



Utah Educational  
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December 19, 2012

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

Re: Comments Concerning MSRB Notice 2012-59, Second Request for Comment on Draft Rule Requiring Underwriters to Submit 529 College Savings Plan Information to the MSRB

Dear Mr. Smith:

The Utah Educational Savings Plan (UESP), Utah's official 529 college savings plan, appreciates this opportunity to comment on the MSRB's 529 plan data collection proposal provided in the amended draft Rule G-45 published in MSRB Notice 2012-59, issued November 23, 2012.

UESP and others submitted comments in September 2012 about draft Rule G-45 in MSRB Notice 2012-40, issued August 6, 2012. UESP is grateful that the MSRB responded by amending the draft rule, including revising definitions, eliminating the requirement to submit information on underlying investments, and making other changes to the scope of the information to be collected and the timing of reporting.

As noted in our previous comment, UESP generally supports the MSRB's efforts to gather information from 529 plans in order to perform meaningful analysis of individual plans and the 529 plan market as a whole. UESP also understands the MSRB's desire to collect more complete information to protect investors by regulating the entities that underwrite and distribute 529 plans. Because Utah does not engage a municipal securities dealer to serve as a primary distributor for its 529 college savings plan, UESP would not be required to submit information to the MSRB under Rule G-45 as currently proposed, but could elect to voluntarily do so.

The extent of UESP's voluntary participation in 529 plan data collection efforts may depend on how the information will be used or displayed by the MSRB. UESP and other commenters to the initial version of the draft rule in Notice 2012-40 raised concerns about the need for confidentiality of certain information by the MSRB. This concern is founded upon both the proprietary nature of the data itself and our view that displaying certain data on the EMMA website could confuse or mislead 529 plan participants, who should make investment decisions on what is suitable to their individual situations, not what is popular with others.

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In Notice 2012-59, the MSRB provided an official response to commenters' concerns about regulatory use and confidentiality: "The information sought by the proposal is not intended for public distribution at this time, and any future proposal to release the information would be conducted in a separate rulemaking proceeding." This statement is similar to commentary provided in the MSRB's two prior 529 data collection notices. Once again, the MSRB's intention is clear, but the text of the new draft rule does not restrict the MSRB's use of data collected under Rule G-45.

Without assurances in the rule that submitted data will be held in confidence and not be released to other parties, UESP has reservations about voluntarily providing proprietary information to the MSRB. UESP respectfully requests that the MSRB further address this confidentiality issue before the proposed draft Rule G-45 is finalized.

UESP is willing to provide additional information or to discuss these comments at your convenience. UESP is also willing to talk with the MSRB staff about voluntarily reporting information for plans that are not directly regulated by the MSRB.

As UESP's Executive Director, I submit this informational response to the Notice. Thank you for allowing me to offer comments on the Notice from UESP's perspective for your consideration.

Sincerely,

Lynne N. Ward, CPA  
Executive Director  
Utah Educational Savings Plan