



October 18, 2016

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street NW
Suite 1000
Washington, DC 20005

Re: MSRB Notice 2016-23: Second Request for Comment on Draft Provisions on Minimum Denominations

Dear Mr. Smith:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates this opportunity to respond to Notice 2016-23² (the “Notice”) issued by the Municipal Securities Rulemaking Board (the “MSRB”) in which the MSRB is making a second request for comment to draft provisions on minimum denominations. In the MSRB’s first request for comment on draft amendments on minimum denominations in Notice 2016-13³ (the “Prior Notice”), the MSRB requested comment on draft amendments to MSRB Rule G-15(f).

As stated in our response to the Prior Notice,⁴ SIFMA and its members are pleased that the MSRB is undertaking this review as the rules governing minimum denominations have not been updated in 15 years. Again, as round lots are more liquid than odd lots, SIFMA supports the intent of the original rule, which is stated

¹ SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over \$2.5 trillion for businesses and municipalities in the U.S., serving clients with over \$20 trillion in assets and managing more than \$67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

² MSRB Notice 2016-23 (September 27, 2016).

³ MSRB Notice 2016-13 (April 7, 2016).

⁴ See Letter from Leslie M. Norwood, SIFMA, to Ronald W. Smith, MSRB (May 25, 2016), available at <http://www.sifma.org/issues/item.aspx?id=8589960617> (the “Prior Letter”).

in the Notice as seeking to protect *investors* that own municipal securities in amounts below the minimum denomination. SIFMA and its members believe that some of the proposed changes in the Notice are improvements over the Prior Notice, such as the elimination of the reference to increments and the elimination of the liquidation statement in the case of securities purchased from other dealers. However, some of the changes in the Notice result in less liquidity for customers and create additional and unnecessary challenges for dealers. We have concerns that the new exceptions do not appropriately balance the interests of issuers, customers, dealers and the market as a whole. Therefore, we would appreciate the MSRB's consideration of the suggestions we have detailed below.

I. A Dealer's Ability to Sell Securities Under the Exemption Should Not Vary According to Source of Bonds

SIFMA and its members feel strongly that the exceptions in new Rule G-49 (b)(ii) should apply regardless of whether the dealer acquired the bonds from a customer or in an inter-dealer transaction. We note that the exception for sales of securities in amounts below the minimum denomination has been narrowed from the Prior Notice. It seems inappropriate that a dealer is able to sell a below-minimum denomination position to a customer that does not have a position in the issue (even if the transaction(s) do not result in a customer increasing its position to an amount at or above the minimum denomination) where a dealer acquires the below-minimum denomination position in an inter-dealer transaction but may not sell under this exception where a dealer acquires the position from a customer.

By limiting this exception to positions acquired from dealers, the MSRB is effectively limiting liquidity for customers that have below-minimum denomination positions. SIFMA and its members see no reason why there should be a prohibition on dealers selling the below-minimum denomination position to more than one customer if the position is acquired from a customer. We believe that Rule G-49(b)(ii)(A) and (B) should both be available to dealers, regardless of whether the bonds were purchased from a customer or a dealer. Again, the source of the bonds should not matter in this instance, as that fact has no impact on whether additional below-minimum denomination pieces are being created.

Further, we feel that if Rule G-49(b)(ii) is amended, pursuant to our request above, Rule G-49(b)(iii) should be removed as it would be redundant. In Rule G-49(b)(ii)(B), a dealer can sell to a customer who owns some of the security without having to bring that customer's position up to the minimum denomination. In Rule G-49(b)(iii), a dealer must bring the customer's position up to the minimum denomination. SIFMA and its members feel the rule would be more clear if Rule G-49(b)(iii) was deleted and Rule G-49(b)(ii)(B) was applied without regard to the source of the securities.

II. Timing of Sales

The exceptions in Rules G-49 (b)(ii)(B) and (b)(iii) create timing concerns. Under both exceptions a dealer is permitted to break up a below-minimum denomination block to sell to a customer that already has a below-minimum denomination block. The dealer may then sell any remaining portion of the below-minimum denomination position to one or more customers that already have a position in the issue. But what if the dealer doesn't have any other customers at the time that are interested and valid purchasers of such below-minimum denomination positions? If the dealer doesn't sell the remaining position to one or more customers at the time of the sale to the first customer, the dealer then is prohibited from selling the bonds to another dealer pursuant to Rule G-49(c). SIFMA members feel that this prohibition unnecessarily hampers the liquidity as it will not increase below-minimum denomination positions.

