

Introduction

Municipal securities are classified as debt securities that are issued by a state or local government or governmental entity, typically for public works projects. All municipal securities transactions conducted by the Firm shall be in accordance with all applicable federal, state, self-regulatory organization (SRO) rules and regulations. An appropriately designated supervisor of the Firm shall be responsible for ensuring proper supervision and compliance when engaging in the purchase, sale, or exchange of municipal securities as referenced herein.

17.01 General Standards of Qualification

In accordance with *MSRB Rule G-2*, the Firm shall not effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security unless the Firm and its registered representatives and associated persons possess all requisite licensing and qualifications.

It is the responsibility of the Firm's designated supervisor to ensure that each registered representative who sells or solicits or otherwise engages in a municipal securities is properly registered. This includes a successful completion of the General Securities Representative Examination (Series 7) and completion of any/all required apprenticeships (if applicable).

Municipal Securities Representative

Each registered representative of the Firm who wishes to engage in a municipal securities business shall take and pass the Municipal Securities Representative Qualification Examination (Series 52) prior to being qualified as a municipal securities representative. The responsibilities and tasks to be performed by a Municipal Securities Representative shall include one or more of the following:

- Underwriting, trading or sales of municipal securities;
- Financial advisory or consultant services for issuers in connection with the issuance of municipal securities;
- Research or investment advice with respect to municipal securities; or
- Any other activities which involve communication, directly or indirectly, with public investors in municipal securities

Municipal Securities Principal

Each registered representative of the Firm who wishes to manage, direct or supervise a municipal securities business shall take and pass the Municipal Securities Principal Qualification Examination (Series 53) prior to being qualified as a municipal securities principal. A Municipal Securities Principal shall be defined as any properly registered person who directly engages in the management, direction or supervision of one or more of the following activities:

- Underwriting, trading or sales of municipal securities;
- Financial advisory or consultant services for issuers in connection with the issuance of municipal securities;

- Processing, clearance, and, in the case of brokers, dealers and municipal securities dealers other than bank dealers, safekeeping of municipal securities;
- Research or investment advice with respect to municipal securities;
- any other activities which involve communication, directly or indirectly, with public investors in municipal securities;
- Maintenance of records regarding the aforementioned items;
- Training of municipal securities principals or municipal securities representatives.

Apprenticeship

Any person who first becomes associated with the Firm in a representative capacity (whether as a municipal securities representative, general securities representative or limited representative) without having previously qualified as a municipal securities representative, general securities representative or limited representative shall be permitted to function in a representative capacity for a period of at least 90 days following the date of employment provided, however, that such person shall not transact business with the Firm during such apprenticeship. However, the Firm acknowledges that prior experience, of at least 90 days, as a general securities representative, limited representative in government securities will meet the requirements of such apprenticeship.

Oversight of each registered representative under the 90 day apprenticeship is assigned to a designated principal. Each principal who is in charge of supervising each registered representative will be responsible for ensuring that all requirements of the apprenticeship are met. The Firm will clearly document the name and the date that all applicable supervisory duties were assumed by the designated supervisor responsible for each registered representative. ►►

Implementation Strategy

Upon employment of each registered representative who shall engage in municipal securities transactions, the designated municipal principal will directly supervise and monitor the actions of each registered representative during the apprenticeship period of ninety (90) days. All supervisory tasks and direct monitoring will be evidenced by maintaining apprenticeship records.

17.02 Suitability and New Accounts

Upon opening each new customer account, the Firm is required to obtain certain information in order to gauge the suitability of the customer. The Firm's registered representatives must have reasonable grounds when making recommendations to customers. The person making such a recommendation must use the following information as a general basis for believing that the recommendation is suitable.

The Firm's registered representatives who have customers who do not qualify, as an institutional client must make all reasonable efforts to obtain the following information:

- Customer financial status;
- Customer tax status;
- Customer investment objectives;
- Other information (considered reasonably useful for a firm or associated person to make a recommendation to a client).

Supervisory personnel should review the actions of their registered representatives on a regular basis. Principals who have been assigned oversight of registered representatives should review all transaction-based documents including, but not limited to the following information:

- Order tickets;
- Transaction reports;
- Commission runs.

These reviews should be done a regular basis to be reasonably designed to ensure proper supervision. The designated supervisor of the Firm is responsible for ensuring that proper books and records are maintained at all times. These requirements can vary depending on the specific type of securities activities conducted by the Firm. ►►

Implementation Strategy

On a periodic basis, the designated municipal principal will review all relevant documents such as order tickets, transaction reports, commission runs and other records relating to municipal transactions for suitability issues. All documents relating to municipal transactions shall be properly recorded as evidence of review.

Disclosure, Suitability and Pricing Rules in the Secondary Market

MSRB Rule G-17 provides that, in the conduct of its municipal securities activities, each dealer must deal fairly with all persons and may not engage in any deceptive, dishonest or unfair practice. The MSRB has interpreted its Rule G-17 to require a dealer, in connection with any transaction in municipal securities, to disclose to its customer, at or prior to the sale, all material facts about the transaction known by the dealer, as well as material facts about the security that are reasonably accessible to the market. This includes the obligation to give customers a complete description of the security, including a description of the features that likely would be considered significant by a reasonable investor and facts that are material to assessing the potential risks of the investment.

Such disclosures must be made at the “time of trade,” which the MSRB defines as at or before the point at which the investor and the dealer agree to make the trade. MSRB Rule G-17 applies to all sales of municipal securities, whether or not a transaction was recommended by a broker-dealer. This means that municipal securities dealers must disclose all information required to be disclosed by the rule even if the trade is self-directed.

MSRB Rule G-19 requires that a dealer that recommends a municipal securities transaction have reasonable grounds for believing that the recommendation is suitable for the customer based upon information available from the issuer of the security or otherwise and the facts disclosed by, or otherwise known about, the customer.

MSRB Rule G-30 requires that dealers trade with customers at prices that are fair and reasonable, taking into consideration all relevant factors. The MSRB has stated that the concept of a “fair and reasonable” price includes the concept that the price must “bear a reasonable relationship to the prevailing market price of the security.” The impetus for the MSRB’s Real-time Transaction Reporting System (RTRS), which was implemented in January 2005, was to allow market participants to monitor market price levels on a real time basis and thus assist them in identifying changes in market prices that may have been caused by news or market events. The MSRB now makes the transaction data reported to RTRS available to the public through EMMA.

