



Government Finance Officers Association  
660 North Capitol Street, Suite 410  
Washington, D.C. 20001 202.393.8467

August 19, 2019

Mr. Ronald Smith  
Corporate Secretary  
Municipal Securities Rulemaking Board  
1300 I Street, N.W. Suite 1000  
Washington, D.C. 20005

Re: MSRB Regulatory Notice 2019-13

Dear Mr. Smith:

The Government Finance Officers Associations (“GFOA”) appreciates the opportunity to comment on the Municipal Securities Rulemaking Board’s (MSRB) Rule G-23. The GFOA represents over 20,000 state and local government finance professionals across the United States, many of whom issue municipal securities, and therefore is very interested in this rulemaking.

GFOA has commented in the past on Rule G-23<sup>1</sup> and subsequent interpretative guidance<sup>2</sup>, as the MSRB’s work in this area is very important to municipal securities issuers. Rule G-23, in particular, is representative of rulemaking that helps the MSRB fulfill its mission to protect issuers. The GFOA has encouraged the MSRB to adopt rules that prohibit a municipal advisor (MA) from resigning and becoming the underwriter for the transaction. GFOA’s Best Practices<sup>3</sup>, which address the issues contained within the Rule, serve as the basis of our response, as well as discussions with members of our Governmental Debt Management Committee.

As GFOA stated in its September 2010 letter, the financial (municipal) advisor has a fiduciary responsibility – in both competitive and negotiated sales – to its issuer client. An underwriter’s fiduciary responsibility is to the investor – not the issuer. Prohibiting role switching ensures that the issuer is represented throughout the transaction by a municipal advisor whose sole responsibility is to issuers. Since G-23 was strengthened in 2011 we believe that the Rule has served its purpose to protect issuers. This letter serves to reinforce our position and to reiterate ways the Rule can further strengthen these protections.

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<sup>1</sup> GFOA [G-23 2010 Comment Letter](#) referenced throughout

<sup>2</sup> March 2011, SEC [GFOA Comment Letter](#)  
June 2011, SEC [GFOA Comment Letter](#)

<sup>3</sup> See GFOA Best Practices (among others): [Selecting and Managing Underwriters for Negotiated Bond Sales](#), [Selecting and Managing Municipal Advisors](#), [Selecting and Managing the Method of Sale for Municipal bonds](#)

GFOA has long stated and continues to support the following G-23 principles: A municipal advisor on a transaction may not resign and become underwriter on a transaction, nor can the same firm bid on the competitive sale of the bonds. It is an unmanageable conflict for the same firm to provide municipal advisor and underwriting services on the same transaction.

GFOA would suggest – as we did in 2011 - that in order to strengthen issuer protections provided in Rule G-23, a municipal advisory firm should not be allowed to serve as a MA on an issuer's transaction and then serve as an underwriter on a separate transaction or credit of the same issuer. Allowing a firm to serve as a MA for one transaction and then as underwriter on another represents conflict of interest challenges to the issuer and its staff. For instance, serving as municipal advisor for an issuer's general obligation credit and then as underwriter for an issuer's appropriation credit could question the MA's fiduciary responsibility to the issuer and provide the firm with other inside and unfair advantages.

Leaders of the Governmental Debt Management Committee have expressed concerns that the MSRB may reverse the 2011 changes to Rule G-23<sup>4</sup>. We again, oppose any efforts to dilute the effectiveness of the Rule and the changes that were made eight years ago. GFOA wishes to make ourselves available to have conversations with staff and the Board – and be aware of their ongoing questions and concerns related to the multiple issues raised in the proposed Rule.

Thank you again for the opportunity to comment. Please feel free to contact me at ebrock@gfoa.org or (202) 393-8467 if you have any questions on or would like to discuss any of the information provided in this letter.

Sincerely,

A handwritten signature in cursive script that reads "Emily S. Brock".

Emily Swenson Brock  
Director, Federal Liaison Center

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<sup>4</sup> See, 5/19/2019 Bond Buyer article - <https://www.bondbuyer.com/news/could-msrb-review-of-g-23-revive-shady-practice-of-role-switching>