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April 13, 2012

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

RE: MSRB Notice 2012-13 - Request for Comment on Proposed Rule Amendments and Interpretive Notice on Retail Order Periods

Dear Mr. Smith:

Thank you for the opportunity to comment on MSRB Notice 2012-13. Many GFOA members who sell bonds through negotiated sales engage in retail order periods, and are very interested in the regulatory framework related to these types of sales. The Notice proposes to change numerous MSRB rules to ensure that the terms and conditions set by the issuer in a retail order period are executed correctly by bond dealers, a concept we fully support.

It is important to note that with current rules and proposed rules, adequate enforcement is needed to ensure compliance and best practices in the marketplace. There may be areas where some of the proposed rules may be in-part duplicative of current rules, and as with all proposed rules with the MSRB, GFOA believes that the MSRB should evaluate whether current rules are being enforced and whether the stronger enforcement of current rules would preclude the need for modifying current or developing new rules. Notwithstanding the above, some of our comments below speak to areas where we believe changes should be made to the proposed rule changes.

Please note that leadership from the GFOA's Governmental Debt Management Committee assisted with the development of these comments. Below are GFOA's comments on the changes to each of the proposed rules.

G-8

GFOA supports new record keeping requirements on syndicate managers related to retail order periods.

G-11

We support the additional requirements on dealers to provide in writing to members of the underwriting syndicate the issuer's terms and conditions and order priority provisions. Additionally, we support having the senior manager provide new detailed information about each order. We would also like to ensure that if the issuer has additional requirements on the retail order period (e.g., zip code of investor), that this information also be provided in writing by the dealer. Furthermore, the issuer should be the party responsible for establishing the deadline for submitting any additional information that it chooses to require from dealers.

We do have a concern related to requiring the issuer to provide a definition of "retail" for a particular sale. Infrequent issuers that do not engage the services of a financial advisor may not have the internal expertise to properly develop this term for their sale, and may depend on other parties that do not have a fiduciary responsibility to the issuer, to assist with establishing this definition. In order for the rule be most beneficial to infrequent issuers, we request that the MSRB develop a boilerplate definition of

“retail” for issuers to use – if they so choose. However, this should not preclude any issuer and its financial advisor from altering the boilerplate language or developing their own definition of retail.

G-17

We appreciate and support the proposed changes to Rule G-17 that would call on dealers to deal fairly with issuers and to their dealer colleagues. This is especially true regarding the requirement to have the syndicate manager provide to all dealers the issuers’ terms and conditions for the retail order period. The MSRB may wish to consider setting a specific time frame in which the syndicate manager must provide this information to other dealers.

G-30

The changes to Rule G-30, related to fair pricing practices, have drawn the most scrutiny from our members. While it is important to ensure fair pricing standards are practiced in retail order periods (and all other phases of pricing process), and highlighting the need for dealers to balance their duty to both issuers and investors, the proposed changes could interfere with current retail order period practices. There are many reasons why the pricing for retail investors may differ from institutional sales. Setting a retail order period is done for many reasons, one of which is to ensure that citizens of the entity’s jurisdiction have an opportunity to purchase bonds first hand, rather than waiting to purchase them in the secondary market. Having to wait until the bonds are available in the secondary market may be less inviting to retail investors, and potentially more expensive than if they purchased the bonds during a retail order period.

Regarding fair pricing standards, there may be numerous reasons why bonds price differently between the retail order period and the institutional order period, even when one maturity has two or more coupons requiring separate CUSIPs. The proposed changes state that the underwriter may be failing its fair pricing duty to retail customers unless “the difference in the price is fairly attributable to the actual characteristics of the securities.” Depending on the amount and type of information that would need to be reviewed if the pricing is different for the retail and institutional investors, this may hurt the issuer’s ability to establish a retail order period for the reasons they determine are best for entity. We would urge the MSRB to recognize that there are various reasons why there may be pricing differences between the retail order period and the sale to institutional investors, including the difference in coupon preferences between institutional and retail investors. Also, it should be noted that the reason for some price differences may not be in the control of the issuer or the underwriter, especially since retail orders are submitted one or even two days prior to the institutional order period, often in a very different market conditions.

G-32

We support changes to the applicable forms as noted in the proposed changes to Rule G-32.

Again, thank you very much for the opportunity to comment on MSRB Notice 2012-13.

Sincerely,

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Susan Gaffney
Director, Federal Liaison Center