In meeting these disclosure, suitability and pricing obligations, firms must take into account all material information that is known to the firm or that is available through “established industry sources,” including official statements, continuing disclosures and trade data, much of which is now available through EMMA. Resources outside of EMMA may include press releases, research reports and other data provided by

independent sources. Established industry sources can also include material event notices and other data filed with former nationally recognized municipal securities information repositories (NRMSIRs) before July 1, 2009.

Before selling any municipal security, dealers should make sure that they fully understand the security they are selling in order to make adequate disclosure to customers under MSRB Rule G-17, to ensure that recommendations are suitable under MSRB Rule G-19, and to ensure that they are fairly priced under MSRB Rule G-30.

Among other things, dealers should ask and be able to answer the following questions:

- What are the security's key terms and features and structural characteristics, including but not limited to its issuer, source of funding (e.g., general obligation or revenue bond), repayment priority, and scheduled repayment rate? Much of this information will be in the Official Statement, which for many municipal securities can be obtained by entering the CUSIP number in the MuniSearch box at www.emma.msrb.org. Be aware, however, data in the Official Statement may have been superseded by the issuer's on-going disclosures.
- Does information available through EMMA or other established industry sources indicate that an issuer is delinquent in its material event notice and other continuing disclosure filings? Delinquencies should be viewed as a red flag.
- What other public material information about the security or its issuer is available through established industry sources other than EMMA?
- What is the security's rating? Has the issuer recently been downgraded? Has the issuer filed any recent default or other event notices, or has any other information become available through established industry sources that might call into question whether the published rating has been revised to take such event into consideration?
- Is the security insured, or does it benefit from liquidity support, a letter of credit or is it otherwise supported by a third party? If so, check the credit rating of the insurer or other backing, and the security's underlying rating (without third party support). If supported by a third party, review the terms and conditions under which the third party support may terminate.
- How is it priced? Be aware that a municipal security can be priced above or below its par value for many reasons, including changes in the creditworthiness of the issuer and prevailing interest rates.
- How and when will interest on the security be paid? For example most municipal bonds pay semiannually, but zero coupon municipal bonds pay all interest at the time the bond matures. Variable rate bonds typically will pay interest more frequently, usually on a monthly basis in variable amounts.
- What is the security's tax status, under both state and federal laws? Is it subject to the Federal Alternate Minimum Tax? Is it fully taxable (e.g., Build America Bonds)?
- What are its call provisions? Call provisions allow the issuer to retire the security before it matures. How would a call affect expected future income? (Ref. Notice 10-41; issued September 2010)

17.03 Municipal Securities Trading Activities

Trading practices and rules of the MSRB closely mirror those of the NASD and SEC. Some of the most common trading issues involve quotations; fair pricing; mark-ups and mark-downs; commissions; trade reporting; inventory positions; errors; and cancels and re-bills. The following is a summary of some of these common trading issues:

Quotation Requirements

The Firm's municipal bond quotations shall be representative of a trader's best judgment of the fair market value in correspondence with the estimated market movement and the Firm's long position in the security. If written quotations are distributed outside the Firm, a record is to be

maintained by the designated principal or compliance officer. The information retained must at least contain the quotation, the date of quotation, and the person giving the quotation. In addition to quotations, traders are responsible to obtain a fair and reasonable price for the customer in relation to market movement and the prevailing market price.

Best Execution Requirements

In accordance with *MSRB Rule G-18*, when executing a transaction in municipal securities for or on behalf of a customer as agent, the Firm shall make a reasonable effort to obtain a price for the customer that is fair and reasonable in relation to prevailing market conditions. A broker, dealer or municipal securities dealer acting as a "broker's broker" shall be under the same obligation with respect to the execution of a transaction in municipal securities for or on behalf of a broker, dealer, or municipal securities dealer.

Mark-ups and mark-downs

In accordance with *MSRB Rule G-30(a)* involving *principal transactions*, the Firm will only purchase municipal securities for its own account from a customer or sell municipal securities for its own account to a customer at an aggregate price (including any mark-down or mark-up) that is fair and reasonable, taking into consideration all relevant factors, including the best judgment as to the fair market value of the securities at the time of the transaction and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer, or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction.

When a firm executes a trade from their proprietary trading account, the Firm will add a markup or markdown depending on the price of the transaction. The Firm allows a maximum mark-up/down of 3 points on municipal securities transactions assuming this amount covers the minimum ticket charge. The designated supervisor of the Firm must review for excessive markups or markdowns on all municipal trades by registered representatives. In the event of an excessive markup/down, the trade in question should be canceled and re-billed as at the appropriate level.

Implementation Strategy

On a regular basis, the designated principal will be responsible for reviewing trade blotters to ensure that mark-ups and markdowns are within the Firm's 3 point maximum guideline (assuming amount covers minimum ticket charge). Records will be properly documented as evidence of review.

Commissions for Agency Transactions

In accordance with *MSRB Rule G-30(b)* involving *agency transactions*, the Firm shall only purchase or sell municipal securities as agent for a customer for a commission or service charge that shall be considered a fair and reasonable amount, taking into consideration all relevant factors, including the availability of the securities involved in the transaction, the expense of executing or filling the customer's order, the value of the services rendered by the broker, dealer or municipal securities dealer, and the amount of any other compensation received or to be received by the broker, dealer, or municipal securities dealer in connection with the transaction. The Firm allows a maximum commission of 3 percent on municipal securities transactions assuming this amount covers the minimum ticket charge. In the event of an excessive commission, the trade in question should be canceled and re-billed at the appropriate level.

Implementation Strategy

On a regular basis, the designated principal will be responsible for reviewing trade blotters to ensure that all applicable commissions are within the Firm's 3 percent

maximum guideline (assuming amount covers minimum ticket charge). Records will be properly documented as evidence of review.

Error Accounts

Error accounts are used for customer accounts in which errors have occurred during the trade day. All accounts with errors should be resolved by the end of the trade day and no positions should remain in the error account overnight. Any cancel and re-bills will be included on the error statement, which shall be reviewed by the designated principal.

