AFSCME
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August 14, 2013

Via Email
Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File No. SR-MSRB-2013-06, Notice of Filing of a Proposed Rule Change to Amend MSRB Rule A-3, on Membership on the Board, to Modify the Standard of Independence for Public Board Members

Dear Ms. Murphy:

The American Federation of State, County and Municipal Employees ("AFSCME") appreciates this opportunity to provide comments to the Securities and Exchange Commission ("SEC" or "Commission") in regard to SR-MSRB-2013-06 – Proposed Rule Change Consisting of Amendments to MSRB Rule A-3, on Membership on the Board, to Modify the Standard of Independence for Public Board Members (the "Notice").

In the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), Congress made major revisions to Section 15B(b)(1) of the Securities Exchange Act of 1934, which governs the composition of the Municipal Securities Rulemaking Board ("MSRB" or "Board"). 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" ("Public Members").

The public policy justification for this new mandate is both clear and pressing. In mandating this change, Congress was expressing its belief that a Board dominated by members associated with regulated entities would not be effective in protecting the public interest. Indeed, in the years prior to the financial crisis there were numerous and manifest abuses in municipal finance markets. These abuses led to the collapse of the auction rate securities market, criminal prosecution of major banks for bid-rigging in the municipal markets, numerous lawsuits involving the exploitative sales of derivatives to public entities and the Jefferson County bankruptcy. The change in the Board's membership was intended to make it a more effective watchdog in these troubled markets.

As an organization representing the interests of employees at the local and state levels, AFSCME has a special interest in protecting municipal issuers from exploitation at the hands of financial insiders. When public entities suffer financial losses, the typical result is tax increases or budget cuts to education, health care, public safety, infrastructure, and other vital public services, often those employing AFSCME

members. Thus, AFSCME strongly supports the Dodd-Frank changes designed to improve financial protections for municipal issuers. The change in MSRB membership to better represent the public interest is a major improvement in these protections.

It is therefore very disappointing to see that in this Notice the SEC proposes to drastically weaken the definition of 'Public Member' to include individuals who are currently employed by Wall Street banks and other financial entities with connections to the municipal market. Should the change proposed in the Notice be implemented, a current employee or director of an entity with a broker-dealer affiliate regulated by the Board would qualify as a 'Public Member' of the MSRB, so long as they were not actually currently employed by the regulated affiliate in question. For example, a current employee of JPMorgan Chase could qualify as a Public Member of the MSRB, simply because they were not currently employed by JPMorgan's municipal securities broker affiliate.

This change would make a mockery of the idea of a Public Member. In calling for a majority of Public Members, Congress clearly did not intend a Board dominated by employees of major banks and dealers with subsidiaries active in the municipal market, so long as those employees were not currently employed by the specific municipal subsidiary. Given the complexity of modern financial holding companies, which frequently have hundreds or even thousands of legal entities within the corporate structure, it will be impossible for the MSRB to fully police the relationships within a corporate entity.

The Notice offers no justification for this radical change beyond the difficulty of finding qualified Public Members. The Notice specifies that some potential Public Members employed by large institutional investors do not qualify under the current standard because these institutional investors have regulated municipal entities within the same corporate family. We strongly question the adequacy of the Board's outreach efforts if these outreach efforts have not yielded any qualified Public Members who do not have a current employment association with a municipal broker, dealer or advisor. Furthermore, the Dodd-Frank Act requires only a single Public Member to have a connection with an institutional investor, so the disqualification of some employees of institutional investors based on a connection with a regulated entity hardly justifies the radical change in the Public Member definition in this Notice.

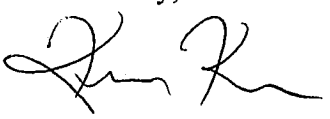
Furthermore, by permitting individuals associated with a regulated entity to qualify as Public Members, this change appears to violate the statutory language of the Dodd-Frank Act. Section 975(b) of the Dodd-Frank Act defines those MSRB members who are <u>not</u> Public Members as those "associated with a broker, dealer, municipal securities dealer, or municipal advisor". The fact that Congress specified that non-Public Members would be those associated with a broker or dealer clearly indicates that Congress did not intend for Public Members to be associated with a regulated entity.

In sum, the SEC should reject the change proposed in this Notice and maintain the current definition stipulating that a Public Member must be an individual who "has not been associated" with a municipal broker, dealer, or advisor within the past two years. The current definition is a reasonable and sensible definition of actual independence and complies with the

statutory requirement for a genuine Public Member majority on the Board. In contrast, the change proposed in this Notice would permit the Board to be dominated by members with financial interests in the Board's regulatory decisions, and would seriously undermine the Congressional intent of an independent Board.

We appreciate the opportunity to share our views with the Commission on this important issue. If you have any questions, or need additional information, please do not hesitate to contact John Keenan at (202) 429-1232.

Sincerely,



Kerry Korpi
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