

August 26, 2014

VIA ELECTRONIC MAIL TO: rule-comments@ sec.gov

Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: Release No. 34-72706; File No. SR-MSRB- 2014-06

Dear Secretary:

On behalf of the Bond Dealers of America (“BDA”), I am pleased to submit this letter in response to the Securities and Exchange Commission’s (“SEC”) Notice of Filing of a Proposed Rule Change Consisting of Proposed New Rule G-44, on Supervisory and Compliance Obligations of Municipal Advisors; Proposed Amendments to Rule G-8, on Books and Records To Be Made by Brokers, Dealers and Municipal Securities Dealers; and Proposed Amendments to Rule G-44 (the “Notice”).¹

The BDA appreciates this opportunity to comment to the SEC on the Municipal Securities Rulemaking Board’s (“MSRB”) proposed new Rule G-44. As we stated to the MSRB in our April 20, 2014 letter on this topic, we believe the effort to craft an appropriately tailored rule is extremely important especially as it relates to the entirety of the municipal advisor regulatory regime. Below, we will expand upon some of the comments we made to the MSRB and ask that that the SEC consider our comments before it moves to finalize proposed Rule G-44 (“Draft Rule G-44”).

Flexibility for Smaller Municipal Advisors

As the BDA mentioned in our April letter to the MSRB, we believe Draft Rule G-44 provides too much flexibility to small firms by allowing these small firms to determine and make accommodations for themselves simply because of their size. As a result, we requested that the MSRB set forth certain minimum standards that all municipal advisor firms must meet when establishing supervisory and compliance procedures but still allow these firms appropriate flexibility to decide how to implement such procedures. Importantly, we also asked that the MSRB not put forth a rule that would allow small firms to diminish their obligations. We continue to believe that the Draft Rule G-44 is

¹ SEC Release No. 34-72706 (Jul. 29, 2014); 79 CFR 45546 (Aug. 5, 2014); File No. SR-MSRB-2014-06.

biased toward larger firms and that the accommodations smaller firms are allowed to make should be more circumscribed.

Self-Certification

The BDA believes that Draft Rule G-44 should require all municipal advisors to complete a periodic self-certification regarding the meeting of professional qualification standards by its associated persons, as well as to certify to the municipal advisor's ability to comply, and history of complying, with all applicable regulatory requirements. We believe it is critical for municipal advisors to self-certify that they are meeting the same professional qualification standards as broker-dealers regardless of their size. This aligns with the long-established rules for broker-dealers. However, since self-certification is already required of broker-dealers, we do not believe that those municipal advisors that are already affiliated with broker-dealers should be unduly burdened with additional self-certification requirements and appreciate that the MSRB has revised the Draft Rule to create a self-certification regime. Additionally, we support the MSRB's effort to ensure the self-certification aligns with FINRA Rule 3130, in which firms establish, maintain, review, test and modify written supervisory procedures reasonably designed to achieve compliance with applicable rules.

Outsourcing CCO Function

BDA had asked the MSRB to make clear within the language of Draft Rule G-44 that a firm remains ultimately responsible for any decisions made by the CCO, whether the position is outsourced or not. Although language to this effect is included in Paragraph .05 of the Supplementary Material, we believe it should be incorporated into the text of the actual Rule. We do not believe the MSRB should leave it to chance that some firms will take a strict reading of the text of the rule text without appropriately considering the supplementary material as a component of their compliance with this rule. Since it is of utmost importance that each firm understand that it is ultimately responsible for decisions made by the CCO, whether in-house or outsourced, it is important for such language to be included within the text of the Draft Rule G-44. Therefore, we urge the SEC to implore the MSRB to move the text from Paragraph .05 and add this language to Draft Rule G-44.

Implementation Date

As the BDA has stated in each comment letter sent to the MSRB regarding proposed rules regulating municipal advisors, we believe the MSRB should delay implementation of all of its municipal advisor rules and regulations until the SEC has approved all such rules and regulations. Additionally, we asked that the MSRB consider an implementation date of six months following SEC approval of the last of the rules. While the BDA appreciates the MSRB's view that it is important for firms to have a supervisory system and compliance processes in place as soon as possible, we would ask that the regulators

consider that our member firms would benefit from having a complete set of municipal advisor rules in place before crafting an entirely new set of supervisory procedures that will likely require frequent and multiple updates. With that said, we understand the difficulty and effort being made by the regulators to bring all formerly unregulated municipal advisors under the same regulatory regime. Therefore, if implementation is not delayed, we would caution that the SEC recognize that each firm will have varying written supervisory procedures and ask that examiners provide appropriate flexibility to firms in their own interpretation of the rules that may still be under consideration during an exam.

Thank you for the opportunity to present our views on Draft Rule G-44, on supervisory and compliance obligations of municipal advisors.

Sincerely,

A handwritten signature in blue ink that reads "Michael Nicholas". The signature is written in a cursive, flowing style.

Michael Nicholas
Chief Executive Officer