Record Maintenance

The trading department is also responsible for maintaining a record of orders in municipal securities that complies with *MSRB Rule G-8*. The designated supervisor of the Firm is responsible for conducting a review of the Firm's transactions. ►►

Implementation Strategy

The Firm's designated municipal principal will ensure that the Firm is maintaining a memorandum of each transaction containing all requisite information including the terms and conditions of the order, the account for which entered, the date and time of receipt of the order, the price at which executed, the date of execution and the time of execution by reviewing order tickets on a frequency of no less than once a quarter.

17.04 Transaction Reporting

Transactions reported to the MSRB under Rule G-14 are made available to FINRA and other regulators for their market surveillance and enforcement activities. The MSRB also makes public the price information on municipal securities transactions using data reported by broker/dealers. One product is the Daily Report of Frequently Traded Securities ("Daily Report") that is made available to subscribers each morning by 7:00 am. This report includes details of transactions in municipal securities issues that were "frequently traded" the previous business day. The Daily Report is one of the primary public sources of municipal securities price information and is used by a variety of industry participants to evaluate municipal securities.

Broker/dealers can monitor their municipal transaction reporting compliance in several ways. For customer and inter-dealer transaction reporting, the MSRB Dealer Feedback System ("DFS") provides monthly statistical information on transactions reported by a dealer to the MSRB and information about individual transactions reported by a broker/dealer to the MSRB. The DFS allows all firms that are registered with the MSRB and that report transactions in municipal securities to access statistics that measure their compliance with inter-dealer and/or customer transaction reporting requirements. This is an important tool for firms that clear or effect transactions in municipal securities to access the information available to them from the DFS on a regular basis as part of a comprehensive municipal compliance program.

For daily feedback on customer trades reported, the MSRB provides dealers a "customer report edit register" on the day after trades were submitted. This product indicates trades successfully submitted and those that contained errors or possible errors. For inter-dealer transactions, National Securities Clearing Corporation ("NSCC") provides to its members daily files, sometimes called "contract sheets," that can be used to check the content and status of the transactions the member has submitted.

Customer Transactions

In accordance with MSRB Rule G-14, broker/dealers that engage in municipal securities transactions with customers are required to submit accurate and complete trade information to the MSRB by midnight of trade date. MSRB customer transaction reporting requirements include the reporting of time of trade and the broker/dealer's EBS for each trade. The DFS provides broker/dealers with performance statistics for customer trade reporting which include Ineligible, Late; Amended; and Invalid Time of Trade.

Inter-Dealer Transactions

The DFS provides broker/dealers with statistical measures of compliance with some important aspects of MSRB Rules G-12 and G-14. The statistics available for inter-dealer trades include Late or Stamped; Invalid Time of Trade; Uncompared Input; Compared but Deleted or Withheld; and Executing Broker Symbol (EBS) Statistics. ►►

Implementation Strategy

The Firm's designated municipal principal will ensure that the Firm is accurately reporting customer and inter-dealer municipal securities transactions in a timely manner by reviewing trade affirmation emails received from the MSRB and/or reports received from the clearing firm on a frequency of no less than once a quarter. The Firm will provide regular monitoring of its transaction activity so as to avoid submitting trade reports that do not accurately represent trades conducted on behalf of the Firm or other relevant transaction-related problems. Moreover, the Firm will follow-up on inter-dealer trade submissions that do not compare in the initial trade cycle.

17.05 Books and Records Requirements

Pursuant to *MSRB Rule G-8 and G-9*, the Firm is required to maintain and preserve certain books and records that apply to the Firm's municipal securities business. *MSRB Rule G-8* mandates the information needed to be retained and *MSRB Rule G-9* mandates the length of time that a firm's books and records must be kept. Firms are generally required to keep records between three to six (6) years, and in some cases for the life of the company. Furthermore, *MSRB Rule G-9* also stipulates that certain documents must be kept at convenient and accessible location for a designated period of time prior to being transferred to a more remote storage location.

MSRB Rule G-8

In accordance with *MSRB Rule G-8*, the Firm shall create, maintain and update the following books and records to the extent necessary and applicable to the Firm's municipal securities business:

- Records of Original Entry;
- Account Records;
- Securities Records;
- Ledgers or other subsidiary records;
- Put Options and Repurchase Agreements;
- Records for Agency Transactions;

- Records for Principal Transactions;
- Records of Syndicate Transactions;
- Copies of Confirmations and Periodic Statements;
- Financial Records;
- Customer Account Information;
- Customer Complaints;
- Records Concerning Deliveries of Official Statements;
- Designation of Persons Responsible for Record keeping;
- Records Concerning Delivery of Official Statements, Advance Refunding Documents and Forms G-36(OS) and G-36(ARD) to the Board or its Designee;
- Records Concerning Political Contributions and Prohibitions on Municipal Securities Business Pursuant to *MSRB Rule G-37*;
- Records Concerning Compliance with *MSRB Rule G-20*;
- Records Concerning Consultants Pursuant to *MSRB Rule G-38*;
- Telemarketing Requirements;
- Records Concerning Compliance with *MSRB Rule G-27*;

MSRB Rule G-9

In accordance with *MSRB Rule G-9*, the Firm shall preserve the following books and records to the extent necessary and applicable to the Firm's municipal securities business:

Records to be Preserved for three (3) Years

- Subsidiary records;
- Records of put options and repurchase agreements;
- Records relating to agency transactions;
- Records of transactions as principal;
- Copies of confirmations and other notices;
- Other relevant records in connection with the Firm's business
- Fingerprint records;
- All records of deliveries of rule G-32 disclosures;
- Each advertisement from the date of each use;

Records to be Preserved for Six (6) Years

- Records of original entry;
- Customer account records;
- Securities records;
- Records of syndicate transactions;
- Customer complaint records;
- General ledgers;
- Records of all designated supervisors of the Firm's municipal securities business;
- Copies of Forms G-37x;
- Records regarding information on gifts and gratuities and employment agreements;

Records to be Preserved for the Life of the Firm

- All partnership articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books.

