



Americans for Financial Reform
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July 13, 2015

Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, Virginia 22314

Re: Comments on Independence Standard for Public Investor Representative

Dear Municipal Securities Rulemaking Board,

The American Federation of State, County and Municipal Employees (“AFSCME”), Americans for Financial Reform (“AFR”), and the Consumer Federation of America (“CFA”) appreciate this opportunity to provide comments to the Municipal Securities Rulemaking Board (“MSRB” or “Board”) on the Draft Amendments and Other Issues Related to MSRB Rule A-3 on Membership on the Board (“MSRB Proposal”).

First, we would like to note our serious concern for the short period of time given to review and comment on this rule. Thirty days is a limited amount of time for a serious rule change. As discussed below, we do believe that this proposal outlines a significant rule change that could potentially reverse the statutory intention of the Dodd-Frank Act to provide a majority of independent members on the Board. We suggest that the Board extend the comment period to allow for more detailed examination of this proposal by members of the public interest community with an interest in municipal finance.

We feel that this MSRB Proposal is superior to the modification in Rule A-3 proposed in July 2013, and which our organizations also commented on and objected to.¹ The July 2013 proposal would have unacceptably weakened the standard for independence for all public board members. This proposal affects only one public board member, the member required to be representative of investors (the “Public Investor Representative”). In addition, the current proposal adds a requirement to consider whether the revenue from a regulated entity constitutes a material portion of the revenues of the consolidated entity that employs the potential Public Investor Representative. We believe that both of these changes, particularly the first, are significant improvements on the July 2013 proposal.

¹ Americans for Financial Reform, “[Comment on MSRB Rule A-3 Proposal](#)”, August 14, 2013; AFSCME, “[Comment on Proposed Rule Change to Amend MSRB Rule A-3](#)”, August 14, 2013; Consumer Federation of America, “[Comment on File Number SR-MSRB-2013-06](#)”, August 14, 2013.

However, we continue to oppose the modification of Rule A-3 to permit individuals currently associated with entities that include MSRB-regulated subsidiaries to serve as independent public board members. In the case of the single Public Investor Representative, we believe that it should be possible for the MSRB to find a person qualified to represent investor interests without selecting an individual currently associated with a company that includes a regulated entity.

The justification given in the proposal for this change is that large mutual funds holding municipal bonds are generally part of a holding company that includes a regulated entity subsidiary, hence it is not possible to appoint a current trader for such a fund as a public member of the Board. However, both the 2012 GAO report on municipal market structure and the 2012 SEC report on the same topic specifically point out that the largest mutual funds and institutional investors are precisely the buy-side investors who currently have the *most* information regarding municipal bonds and suffer the *least* from transparency issues that the Board seeks to remedy with its current reform agenda.² Both reports highlight retail investors (and, presumably, smaller institutional investors) as the constituency that requires protection. In addition, as the MSRB Proposal states (p. 12), mutual funds currently hold less than 20% of outstanding municipal bonds, so a mutual fund trader is not representative of the typical market investor. Households remain the major investors in the market at more than 40%.

The Dodd-Frank Act established that the number of Public Representatives shall at all times exceed the number of Regulated Representatives. Specifically, the Dodd Frank Act mandated that the Board must have a majority of members who are “independent of any municipal securities broker, municipal securities dealer, or municipal advisor.” We continue to believe in the importance of this requirement and we continue to believe that permitting individuals employed by companies that include a regulated subsidiary would unacceptably undermine the clear intent of the Dodd-Frank Act.

In addition we do not believe that selecting a Public Investor Representative from a large institutional investor / major private fund is necessary to represent investor interests. As stated above, these entities are clearly not the investors currently most disadvantaged due to lack of transparency in the municipal market, nor do they represent the majority of investor holdings. As a result, we believe implementing this MSRB Proposal is both unnecessary to ensure adequate investor representation and would essentially undermine the Dodd-Frank requirement that the Board be majority independent.

Additionally, the MSRB Proposal seeks comment on whether the requirement that the MSRB publish the names of all Board applicants should be modified or removed. We would strongly support transparency in MSRB applications and strongly support continuing to publish the names of applicants. Permitting anonymous applications is likely to give rise to an impression, or strengthen an impression that may already exist, that the MSRB is dominated by industry insiders and does not welcome a broad range of membership. In our view, the interest of transparency of candidates for the MSRB Board outweighs any concerns that being named but

² See pp. 20-27, Government Accounting Office, “[Municipal Securities: Overview of Market Structure, Pricing, and Regulation](#)”, GAO 12-256, January 2012.; pp. 121-122, Securities and Exchange Commission, “[Report on the Municipal Securities Market](#)”, July 31, 2012.

not selected would deter eligible and qualified candidates from applying. We also note that the lists do not currently mention whether a candidate applied for a Public Representative or Regulated Representative. We believe it would be useful to know which seats the candidates applied for as well, including each of the three special categories for Public and regulated Representatives.

We appreciate the opportunity to share our views with the MSRB on this important issue. If you have any questions, or need additional information, please do not hesitate to contact John Keenan at AFSCME at jkeen@afscme.org or Marcus Stanley at Americans for Financial Reform at marcus@ourfinancialsecurity.org.

Sincerely,

American Federation of State, County and Municipal Employees

Americans for Financial Reform

Consumer Federation of America

