

October 7, 2013

Mr. Ronald W. Smith,
Corporate Secretary
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 6000
Alexandria, VA 22314

Dear Mr. Smith:

Barclays Capital Inc. ("Barclays" or "the Firm") is submitting this letter to the Municipal Securities Rulemaking Board (the "MSRB") in response to the request for comment on MSRB Notice 2013-16, concerning the adoption of a "best execution" or similar requirement on dealers when executing transactions in municipal securities.

The implementation of a best execution standard would support dealer compliance with fair pricing obligations to help ensure investors receive fair and reasonable prices. The existing regulations (MSRB Rules G-18 and G-30) require dealers to trade with customers at fair and reasonable prices and to exercise diligence in establishing the market value of municipal securities and the reasonableness of their compensation. The best execution standard, if implemented, would invariably support existing fair pricing obligations, ideally by addressing the process by which firms handle orders in order to provide customers with a price that is as favorable as possible under prevailing market conditions.

Taking into account the additional sensitivity surrounding the trading environment for municipal securities, the MSRB should fully leverage the industry's current framework for compliance with FINRA Rule 5310 (Best Execution and Interpositioning) ("Rule 5310"), rather than create an additional and inconsistent set of standards. In complying with Rule 5310, industry firm policies likely already require that traders must use best efforts to attempt to gain the best price for the client in all cases by consulting all available sources and assessing the market through other dealers, benchmark indices, similar bonds, and market environments.

The current industry framework applied to compliance with Rule 5310 also encompasses conducting post-trade internal reviews for potential transactions that may require price improvements. Internal or third-party vendor systems generate alerts on such transactions for further analysis. These alerts are reviewed on a daily basis and are addressed via closeout comment or price adjustment. Many firms currently apply this post-trade review process across all products, including those not covered by Rule 5310, to ensure best execution for their clients.

While the adoption of a best execution standard ultimately benefits the municipal securities market, there are circumstances and transactions where this requirement may be inappropriate due to the nature of the business. While we attempt to always ensure best execution for our clients, there may be instances where this may be of limited value, for example:

- Transactions in new issues
- Transactions in variable rate demand obligations and short term securities
- Transactions with sophisticated municipal market professionals (SMMPs)

Furthermore, implementation of a best execution rule does give rise to some concerns regarding the exacerbation of an already decentralized and relatively illiquid municipal securities market. The Firm suggests delineating pricing and documentation methodologies in the proposed best execution requirement by categories of securities rather than by factors used to determine best execution as listed in FINRA Rule 5310.¹ Suggested categories are:

¹ A non-exhaustive list of considered factors include: the character of the market for the security, the size and type of transaction, the number of markets checked, the accessibility of the quotation, and the terms and conditions of the order as communicated to the firm.

- Investment grade, fixed rate bonds
- Bonds in which a firm makes markets in
- Illiquid bonds
- Distressed bonds
- Distressed market conditions

These methodologies, however, should not be so prescriptive as to dictate a minimum number of quotations that must be received in order to support the prevailing market price by a dealer. The method the broker uses to purchase or sell a municipal security for its customer can materially impact the price and timeliness of the transaction.² For example, a dealer may be able to quickly sell (purchase) a municipal security from (into) its inventory, providing the customer certainty of execution, but this may come at the expense of a better price that might be obtained if the customer's order were exposed to competition.³ Nuanced scenarios are all too common, especially in illiquid and distressed markets, and may require a dealer to use his or her best judgement as opposed to following generic procedures in order to provide best execution for a client.

If a best execution standard is indeed rolled out, firms would establish new practices by way of enacting new compliance policies and written supervisory procedures, as well as implementing additional monitoring and surveillance. This additional surveillance element would incur costs related to the adoption (and perhaps creation) of new technology systems. Moreover, review of practices related to best execution should occur on a periodic basis. Such reviews may also occur on an ad hoc basis should there be a material change that affects the firm's ability to obtain the best possible result for execution of client orders.

Finally, the Firm would like to provide additional suggestions regarding the adoption of a best execution standard.

- Consolidation of existing fair pricing rules (MSRB Rules G-18 and G-30) with the proposed best execution requirement: A dealer's fair pricing obligation ("to obtain a price for the customer that is 'fair and reasonable' in relation to the prevailing market conditions"⁴) seems to be at slight odds with the objective of a best execution requirement ("to provide a customer with a price that is 'as favorable as possible' under prevailing market conditions"⁵). A best execution requirement would seemingly always satisfy the fair pricing obligation, but a fair and reasonable price does not always satisfy a best execution requirement. In the latter case, the MSRB should clarify whether best execution requirements supersede fair pricing obligations. As such, a consolidation of the two requirements might eliminate any potential redundancies and ambiguities.
- Enhanced search capabilities on the MSRB's EMMA website: As a method of increasing price transparency, the MSRB should consider adding filters to allow EMMA users to search for recent prices of comparable securities. Possible search parameters could include type of bond, type of issuer, price, yield, credit rating, maturity date, coupon rate, tax treatment, call feature, credit enhancement, etc.

Barclays appreciates this opportunity to comment on MSRB Notice 2013-16. If you have any questions or require additional information, please contact Jennifer Small at 212-526-3765, or e-mail our mailbox at: MuniCompliance@barclays.com.

Sincerely,

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Municipal Compliance

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² Securities and Exchange Commission's "Report on the Municipal Securities Market" (2012), p.146

³ See note 2

⁴ MSRB Rule G-30 Prices and Commissions

⁵ MSRB Notice 2013-16