Methods of Record Retention

All records to be preserved by the Firm may be retained either as an original or as a copy or other reproduction thereof, or on microfilm, electronic or magnetic tape, or authorized form provided that the Firm shall have available adequate facilities for ready retrieval and inspection of any such record and for production of easily readable facsimile copies. In the case of those records retained on microfilm, electronic or magnetic tape, or other similar form of record retention, duplicates of such records shall be stored separately from each other for the periods of time as specified above. ►►

Implementation Strategy

The designated municipal principal will review all relevant documents and other records relating to municipal transactions within each quarterly period. All reviewed transactions and other records relating to municipal securities shall be documented as evidence of review.

Note: The Firm shall be responsible for ensuring that every branch office has a current printed copy or electronic version (see www.msrb.org) of all applicable MSRB Rules for research and reference purposes.

17.06 Customer Confirmations

Customer Confirmations

When conducting a municipal securities business for customers, the Firm is required to disclose certain information and make such information readily available upon request. *MSRB Rule G-15* governs the type of information that a broker/dealer must disclose to the customer and within what time frame. Additionally, In accordance with *SEC Rule 15c1-6*, firms that are involved in primary or secondary distributions of municipal securities must make additional required

disclosures to its clients. Disclosures must be made on or with the customer confirmations following the transaction in such municipal securities.

17.07 Advertising and Sales Literature

In accordance with *MSRB Rule G-21*, the Firm is required to maintain specific requirements for municipal securities advertising. The designated supervisor of the Firm must approve all advertisements that relate to municipal securities. *MSRB Rule G-21* requires that advertisements:

- Disclose the basis of the yield when such a yield is included;
- Disclose the subjectivity of a bond to any alternative minimum tax;
- Refrain from the use of any information that may be materially false or misleading; and
- Disclose the possibility of a difference between the syndicate price/yield and any price/yield listed in the advertisement.

Review by Principal

Each advertisement to be submitted by the Firm must be approved in writing by the Firm's designated municipal securities principal or general securities principal prior to first use. The Firm shall create and maintain all such advertisements in a separate file to be updated as needed.

17.08 General Requirements

Delivery of Documents

When delivering official documents the Firm should ensure that they meet all minimum requirements outlined in *MSRB Rule G-32*. The minimum requirements are as follows:

- Provide a preliminary official statement within one business day from the date of request by such prompt means as necessary;
- Within seven business days of signing the final agreement the Firm will sign a contract with the issuer to receive a sufficient number of copies of the final agreement which will be provided with the customer confirmation;
- Provide a final official statement to all purchasers of a new issue by settlement day;
- Provide a preliminary official statement in lieu of a final official statement (if none exists) to all purchasers of a new issue by settlement day and disclose that a final official statement is being prepared; and
- Promptly provide a final official statement upon request to a potential client.

Fidelity Bond Requirement

As a municipal broker/dealer, the Firm shall meet all fidelity bonding requirements in accordance with *MSRB Rule G-6 and FINRA Rule 4360*. The designated supervisor of the Firm shall be responsible for the continued supervision and maintenance of the fidelity bond as well as verifying the required amount for adequate coverage based on the Firm's needs.

Disclosure of Control Relationships

Control relationships exist when a firm controls or is controlled by an issuer of a municipal security. In situations where such a relationship exists, the Firm is required to provide disclosure

of such a relationship to any member who effects a transaction in the subject securities. Disclosure must be made prior to the transaction in writing and in the case of new issues must be made in the official statement.

Prohibited Activities

The Firm's registered representatives and associated personnel are prohibited from soliciting transactions for municipal securities in investment company accounts in return for sales of shares in the investment company. Firms are also prohibited from using information obtained from customers for purposes of soliciting transactions in municipal securities and or using such information for financial gain.

Sales to Employees of Other Dealers

MSRB Rule G-28 has been amended to exempt transactions in municipal fund securities from the requirement that a dealer opening an account for another dealer's employee (or a spouse or child of the employee) provide notice to the other dealer and follow the other dealer's instructions with respect to transactions for the employee (or spouse or child).

17.09 **Syndicate Member**

If the event that the Firm participates in municipal securities underwriting, it may act as a syndicate member. In accordance with *MSRB Rule G-11*, firms must ensure that they maintain compliance to certain regulatory provisions when submitting orders. Each firm must ensure that they:

- Disclose the identity of the person(s) for whom the order(s) are submitted (group orders); and
- Upon request, provide written disclosure of priority of orders, order periods, and changes in priority status.

For each municipal underwriting that the Firm participates in, the Firm is also required to keep certain records. At a minimum, the Firm should retain and preserve the following documentation:

- Due diligence file of all documents researched and reviewed (*SEC Rule 15c2-12*);
- Documentation of the Firm's activities;
- Documentation of the Firm's activities as a senior managing underwriter;
- Copies of the underwriting agreement;
- Copies of documentation with the issuer;
- A blotter of securities sold to customers;
- A blotter of delivery of official statements including to whom and date delivered. ►►

Implementation Strategy

The Firm does not act as underwriter (or managing underwriter of a syndicate) in a primary offering of a municipal security.

17.10 **Political Contributions**

Due to the nature of the municipal securities market, the Firm's registered representatives and associated persons are restricted from conducting certain business activities. *MSRB Rule G-37* details the requirements involving political contributions for MSRB member firms. The rule does not restrict the political contributions of firms, however; it does limit their ability to conduct business after making such a contribution. Firms that make political contributions are prohibited from engaging in municipals business

with any issuer where such contributions are made. Such restrictions apply to a firm and its registered representatives and associate persons who may make political contributions. This prohibition also includes solicitations by associated persons to their family and friends to make political contributions.

Certain exemptions are considered for contributions not exceeding \$250.00 within a one year time period and that does not use the Firm's assets or supplies. However, regardless of exemption, the designated supervisor of the Firm must approve all political contributions. The compliance department must also ensure that they have approved and documented all requests for volunteer work associated with political campaigns.

Filing Official Statements

The MSRB requires that all MSRB member firms file official statements within the prescribed time periods. Firms are required to file all documentation within such time periods pursuant to *MSRB Rule G-36*. Firms should ensure that such documents are sent by a format that provides written receipt of sending and delivering the documentation to the MSRB and evidence all submissions.

