

October 17, 2007

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

Re: Request for Amendment to or Delayed Implementation of Revisions
to MSRB Rules G-27, G-8 and G-9

Dear Mr. Lanza:

The Securities Industry and Financial Markets Association (“Association”)¹ requests further review, clarification and changes regarding Municipal Securities Rulemaking Board (“MSRB”) Rule G-27 on supervision, as well as related amendments to Rule G-8 on books and records, and Rule G-9 on preservation of records, as approved by the Securities and Exchange Commission (“SEC”) on May 22, 2007.² These changes are summarized in MSRB Notice 2006-33 (November 26, 2006).

The Association’s Member firms’ concerns involve neither the existing National Association of Securities Dealers (“NASD”) definition of office of supervisory jurisdiction (“OSJ”)³ nor that the MSRB intends generally to read MSRB Rule G-27 and its other rules consistently with analogous NASD provisions. Instead, our Member firms’ concerns are based on the consequences of Paragraph 2 in MSRB Notice 2007-16 which states in part: “Thus, if a person in a one-person office is involved in such activities [i.e., “structuring of

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.

² Exchange Act Release No. 55792 (May 22, 2007) (“SEC Approval Order”).

³ See NASD Notice to Members 07-12 (NASD Requests Comment on Proposed Amendments to Rules 3010(g) and 2711 in Connection with the Rule Harmonization Project with the NYSE). It is important to note that the Financial Industry Regulatory Authority (“FINRA”), as successor to the NASD, has not approved adoption of this rule proposal and that the FINRA rules on supervision are not yet to be “harmonized”. Until Rule 3010(g) is finalized, we feel strongly that it is premature to “harmonize” this rule with MSRB Rule G-27.

public offerings or private placements”], then that office is an OSJ and that person must be registered as a municipal securities principal.”

In the context of the municipal securities or municipal fund securities business, we note there is no guidance on the definition of “structuring of public offerings or private placements”.⁴ In the absence of such a definition, firms are making their own decisions as to what constitutes structuring. Respectfully, Member firms should be permitted, in good faith and based on their particular business operations, to determine whether or not specific offices engage in the “structuring of public offerings or private placements”.

Many firms currently have one-person offices that conduct some municipal securities business, but such offices are supported and supervised by another office with an on-site principal.⁵ Such an office operates as a branch office and not as an OSJ. As a branch office, the functions of the office are overseen by one or more duly qualified supervisors in another office. However, if the office is deemed to be an OSJ, the one member of the office would necessarily have to supervise himself/herself. That is not a logical outcome, and such a system would defeat the “checks” and oversight that a separate supervisor should be providing. Requiring a principal in a one-person office that already is effectively supervised by another office serves no practical or regulatory purpose.

For any offices that engage or seek to engage in certain municipal securities business but do not engage in any particular securities dealings with any investors, effect transactions in any securities and/or receive or handle any securities or funds, there is limited, if any, possible danger to the investing public or to the integrity of the securities markets generally. In such situations, there is no public policy rationale or other advantage to requiring an on-site principal, particularly in light of the additional costs and time expended to maintain such licenses. This is true especially when, as here, such offices already are supervised by one or more duly qualified principals in another office. The key should be that as long as offices are supervised properly by a principal or principals in one or more other offices that have one or more Series 53 (or in the case of 529 plans, Series 51) principals, firms should be considered to have satisfied the regulatory paradigm. Firms especially should be allowed to apply “risk based” approaches to their supervisory obligations, and tailor their actions to their particular business, facts and circumstances.⁶ For “supervision”, one size does not fit all.

⁴ See, generally, MSRB Rule G-23 for reference to “structuring” in the context of a financial advisory relationship and as an underwriting activity.

⁵ It is important to note that we are only addressing small offices. Existing NASD Rule 3010(a)(3)(B) currently requires an onsite principal when a substantial number of registered persons conduct securities activities at, or are otherwise supervised from, a location.

⁶ See, e.g. NASD Notice to Members 07-30 (NASD and NYSE Request Comment on Proposed Joint Guidance Regarding the Review and Supervision of Electronic Communications).

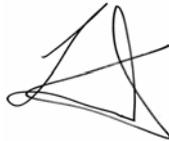
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Additionally, our Member firms cannot, without substantial difficulty and in light of ambiguity in the rule set, comply with the rule's apparent requirement to have a Series 51 or 53 in every single office that the MSRB seemingly considers to be an OSJ, by the effective date of the rule changes of February 29, 2008. To that end, and if the relief requested above is not granted, we respectfully request that implementation of this rule change be delayed an additional 3 months until May 31, 2008 to give Member firms the adequate time needed to have the appropriate professionals take the necessary licensing exams.

In summary, we request respectfully that the MSRB withdraw or reissue, consistent with the discussion above, Paragraph 2 in MSRB Notice 2007-16. Alternatively, we request respectfully that implementation of this rule change be delayed further until May 31, 2008⁷.

Thank you for your consideration. If you have any questions concerning these comments, or would like to discuss these comments further, please feel free to contact the undersigned at 646.637.9230 or via email at lnorwood@sifma.org.

Respectfully submitted,



Leslie M. Norwood
Managing Director and
Associate General Counsel

⁷ SIFMA does recognize and appreciate the delayed effective date of November 26, 2007 as described in MSRB Notice 2007-27.

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cc: Ms. Lynnette Hotchkiss, Municipal Securities Rulemaking Board
Diane Klinke, Esq., Municipal Securities Rulemaking Board
Hal Johnson, Esq., Municipal Securities Rulemaking Board

Securities Industry and Financial Markets Association

Municipal Executive Committee
Municipal Legal Advisory Committee
Municipal Syndicate & Trading Committee