III. Interdealer Exception

SIFMA and its members feel that Rule G-49(c), which limits interdealer transactions, should be deleted. SIFMA and its members agree that [retail] customer transactions should be subject to the exceptions. Again, the purpose of the rule is to prohibit dealers from effecting transactions with *customers* in amounts below the minimum denomination – with certain exceptions without creating an additional number of below-denomination positions. With that in mind, Rule G-49(c) which limits interdealer transactions is unwarranted, harms liquidity and is inconsistent with the original purpose of the rule of customer protection. Dealers should be permitted to accumulate below-minimum denomination positions and sell such a position to a customer to add to a customer's existing below-minimum denomination position. Although we welcome the elimination of the liquidation statement, particularly in the case of alternative trading system transactions, limiting interdealer transactions is unrelated and unwarranted.

IV. Compliance Costs

It is in the best interest of the regulators and regulated parties alike to ensure the rule is clear, workable, and doesn't negatively impact liquidity. The annual cost of compliance for existing Rule G-15(f) cannot be accurately quantified across the industry. Anecdotally, dealer firms do report spending significant resources on compliance with the Rule. Some firms report spending well into six figures per annum on compliance relating to the Rule. Enforcement regulators have been focused on this issue for some time, and the increased regulatory scrutiny has increased liquidity issues for these positions due to their heightened regulatory risk, and made compliance relatively costly.

V. Causes of Below-Minimum Denomination Positions

As stated in our Prior Letter, there are many scenarios that cause a customer's position to fall below the minimum denomination. As noted in the notice of filing on the prior rule change, a below-minimum denomination position may be created, for example, by redemption provisions that allow calls in amounts less than the minimum denomination, investment advisors who may split positions they purchase among several clients, the division of an estate as a result of a death or divorce, by court order or as a result of a gift.⁵ These are some of the reasons positions exist below the minimum denomination, and the investor should not be penalized for the creation of a below-minimum denomination position that is out of their control. SIFMA is concerned about the liquidity impacts of the proposal because when the liquidity of below-minimum denomination positions is hampered, the end investor is the one penalized.

VI. Access to Accurate Information

The accuracy and validity of minimum denomination data available continues to be a significant compliance issue. Many information service providers have blank or incorrect information in the minimum denomination field. Additionally, some private placement memorandum ("PPM") documents are not on the MSRB's Electronic Municipal Market Access ("EMMA") website, so there is no way for the dealer to check for the minimum denomination information on that particular transaction. To remedy this issue, we reiterate our request for MSRB Rule G-32 be amended to require the filing of minimum denomination information on EMMA on all transactions.

Further, expecting traders to look up minimum denomination information in an Official Statement or PPM prior to making a trade is not efficient or realistic. Underwriting dealers are already required to send to the Depository Trust and Clearing Corporation ("DTCC") minimum denomination and increment information through the New Issue Information Dissemination System ("NIIDS") by mandate of Rule G-34. However, information service providers are not necessarily picking up this information from NIIDS. The MSRB could take the minimum denomination information from the DTCC's NIIDS feed and display the information on EMMA. If a security is not NIIDS eligible, then the dealer should be able to send the information directly to the MSRB for transparency purposes on EMMA. These modest improvements to EMMA to increase the transparency of

⁵ Securities Exchange Act Release No. 45174 Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Minimum Denominations (December 19, 2001), 66 FR 67342 (December 28, 2001), at fn 3.

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minimum denomination information would greatly assist investors and regulated dealers alike.

VII. Conclusion

Again, SIFMA and its members largely support updating the rules regarding minimum denominations, but have some concerns regarding certain provisions in new Rule G-49. SIFMA and its members would appreciate the MSRB's consideration of our suggestions, as detailed above. We would be pleased to discuss any of these comments in greater detail, or to provide any other assistance that would be helpful. If you have any questions, please do not hesitate to contact the undersigned at (212) 313-1130.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'L. Norwood', written in a cursive style.

Leslie M. Norwood
Managing Director and
Associate General Counsel

cc: ***Municipal Securities Rulemaking Board***
Lynnette Kelly, Executive Director
Robert Fippinger, Chief Legal Officer
Gail Marshall, Associate General Counsel – Enforcement Coordination
Michael B. Cowart, Assistant General Counsel
Barbara Vouté, Municipal Operations Advisor