MSRB Rule G-37 Reporting

In accordance with *MSRB Rule G-37*, the Firm is responsible for filing a quarterly report with the MSRB within thirty (30) days of the end of a calendar quarter. Firms should ensure that such documents are sent in a format that provides written receipt of sending and delivering the documentation to the MSRB and evidencing all submissions. ►►

Implementation Strategy

On a quarterly basis, the designated municipal principal will review each Form G-37/G-38 for proper completion. In the event that (1) reportable political contributions or payments to political parties were made; (2) the dealer engaged in municipal securities business; or (3) the dealer used consultants to obtain or retain municipal securities business, the review shall occur within 30 calendar days after the end of each calendar quarter. The designated principal will initial each Form G-37/G-38 as evidence of review.

Political Contributions-- SEC Approves FINRA "Pay-To-Play" and Related Rules

In July 2010, the SEC adopted Rule 206(4)-5 under the Investment Advisers Act of 1940 (Advisers Act) addressing pay-to-play practices by investment advisers (the SEC Pay-to-Play Rule). The SEC Pay-to-Play Rule prohibits, in part, an investment adviser and its covered associates from providing or agreeing to provide, directly or indirectly, payment to any person to solicit a government entity for investment advisory services on behalf of the investment adviser unless the person is a "regulated person." The SEC Pay-to-Play Rule defines a "regulated person" to include a member firm, provided that: (a) FINRA rules prohibit member firms from engaging in distribution or solicitation activities if certain political contributions have been made; and (b) the SEC, by order, finds that such rules impose substantially equivalent or more stringent restrictions on member firms than the SEC Pay-to-Play Rule imposes on investment advisers and that such rules are consistent with the objectives of the SEC Pay-to-Play Rule.

Based on this regulatory framework, FINRA Rule 2030 is modeled after the SEC Pay-to-Play Rule, and imposes restrictions on member firms engaging in distribution or solicitation activities that are substantially equivalent to those imposed on investment advisers by the SEC Pay-to-Play Rule. On September 20, 2016, the SEC, by order, found that FINRA Rule 2030 imposes substantially equivalent or more stringent restrictions on members firms than the SEC Pay-to-Play Rule imposes on investment advisers and is consistent with the objectives of the SEC Pay-to-Play Rule. Furthermore, FINRA Rule 4580 imposes recordkeeping requirements on member firms in connection with political contributions.

Rules 2030 and 4580 establish a comprehensive regime to regulate the activities of member firms that engage in distribution or solicitation activities with government entities on behalf of investment advisers. These rules enable member firms to continue to engage in distribution and solicitation activities with government entities on behalf of investment advisers while at the same time deterring member firms from engaging in pay-to-play practices.

Two-Year Time Out

Rule 2030(a) prohibits a covered member from engaging in distribution or solicitation activities for compensation with a government entity on behalf of an investment adviser that provides or is seeking to provide investment advisory services to such government entity within two years after a contribution to an official of the government entity is made by the covered member or a covered associate (including a person who becomes a covered associate within two years after the contribution is made).

Prohibition on Soliciting and Coordinating Contributions

Rule 2030(b) prohibits a covered member or covered associate from soliciting or coordinating any person or PAC to make any:

- contribution to an official of a government entity in respect of which the covered member is engaging in, or seeking to engage in, distribution or solicitation activities on behalf of an investment adviser; or
- payment to a political party of a state or locality of a government entity with which the covered member is engaging in, or seeking to engage in, distribution or solicitation activities on behalf of an investment adviser.

Prohibition on Indirect Contributions or Solicitations

Rule 2030(e) provides that it shall be a violation of Rule 2030 for any covered member or any of its covered associates to do anything indirectly that, if done directly, would result in a violation of the rule. This provision prevents a covered member or its covered associates from funneling payments through third parties, including, for example, consultants, attorneys, family members, friends or companies affiliated with the covered member as a means to circumvent the rule. In addition, Rule 2030(e) requires a showing of intent to circumvent the rule in order for such persons to trigger the two-year time out.

Prohibitions as Applied to Covered Investment Pools

Rule 2030(d)(1) provides that a covered member that engages in distribution or solicitation activities with a government entity on behalf of a covered investment pool in which a government entity invests or is solicited to invest shall be treated as though the covered member was engaging in or seeking to engage in distribution or solicitation activities with the government entity on behalf of the investment adviser to the covered investment pool directly. Rule 2030(d)(2) provides that an investment adviser to a covered investment pool in which a government entity invests or is solicited to invest shall be treated as though that investment adviser were providing or seeking to provide investment advisory services directly to the government entity.

Exceptions and Exemptions

Rule 2030(c) contains exceptions for de minimis contributions, new covered associates and returned contributions. In addition, Rule 2030(f) includes an exemptive provision for covered members that allows covered members to apply to FINRA for an exemption from the rule's two-year time out. Under this provision, FINRA may exempt covered members from the rule's time out requirement where the covered member discovers contributions that would trigger the compensation ban after they have been made, and when imposition of the prohibition would be unnecessary to achieve the rule's intended purpose. This provision provides covered members with an additional avenue by which to

seek to cure the consequences of an inadvertent violation by the covered member or its covered associates that falls outside the limits of one of the rule's exceptions. In determining whether to grant an exemption, FINRA will take into account the varying facts and circumstances that each application presents.

Recordkeeping Requirements

Rule 4580 requires covered members that engage in distribution or solicitation activities with a government entity on behalf of any investment adviser that provides or is seeking to provide investment advisory services to such government entity to maintain books and records that will allow FINRA to examine for compliance with Rule 2030. The rule requires covered members to maintain a list or other record of:

- the names, titles and business and residence addresses of all covered associates;
- the name and business address of each investment adviser on behalf of which the covered member has engaged in distribution or solicitation activities with a government entity within the past five years (but not prior to the rule's effective date);
- the name and business address of all government entities with which the covered member has engaged in distribution or solicitation activities for compensation on behalf of an investment adviser, or which are or were investors in any covered investment pool on behalf of which the covered member has engaged in distribution or solicitation activities with the government entity on behalf of the investment adviser to the covered investment pool, within the past five years (but not prior to the rule's effective date); and
- all direct or indirect contributions made by the covered member or any of its covered associates to an official of a government entity, or direct or indirect payments to a political party of a state or political subdivision thereof, or to a PAC. (Regulatory Notice 16-40; Effective date August 20, 2017)

17.11 Use of Consultants

As an MSRB member firm, the Firm may employ consultants to obtain municipal securities business. In accordance with *MSRB Rule G-38*, the Firm will review all applicable rules to ensure overall compliance when hiring a consultant.

