity to submit our comments regarding this important issue. Should you have any questions, please do not hesitate to contact me or Senior Counsel Ashlee Connett at (202) 551-3302.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Fleming", written over the printed name below.

Rick A. Fleming  
Investor Advocate

cc (electronically): Lynnette Kelly, Executive Director  
Robert Fippinger, Chief Legal Officer  
Carl Tugberk, Assistant General Counsel