



National Association of Municipal Advisors

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July 13, 2015

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

Re: MSRB Release 2015-08: Proposed Changes to MSRB Rule A-3

Dear Mr. Smith:

The National Association of Municipal Advisors (NAMA) appreciates the opportunity to comment on recently proposed changes to MSRB Rule A-3. NAMA is America's leading organization of municipal securities industry professionals who provide municipal advisor ("MA") services to municipal entities and obligated persons. NAMA members must be registered and in good standing with the Securities and Exchange Commission ("SEC") and the MSRB. Our organization and members support core principles to protect the interests of municipal bond issuers and the public trust; build a more vibrant, competitive, and transparent municipal securities marketplace; and to uphold the highest standards of professional ethics, qualifications, education, training, and regulatory compliance.

Following review of the proposed changes to MSRB Rule A-3, NAMA would like to comment on the three core issues addressed in the document – changing the definition of "independent" related solely to the statutorily designated investor representative; extending the length of Board terms; and the requirement to publically announce the names of all Board applicants.

Standard of Independence for the Public Representative of Institutional or Retail Investors in Municipal Securities

NAMA has expressed concern in the past that the Board meet the requirements set forth in the *Dodd-Frank Wall Street Reform and Consumer Protection Act* that "the number of public representatives of the Board shall at all times exceed the total number of regulated representatives." Therefore, the action to dilute the independence requirement and allow an investment representative from an entity that is regulated by the MSRB, even tangentially, is problematic. First, we question whether doing so would violate the current *Exchange Act* requirement to have a majority of public members on the Board. Second, we would argue that more emphasis should be placed on finding retail investors (which make up a majority of the investor base for municipal bonds) than make the proposed change to seek out a greater number of institutional investor applicants. Third, if a person does not meet the current independence requirement, but otherwise is qualified to serve on the Board, that individual could become a Board member by filling the vacancy of one of the broker/dealer or banking representative positions, depending on the specific circumstance.

Regarding the second point above, we disagree with the argument contending the MSRB is lacking in the number of qualified investors who wish to serve on the Board, who do not have an affiliation with a

regulated entity. It is worth mentioning that the *Exchange Act* requires MSRB Board members to be “knowledgeable of matters related to the municipal securities market” but does not require them to be knowledgeable of *all* matters. This is important to note as the knowledge of how the realities of the municipal securities marketplace affect retail investors in practice has been absent from the Board. Our concern is that the proposed change to MSRB Rule A-3 would make the MSRB even less likely to have this particular knowledge available as part of its Board. NAMA notes that retail investors regularly comment on the MSRB rules that most directly affect them as part of the public comment process (see e.g. MSRB 2014-20) and, given the realities of the investor base for municipal securities, the MSRB should be working to include more of these investors on its Board and not fewer. By either targeting recruitment efforts to find investors not related to any regulated entity or allowing them to serve as a regulated member, we believe the MSRB can achieve their goal of expanding investor representation on the Board.

The proposed change to MSRB Rule A-3 provides significant potential imbalance on the Board to favor the interests of dealers and institutional investors, at the expense of issuers and retail investors affecting a break with the public trust. This singular reality provides for a stand-alone basis of rationale to reject this proposed change to ensure the standard of independence of the Board as contemplated and intended by the *Dodd-Frank Act* is not subjected to compromise.

Length of Board Member Service

NAMA is concerned with extending the length of service for Board members, especially as mentioned in the proposal to two or more consecutive three-year terms. While we understand that learning the suite of MSRB rules (and proposed changes) does take time, the requirement that Board members be knowledgeable of matters related to the municipal securities market should shorten the “learning curve” time. Moreover, the MSRB can devote extensive staff time and other resources to elevate new members’ knowledge quickly. Lastly, there seems to be no shortage of applicants for Board membership who understand that they would be committing to a single three-year term.

MSRB rules can currently allow for Board member to serve more than one term “by invitation from, and due to special circumstances as determined by, the Board.” While we do not encourage the overuse of this clause, it does provide the MSRB with the ability to retain a member beyond his/her current term.

We believe that the proposed changes to Rule A-3 are incomplete because the effect of those changes on the MSRB’s leadership and a Chairman’s current one-year term are not addressed. If there are term extensions for Board members, the proposed changes should address term lengths for leadership, and at what point in a Board member’s term they are eligible for a leadership position. NAMA contends that addressing these issues should be incorporated into any proposed changes to MSRB Rule A-3.

Requirement to Announce Publically the Names of All Board Applicants

As recently as 2011, in response to comments from the Government Finance Officers Association (GFOA) and NAMA (at that time called NAIPFA) on prior amendments to MSRB Rule A-3, the MSRB indicated that the Board was exploring alternatives to promote transparency in its processes because “transparency in an important priority of the Board.” (<http://www.sec.gov/comments/sr-msrb-2011-11/msrb201111-4.pdf> at page 8) The SEC specifically noted the Board’s indication that it would explore alternatives to increase transparency in the approval order for MSRB 2011-11 (<http://www.sec.gov/rules/sro/msrb/2011/34-65424.pdf> at page 16) as well as in its 2012 Report on the State of the Municipal Securities Market (<http://www.sec.gov/news/studies/2012/munireport073112.pdf> at footnote 184). Accepting the currently proposed changes to Rule A-3 would be a step back in the transparency effort.

More than 100 people have applied for membership on the MSRB Board in each year for the available seven spots which indicates that candidates are not discouraged from applying to the Board. Full disclosure of the applicant list is important for the public to be able to evaluate the composition of the applicants as well as those selected for membership to evaluate the selection process.

Other Items

NAMA would also like to take this opportunity to encourage the MSRB to look for ways to reduce the size of the Board and return the number to 15 members. While we understand that there was a need to undertake additional board members to transition to and fully comply with the *Dodd-Frank Act*, the Board should now determine how best to revert back to its original format, albeit with the new composition requirements, which will provide overall cost savings to the organization.

NAMA again appreciates the opportunity to comment on this rulemaking and representatives would be happy to speak with MSRB staff about them at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Terri Heaton". The signature is fluid and cursive, with the first name "Terri" and last name "Heaton" clearly legible.

Terri Heaton, CIPMA
President
National Association of Municipal Advisors (NAMA)

cc:

Jessica Kane, Director, Office of Municipal Securities
Rebecca Olsen, Deputy Director, Office of Municipal Securities
Lynnette Kelly, Executive Director, Municipal Securities Rulemaking Board