In the event that the Firm engages a consultant for municipal securities business activities, a written consulting agreement must be used that includes certain information such as the consultant name; company name; role of the consultant; and compensation agreement. In addition, the consulting agreement shall include a statement that the consultant agrees to provide the Firm with a list by contributor category, in writing, of any reportable political contributions and any reportable political party payments during each calendar quarter made by the following:

- The consultant;
- If the consultant is not an individual, any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the Firm;
- Any political action committee controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the Firm.

If the Firm uses a consultant, the Firm must provide written disclosure on the use of the consultant to the issuer with which they are conducting business or seeking to conduct business. Additionally, the Firm must disclose to the MSRB any use of municipal securities consultants on a quarterly basis. Such

disclosures must be made on the *MSRB Form G-37/G-38* and filed within thirty (30) days following the end of a calendar.

Specific Books and Records Requirements

In accordance with *MSRB Rule G-8 and G-9*, the Firm required to retain and preserve the following documents and records:

- Detail of remunerations received for each consultant;
- List of consultants as mentioned above;
- Total amount paid out during the period reported;
- Written agreements or letters of engagement with consultant;
- Method of computation of consultant fees (for non-flat fee basis);
- Reimbursements of expenses incurred by the consultant;
- Amount paid for municipal securities businesses;
- Record of municipal securities business acquired through the consultant's services;
- List of disclosures made to each issuer;
- Termination date of consultant agreement. ►►

Implementation Strategy

On a quarterly basis, the designated municipal principal will review each Form G-37/G-38 for proper completion. In the event that (1) reportable political contributions or payments to political parties were made; (2) the dealer engaged in municipal securities business; or (3) the dealer used consultants to obtain or retain municipal securities business, the review shall occur within thirty (30) calendar days after the end of each calendar quarter. The designated principal will initial each Form G-37/G-38 as evidence of review.

17.12 529 College Savings Plans

Section 529 College Savings Plans are considered higher education savings plan trusts established under Section 529(b) of the Internal Revenue Code as "qualified tuition programs." Individuals may make investments within these plans for the purpose of accumulating savings for qualifying higher education costs of beneficiaries. The plans include interests in pooled investment funds under trusts established by states or local governmental entities, as well as higher education savings plan trusts established by states and they have investment features similar to that of mutual funds or variable annuity products.

Qualification Requirements for 529 Plans

On September 30, 2002, the Municipal Securities Rulemaking Board (MSRB) filed a proposed rule change with the Securities and Exchange Commission for the MSRB's new Municipal Fund Securities Limited Principal Qualification Examination (Series 51), as well as an amendment to Rule G-3, on professional qualifications. Administration of the new Series 51 examination began on January 2, 2003. This new exam requirement does not apply to individuals who are functioning as municipal securities principals or general securities sales supervisors, and who have passed either the Municipal Securities Principal Examination (Series 53) or the General Securities Sales Supervisors Examination (Series 8 or Series 9/10).

MSRB Rule G-3 has been amended to provide that an investment company/variable contracts limited representative (Series 6) satisfies the MSRB qualification standard for sales of Municipal Fund Securities. If, however, a representative sells both Municipal Fund Securities and other types of municipal securities, the registered representative must qualify as a municipal securities representative (Series 52) or a general securities representative (Series 7).

Series 51 Registration Procedures

An application must be submitted to FINRA in order to register an individual as a Municipal Fund Securities Limited Principal. For persons already registered in one of the prerequisite categories (Series 24 or Series 26), the Firm will submit page one of Form U-4 requesting Municipal Fund Securities Principal (FP) registration. For new employees, the Firm must submit a full Form U-4 application requesting all necessary registrations and any other documents required for registration.

Delivery of Official Statements

All firms acting as underwriters in primary offerings of Municipal Fund Securities are subject to the requirements of *MSRB G-36* unless such primary offering falls within one of the exemptions stated in *SEC Rule 15c2-12*.

17.13 Disclosures to Customers

Disclosures in Connection with New Issues

In accordance with *MSRB Rule G-32*, all municipal fund securities sold in a primary offering are considered new issue municipal securities, as long as the underwriting period continues. Any firm effecting transactions in Municipal Fund Securities that are sold during a continuous underwriting period would be required to deliver to the customer the official statement by settlement of each such transaction. If the customer is a repeat purchaser of the securities, no new delivery of the official statement would be required, as long as the customer already received the official statement in connection with a previous purchase and the official statement has not been amended since the customer received it. ►►

Implementation Strategy

On an ongoing basis, the designated supervisor will review all relevant municipal documentation to ensure that the Firm, upon the sale of any new issue municipal security, delivers to its customers the following information no later than the settlement of the transaction:

- A copy of the official statement in final form prepared by or on behalf of the issuer;
- in connection with a negotiated sale of new issue municipal securities, (i) the underwriting spread; (ii) the amount of any fee received by the broker, dealer or municipal securities dealer as agent for the issuer in the distribution of the securities; (iii) the initial offering price for each maturity in an issue that is offered or to be offered in whole or in part by the underwriters, including maturities that are not reoffered (except with respect to an issue of municipal fund securities.).

17.14 Advertising and Sales Literature

Advertising & Sales Material for Municipal Fund Securities

Because municipal fund securities (529 Plans, etc.) also represent municipal securities regulated by the Municipal Securities Rulemaking Board, sales material for municipal fund securities must comply with MSRB Rules G-17 and G-21, as well as all other applicable MSRB rules. To the extent that SEC or FINRA advertising rules impose additional specific requirements, the Firm shall adhere to them (Please see Advertising and Sales Literature Section herein for further details).

Professional Advertisements

The Firm shall not publish any advertisement regarding the Firm's facilities, services and/or or skills with respect to municipal securities, or of another broker, dealer, or municipal securities dealer, that is materially false or misleading.

Product Advertisements

The Firm shall not publish any advertisement concerning municipal securities in which the Firm knows or has reason to know is materially false or misleading.

