

February 25, 2008

Ernesto A. Lanza
Senior Associate General Counsel
Municipal Securities Rulemaking Board
1900 Duke Street
Suite 600
Alexandria, Virginia 22314

Re: MSRB Notice 2008-05: Plans to Establish an
Electronic Access System for Continuing Disclosure

Dear Mr. Lanza:

The Securities Industry and Financial Markets Association (“Association”)¹ appreciates this opportunity to respond to Notice 2008-05 issued by the Municipal Securities Rulemaking Board (“MSRB”) on January 31, 2008 (“Notice”) in which the MSRB requests comment on its proposal to expand the pilot portal being developed by the MSRB, in connection with official statements and advance refunding documents, to include secondary market submissions of continuing disclosure in the event the Securities and Exchange Commission (“SEC”) amends Rule 15c2-12 to provide for a centralized electronic submission and dissemination model.

The Association fully supports the development by the MSRB of a pilot portal, as an internet-based public access portal, to provide free access to secondary market disclosures (consisting of annual financial information, notices of specific material events and related filings pursuant to Rule 15c2-12). The pilot portal, along with the pilot portal for primary market disclosure, would be in anticipation of a permanent system, to be known as the MSRB’s Electronic Municipal Market Access system (“EMMA”). The Association further wishes to express its appreciation to the MSRB for its efforts to create a single electronic portal for both primary and secondary market disclosure, which we believe will improve market efficiency and facilitate comprehensive disclosure in the municipal securities markets. The MSRB is to be congratulated for its rapid response to recommendations from the Association and other market participants

¹ The Association, or “SIFMA,” brings together the shared interests of more than 650 securities firms, banks and asset managers. SIFMA’s mission is to promote policies and practices that work to expand and perfect markets, foster the development of new products and services and create efficiencies for member firms, while preserving and enhancing the public’s trust and confidence in the markets and the industry. SIFMA works to represent its members’ interests locally and globally. It has offices in New York, Washington D.C., and London and its associated firm, the Asia Securities Industry and Financial Markets Association, is based in Hong Kong.

that there be a single location for free access by investors of both primary and secondary market information.

Submission of Indexing Information

The MSRB seeks comment on the proposal in the Notice that underwriters submit certain indexing information at the time of initial issuance of municipal securities. At the time of initial issuance, underwriters would be required to provide the following items of information: (i) whether a continuing disclosure undertaking exists, (ii) the identity of any obligated person other than the issuer, and (iii) the date identified in the undertaking by which annual financial information is expected to be disseminated.

The Notice does not identify the time or format required for this information other than that it would be at the time of initial issuance. Presumably, the information would be part of the new G-32 form submitted when the official statement is filed with EMMA. The second item, which is the identification of any obligated person, may, in some cases, have little value because a financing can have numerous obligated persons, but continuing disclosure is not required with respect to an obligated person unless information about the obligated person is material and the official statement thus contains financial or operating data about the obligated person. If the reason for this information is for the portal site to have a line item disclosing obligated persons about whom continuing disclosure will be provided, it should also be recognized that many obligated persons file on EDGAR pursuant to the Securities Exchange Act of 1934, and the EDGAR filing will normally satisfy the continuing disclosure agreement. Attempting to disclose which obligated persons can be expected to file on EMMA seems unnecessarily complicated since the official statement itself, which is on the portal, has a summary paragraph stating who will be filing continuing disclosure and where it will be filed. The continuing disclosure agreement, in full, is also usually in the official statement.

The third item of information, stating the date by which annual financial information is expected to be disseminated is likely to be vague and, thus, not useful. Typically, the continuing disclosure agreement has a formula, such as "within 90 days after the close of the issuer's fiscal year." We doubt this statement has much utility. Once the annual information is filed on EMMA, a pattern will develop that will indicate to investors when the information is likely to be filed each year.


Designated Agents

The MSRB seeks comment on whether the MSRB should accept submissions from a third party with respect to an issuer's securities only if the issuer has affirmatively designated to EMMA that such third party is authorized to act as its agent, or whether submissions from any registered EMMA user should be accepted on behalf of an issuer unless the issuer has affirmatively indicated that it wishes to take control over which parties can submit on its behalf.

The Association is concerned that if EMMA does not accept continuing disclosure from a third party, unless an issuer specifically authorizes the third party to EMMA, there will be cases of issuer inaction preventing timely disclosure. Many issuers appoint dissemination agents or rely on obligated persons to submit continuing disclosure. Posting disclosure should not be delayed by a requirement of authorization by an issuer, who is not involved in making continuing disclosure, because a delay in authorization would create an increased likelihood of a failure to provide information on or before the date specified in the continuing disclosure agreement and, thus, a new notice required of a failure to comply as well as disclosure in a subsequent official statement of a failure to comply. We believe the current practice set forth in the standard Municipal Secondary Market Disclosure Information Cover Sheet should be continued, which requires the person/entity submitting information to represent affirmatively that the person is authorized to submit the information.

We appreciate the opportunity to comment on the proposed pilot portal for secondary market disclosure. If you have any questions concerning these comments, or would like to discuss these comments further, please feel free to contact the undersigned at 212.313.1130 or via email at lnorwood@sifma.org.

Respectfully,

A handwritten signature in black ink, appearing to be 'L. Norwood', written over a faint, stylized triangular graphic.

Leslie M. Norwood
Managing Director and
Associate General Counsel

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cc: ***Securities Industry and Financial Markets Association***
Municipal Executive Committee
Municipal Policy Committee
Municipal Legal Advisory Committee
Municipal Operations Committee
Municipal Syndicate & Trading Committee
Municipal Credit Research, Strategy and Analysis Committee
Municipal Access Equals Delivery Task Force