



May 2, 2019

Via Email to rule-comments@sec.gov

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

Re: File No. SR-MSRB-2019-07 (Release No. 34-85551)

Dear Ms. Countryman,

The Securities Industry and Financial Markets Association (“SIFMA”)¹ appreciates this opportunity to comment on the Municipal Securities Rulemaking Board’s (“MSRB”) Notice of Filing of a Proposed Rule Change to Amend Rules G-11 and G-32 and Form G-32 Regarding a Collection of Data Elements Provided in Electronic Format to the EMMA Dataport System in Connection With Primary Offerings (the “proposed rules” or the “MSRB proposal”).² The MSRB proposal results from a retrospective review of primary market offering practices in the municipal securities market initiated by the MSRB over two years ago.³ We support the MSRB’s commitment to engaging in a retrospective review of its rules to ensure that they are responsive

¹ SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

² Notice of Filing of a Proposed Rule Change to Amend Rules G-11 and G-32 and Form G-32 Regarding a Collection of Data Elements Provided in Electronic Format to the EMMA Dataport System in Connection With Primary Offerings, Exchange Act Release No. 34-85551, File No. SR-MSRB-2019-07, 84 Fed. Reg. 14,988 (proposed Apr. 12, 2019).

³ MSRB Notice 2017-19 (Sept. 14, 2017), available at <http://www.msrb.org/~media/Files/Regulatory-Notices/RFCs/2017-19.ashx?la=en>.

to changes in the municipal securities market and in the policymaking, economic, stakeholder, and technological environment.

SIFMA has appreciated the opportunity to provide input as the MSRB considered changes to the rules governing primary market offering practices.⁴ We also appreciate that the MSRB, recognizing that many current market practices have been effective, incorporated our input into the current proposal. For example, we support the Rule G-11 amendment requiring senior syndicate manager to communicate, at the same time, to all syndicate and selling group members when the issue is free to trade. As we have said before, a standardized process for issuing a free to trade wire is consistent with the MSRB's original intent behind Rule G-11 and does not significantly burden senior syndicate managers because wire communications are already standard market practice. Our comments below focus primarily on the role the MSRB can play to ensure a successful and least burdensome implementation of the final rules.

I. Implementation time

First and foremost, SIFMA requests enough time to implement any changes resulting from the final rules. The amendments, if adopted as proposed, require changes to firms' policies and procedures, training of staff, and technical updates to their systems. Firms will need significant time to make these changes and test their systems. All of this must be done in coordination with various internal departments, outside vendors where applicable, and within budgetary constraints. We therefore request an implementation period of a year, with at least six months' notice to implement system changes.

II. Comments on Rule G-11 Amendments

1. Technical Correction to Subpart (k) of Rule G-11

While not included in the MSRB proposal, SIFMA believes this is an opportune time for the MSRB to make a technical correction to Rule G-11(k), which governs retail order period representations and required disclosures, to codify existing market practices. Subpart (k) currently requires that dealers who submit orders during a retail order period provide certain

⁴ See, letter from Leslie Norwood, Managing Director and Associate General Counsel, SIFMA, to Ronald W. Smith, Corporate Secretary, MSRB, dated Nov. 15, 2017, on the concept proposal, available at <https://www.sifma.org/wp-content/uploads/2017/11/SIFMA-Response-to-MSRB-Concept-Release-on-Primary-Offering-Practices.pdf>; see also, letter dated Sept. 17, 2018 on draft amendments to Rules G-11 and G-32, available at <https://www.sifma.org/wp-content/uploads/2018/09/Amendments-to-Primary-Offering-Rules.pdf>.

representations and disclosures “...*from the end of the retail order period but no later than the Time of Formal Award...*” (emphasis added).⁵ In practice, dealers using electronic order entry systems typically submit these representations and disclosures earlier than the end of the retail order period, which is technically not within the four corners of the timeframe specified in the rule. There is no detrimental impact to underwriters in these instances by dealers making these representations and disclosures earlier than required, but a technical correction would ensure that current market practices are reflected in, and compliant with, the rule. We suggest that the rule be amended to require the representations and disclosures simply be made *by the time of the formal award*. This change would be in line with the goal of the MSRB’s retrospective rule review of Rule G-11.

III. Comments on Form G-32 Amendments

The MSRB proposes corresponding changes to Form G-32, including adding 57 data fields to capture data that an underwriter already is required to input into NIIDS, as applicable, for NIIDS-eligible offerings. For non-NIIDS-eligible offerings, the underwriter would only be required to manually complete the data field that indicates the original minimum denomination of the offering, but not be required to manually complete the other 57 additional fields. In addition, the MSRB proposes to add nine data fields to Form G-32 for manual completion by underwriters in NIIDS-eligible offerings. SIFMA’s comments below focus on these nine additional data fields on Form G-32.

1. Collecting the Nine Additional Data Fields from Underwriters

SIFMA would like to reiterate⁶ our concerns about the burden of manually inputting these new data fields. The MSRB’s economic analysis woefully underestimates the time as well as the resources necessary for underwriters to comply with the proposed amendments. In marginalizing the time to input the data, the MSRB ignores the time devoted to making system changes, amending or creating policies and procedures, and quality-checking the information entered, as well as the amount of staff devoted to these efforts. Exacerbating the MSRB’s inadequate economic analysis, this data is already within the MSRB’s possession, a fact

⁵ MSRB Rule G-11(k).