New Issue Advertisements

All advertisements for new issue municipal securities shall also be subject to the following requirements:

- Accuracy at Time of Sale- a syndicate or syndicate member which publishes any advertisement regarding the offering by the syndicate of a new issue of municipal securities, or any part thereof, may show the initial reoffering prices or yields for the securities, even if the price or yield for a maturity or maturities may have changed, provided that the advertisement contains the date of sale of the securities by the issuer to the syndicate. In the event that the prices or yields shown in a new issue advertisement are other than the initial reoffering prices or yields, such an advertisement must show the prices or yields of the securities as of the time the advertisement is submitted for publication.
- Accuracy at Time of Publication- each advertisement relating to a new issue of municipal securities shall also indicate, if applicable, that the securities shown as available from the syndicate may no longer be available from the syndicate at the time of publication or may be available from the syndicate at a price or yield different from that shown in the advertisement. ►►

Implementation Strategy

On an ongoing basis, the designated municipal principal will review all relevant municipal securities advertisement and/or sales literature subject to the requirements of this rule and will approve such materials in writing by initialing prior to first use. All relevant municipal books and records will be maintained.

17.15 Customer Complaints (MSRB Rule G-10)

In accordance with MSRB G-10, each broker, dealer and municipal securities dealer shall deliver a copy of the investor brochure to a customer promptly upon receipt of a complaint by the customer. The MSRB Information for Municipal Securities Investors ("Investor Brochure") is a publication that describes the MSRB's rulemaking jurisdiction, basic investor protection rules, procedures for handling complaints and the availability of arbitration. A broker-dealer that receives a written complaint from an investor regarding a transaction in municipal securities is required by MSRB rules to deliver the investor brochure to the investor. ►►

Implementation Strategy

In the event of the municipal securities related customer complaint (as defined by G-8(a)(xii)), the Firm's designated municipal principal will ensure that the Firm promptly delivers or otherwise discloses to the complainant a copy of the Investor Brochure within 24 hours of receiving such complaint . The Firm will

provide regular monitoring of its correspondence so as to ensure that such monitoring is reasonable to detect a customer complaint.

17.16 Annual Review of Written Supervisory Procedures (MSRB Rule G-27)

MSRB Rule G-27 requires that a firm's supervisory procedures provide for the regular and frequent review and approval by a designated principal of customer accounts introduced or carried by the dealer in which transactions in municipal securities are effected, with such review being designed to ensure that transactions are in accordance with all applicable rules and to detect and prevent irregularities and abuses. ►►

Implementation Strategy

The designated municipal principal will periodically review the MSRB rules and regulations to ensure that all relevant sections of this Manual, as they pertain to municipal securities, will be appropriately updated as and when appropriate. Such review will be conducted no less than annually.

17.17 Firm Notifications Pursuant to SEC Rule 15c2-12

Pursuant to *SEC Rule 15c2-12(c)* of the *Securities Exchange Act of 1934*, all firms recommending municipal securities must have procedures in place to provide reasonable assurances that the Firm will receive prompt notice of certain events. Such notification shall be provided for all material events and/or changes in financial information regarding a municipal security recommended or sold by the Firm.

Securities Exchange Act Rule 15c2-12 requires underwriters participating in municipal securities offerings that are subject to that rule to receive, review, and distribute official statements of issuers of primary municipal securities offerings, and prohibits underwriters from purchasing or selling municipal securities covered by the rule unless they have first reasonably determined that the issuer or an obligated person has contractually agreed to make certain continuing disclosures to the MSRB, including certain financial information and notice of certain events. The MSRB makes such disclosure public via EMMA.

Financial information to be disclosed under the rule consists of the following:

- annual financial information updating the financial information in the official statement;
- audited financial statements, if available and not included within the annual financial information; and
- notices of failure to provide such financial information on a timely basis.

Currently, the rule enumerates the following as notice events, if material:

- principal and interest payment delinquencies;
- non-payment related defaults;
- unscheduled draws on debt service reserves reflecting financial difficulties;
- unscheduled draws on credit enhancements reflecting financial difficulties;
- substitution of credit or liquidity providers or their failure to perform;
- adverse tax opinions or events affecting the tax-exempt status of the security;
- modifications to rights of security holders;
- bond calls;
- defeasances;
- release, substitution or sale of property securing repayment of the securities; and
- rating changes

SEC Rule 15c2-12(c) also prohibits any dealer from recommending the purchase or sale of a municipal security unless it has procedures in place that provide reasonable assurance that it will receive prompt notice of any event notice reported pursuant to the rule. Firms should review any applicable continuing disclosures made available through EMMA and other established industry sources and take such disclosures into account in undertaking its suitability and pricing determinations.

On May 26, 2010, the SEC amended the rule's disclosure obligations, with a compliance date of December 1, 2010, to: (1) apply continuing disclosure requirements to new primary offerings of certain variable rate demand obligations; (2) add four new notice events; (3) remove the materiality standard for certain notice events; and (4) require that event notices be filed in a timely manner but no later than 10 business days after their occurrence. With respect to the tax status of the security, the rule has been broadened to require disclosure of adverse tax opinions, issuance by the IRS of proposed or final determinations of taxability and other material notices, and determinations or events affecting the tax status of the bonds (including a Notice of Proposed Issue). Firms that deal in municipal securities should familiarize themselves with these amendments, and, if necessary, modify their policies and procedures to incorporate this additional disclosure accordingly.

The designated principal shall immediately notify all registered personnel via phone, e-mail, fax, or other format any time there is a material change in the information described above for a security that is being recommended. Notification and disbursement of such information shall be evidence, maintained, and preserved according to *SEC Rule 17a-3 and 17a-4*.

Should a registered representative become aware of a change and/or considered change of the issuer's rating or due to a material event reportable by a NRMSIR, the registered representative will immediately notify the designated principal. Such information shall be taken into consideration in any anticipated recommendation and/or advice expressed to the client.

17.18

Supervisory Obligations when Participating in Investment-Related Activities with Municipal Clients

Recent FINRA examinations have found that some member firms are engaged in investment-related activities with municipal clients but have not registered as municipal advisors and do not have reasonably designed supervisory systems and controls to determine whether they are required to register as municipal advisors. Specifically, these firms participated in selling non-municipal securities products (e.g., U.S. Treasury securities or collateralized mortgage obligations (CMOs)) to municipal clients, or, in other instances, interacted with municipal clients with accounts containing or transacting with proceeds of municipal securities, but had not established and maintained supervisory systems to prevent their registered representatives from engaging in unregistered municipal advisory activities.

FINRA reminds member firms of their supervisory obligations under FINRA Rules 3110 (Supervision) and 3120 (Supervisory Control System) if they hold or transact in customer accounts owned by municipal entities or obligated persons (municipal clients), as defined in Section 15B of the Securities Exchange Act of 1934 (Exchange Act), and participate in investment-related activities with municipal clients, such as recommending or selling non-municipal securities products to such municipal clients. Under these circumstances, member firms are obligated to determine if such activities require registration as a municipal advisor. A person recommending an investment strategy to a municipal client regarding how to invest the proceeds from the issuance of municipal securities, or brokering municipal escrow investments, could be required to register as a municipal advisor. A firm that holds or transacts in municipal client accounts, but does not wish to register as a municipal advisor and is not otherwise currently required to do so, should still maintain written supervisory procedures and controls that are reasonably designed to help ensure that the activities in which it engages do not require registration as a municipal advisor.

Exclusions and Exemptions from the Municipal Advisor Definition

Member firms with municipal clients should understand the applicability and scope of each of the exclusions and exemptions from the municipal advisor definition in determining if they must register as municipal advisors. The following is a list of statutory exclusions and exemptions from the definition of municipal advisor.

- The Exchange Act excludes from the definition of municipal advisor “any investment adviser registered under the Investment Advisers Act of 1940, or persons associated with such investment advisers who are providing investment advice.”
- As interpreted in Exchange Act Rule 15Ba1-1(d)(ii), the definition of municipal advisor excludes “[a]ny investment adviser registered under the Investment Advisers Act of 1940...or any person associated with such registered investment adviser to the extent that such registered investment adviser or such person is providing investment advice in such capacity.” Under Rule 15Ba1-1(d)(ii), a registered investment adviser could provide advice concerning the investment of proceeds in securities without registering as a municipal advisor because it would be “providing investment advice” in its capacity as a registered investment adviser. Therefore, a FINRA member that is also registered with the SEC as an investment adviser may not be required to register as a municipal advisor, as long as the investment-related advice is provided by the registered investment adviser and not the broker-dealer.
- A member firm may also avail itself of the general information exclusion from the definition of advice if, for example, it provides a municipal client with general market and financial information, information regarding its currently available investments, or price quotes for investments available for purchase or sale in the market that meet criteria specified by a municipal client.
- If an independent registered municipal advisor (IRMA) is providing advice to the municipal client with respect to the same aspects of the municipal financial product or issuance of municipal securities as a member firm, then the member firm may be able to rely on an exemption from municipal advisor registration if it fulfills the exemption requirements, which are detailed in SEC guidance
- A member firm that responds to a request for proposals or qualifications from a municipal client for services in connection with a municipal financial product or the issuance of municipal securities may be exempt from registration, provided the firm does not receive direct or indirect compensation for any advice provided in connection with the response
- The Exchange Act provides an additional exclusion for a broker, dealer or municipal securities dealer if it is serving as an underwriter of a particular issuance of municipal securities to the extent that the broker, dealer or municipal securities dealer engages in activities that are within the scope of an underwriting of such issuance of municipal securities

Considerations for Developing Appropriate Supervisory Procedures and Related Controls

Each FINRA member should consider the unique risks of its business activities with municipal clients in establishing and maintaining a supervisory system and controls that account for the municipal advisor registration requirements.

- Firms should have reasonably designed systems and controls in place to identify: (i) new and existing municipal client accounts and (ii) the source of funds deposited into those municipal client accounts. Firms should consider obtaining representations as to whether proceeds of municipal securities are contained in any accounts held at the firm. If the account of any municipal client contains proceeds of municipal securities, including municipal bond proceeds or municipal escrow investments, the firm should, based on Commission guidance, consider whether it qualifies for an exclusion or exemption or it must register as a municipal advisor. For example, firms should determine whether the municipal client in question has retained an IRMA. As with all exemptions and exclusions, firms are advised to take any specific steps required and keep appropriate documentation evidencing their rationale for relying on an exemption or exclusion
- Firms may wish to tailor their new account forms to capture information related to municipal entity clients, such as sources of funds and whether an IRMA has been retained, and obtain additional

documentation from these clients, as necessary. Because IRMA engagements may be limited in scope and timeframe, firms should ensure that they have a process to maintain current documentation relating to the IRMA's engagement.

- If a firm is unable to determine whether a municipal client account contains bond proceeds or escrow investments, or whether the municipal client has engaged an IRMA to advise it, the firm should implement controls around the account to prevent inadvertently providing advice. If, for example, firms prohibit registered representatives from making recommendations to municipal client accounts, they must establish, maintain and enforce corresponding supervisory procedures and controls to ensure that prohibited advice was not given.
- Firms with municipal clients should familiarize themselves with, and train their registered representatives and principals regarding, SEC guidance on the activities requiring municipal advisor registration, including the SEC Office of Municipal Securities' FAQs. In particular, firms should review the FAQs that address the contours of what constitutes "advice," as opposed to "general information," and "proceeds of municipal securities" for purposes of the "municipal advisor" definition and the specific criteria for firms seeking to rely on the exclusions and exemptions from registration.
- To the extent that a firm with municipal client accounts does not plan to register as a municipal advisor due to an exemption or exclusion, or does not plan to act as a municipal advisor with respect to all municipal clients, the firm should consider what steps it could take to mitigate its risks of engaging in unregistered municipal advisory activities. In addition to establishing and maintaining reasonably designed systems and controls for this purpose, firms should consider what written disclosures and disclaimers, if any, to provide to its municipal clients.
- To the extent that a firm plans to engage in any municipal advisory activities, the firm's procedures and controls should address the criteria used by the firm to determine whether it should register as a municipal advisor. Similarly, the firm's procedures and controls should address the criteria used to determine whether a particular registered representative is required to qualify as a municipal advisor representative or principal and the rationale for those criteria. Firms should also establish and maintain procedures to ensure firm registration and municipal advisor individual information submitted to the SEC and MSRB is kept current.