⁶ Letter dated Sept. 17, 2018 on draft amendments to Rules G-11 and G-32, *supra* note 4, at p. 5.

minimalized by the MSRB in its economic analysis. SIFMA has emphasized in the past that the MSRB should leverage its technical resources to retrieve data already in its possession rather than continually shift the burden to regulated entities. The MSRB could retrieve this data from the official statement contained in EMMA. Not only would this relieve the burden on underwriters having to input this additional data, it would also ensure that the MSRB has access to quality data. As is typically the case, underwriters' clerks or operations people enter the data. Having these people who are not familiar with the intricacies of a deal enter the data, particularly the full call schedule, increases the chances for errors and associated regulatory risk for reporting errors. However, obtaining this data from the official statement, which has been reviewed over and over again by an entire deal team, ensures that the MSRB will have quality data.

SIFMA would also like to point out that these data fields would not be particularly helpful to investors should they be publicly disseminated in the future. Their dissemination could have the effect of discouraging investors from reading the official statement and missing other important information relevant to them, a result that the MSRB surely does not want.

A. Specs Should be Available for Comment

If the MSRB is going to require these data fields notwithstanding SIFMA's concerns, it should release the specs for comment before moving forward with any requirement on underwriters to input this additional data. Releasing the specs beforehand and allowing for comment would ease some of the burden on underwriters by ensuring the specs are understood and workable. SIFMA emphasizes that timely release of specs and the ability for firms to provide input is imperative to successful implementation of a rule. Not doing so creates additional burdens; firms' technology teams to scramble under tight deadlines and the risk for error increases, among other things. We therefore request that the MSRB release the specs for comment before requiring these additional data fields.

B. Request for a Bulk Uploader

In addition, if the MSRB is going to require underwriters to input these additional data fields, it must find the least burdensome way possible. One way is to provide a bulk uploader like the DTC or FINRA provides. A bulk uploader allows underwriters to upload these data fields faster and more accurately; likewise, for any necessary corrections. Without one, any corrections not automatically feeding from NIIDS would need to be done manually, a time-consuming process

that is prone to error. The MSRB must allocate resources and provide a bulk uploader.

2. Comments on Specific Data Fields

A. LEI for Credit Enhancers and Obligated Person(s), Other Than the Issuer, if Readily Available

SIFMA understands the MSRB's desire to advance the goal of having a global identification method to improve the quality of municipal market financial data and reporting, and we have been supportive of the voluntary collection of LEIs, "if readily available." Yet, we must note the futility of obtaining this data point as well as its utility for certain segments of the market. Obtaining a LEI through a search engine oftentimes is futile – thousands of results appear over several pages of search results. Identifying the correct LEI is challenging and time-consuming to say the least. This data field may also not be particularly helpful for certain segments of the market. For example, in multi-family and senior-living deals, or other deals where a special purpose entity set up to be the borrower, a separate LLC is set up for every transaction. We request that the MSRB provide additional clarification about what it means by "if readily available." This would assist underwriters in obtaining this data point by narrowing the time and amount of information that must be analyzed to identify the correct LEI.

B. Identity of Obligated Person(s)

Although we do not believe that many of these additional data fields would be helpful to investors should they become publicly available, we do, however, support the name and LEI of an obligated person(s) or *obligated group* being publicly available. This is important information for market participants, including dealers so that they can identify how much exposure they have to a particular borrower.

C. Restrictions on the Issue

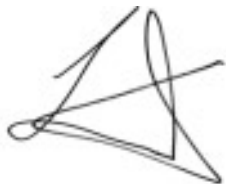
Regarding this data field, SIFMA requests clarification on what types of restrictions would require a yes or no answer. We believe that the restrictions should be limited to the type of investors. Either way, we suggest that check boxes instead of yes or no choices be offered to see who the primary offering is limited to. This would provide more useful information.

3. Changes to Form G-32 Manual

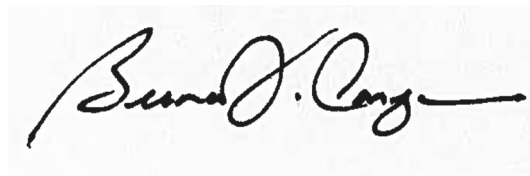
The addition of these new data fields to Form G-32 require corresponding changes to the Form G-32 Manual. SIFMA would be please to meet with MSRB staff to discuss changes to the manual to ensure the changes are comprehensive and clearly understood by underwriters and workable.

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 or (202) 962-7300.

Sincerely,



Leslie M. Norwood
Managing Director and
Associate General Counsel



Bernard V. Canepa
Vice-President and
Assistant General Counsel

Cc (via Email): Municipal Securities Rulemaking Board

Lynnette Kelly, President and CEO
Michael Post, General Counsel
Lanny Schwartz, Chief Regulatory Officer
John Bagley, Chief Market Structure Officer
Margaret Blake, Associate General Counsel
Hollie Mason, Assistance General Counsel
Barbara Vouté, Director – Market Practices