



December 13, 2019

Vanessa Countryman
Director
Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

RE: SEC Release No. 34-87583; File No. SR-MSRB-2019-13

Dear Ms. Countryman:

The National Federation of Municipal Analysts (NFMA) is a not-for-profit association with nearly 1,300 members in the United States, comprising a broad range of municipal bond analysts from the buy-side, sell-side, rating agencies and bond insurers. The mission of the NFMA is to enhance the professional development and analytical contributions of municipal market participants through best-in-class educational programs, networking opportunities, and targeted advocacy that supports improved disclosure to benefit the industry. The NFMA has published an extensive library of Recommended Best Practices in Disclosure and White Papers which are available on our website, www.nfma.org.

The NFMA thanks the U.S. Securities and Exchange Commission (Commission) and the Municipal Securities Rulemaking Board (MSRB) for the opportunity to comment on File No. SR-MSRB-2019-13. We greatly appreciate recent efforts by Chairman Clayton to highlight and address the inadequacies in disclosure in the municipal bond market.

Current State of Municipal Disclosure

Concerns regarding the timeliness, completeness, and accessibility of municipal bond issuer disclosures are not new. Lacking secondary market (continuing) disclosure by municipal bond issuers was discussed by the Commission in its 1994 Interpretative Release and Amendment to Municipal Securities Disclosure - Rule 15c2-12 (Amendment). In the Amendment, the Commission stated, “Put simply, the amendments reflect the belief that purchasers in the secondary market need the same level of financial information and operating data in making investment decisions as purchasers in the underwritten offering.” Twenty-five years after the Commission’s report, significant lapses in providing continuing disclosure for outstanding municipal bonds remain the case. Many issuers continue to file financial reports long after the close of their fiscal years and resist making timely continuing disclosures affecting publicly issued debt because of concerns about the costs and potential liability relating to such disclosure.



Since its inception in 1983, the NFMA has been a strong advocate of robust primary and secondary market disclosure in the municipal bond market, and was a signatory to the Joint Statement on Improvements in the Municipal Securities Market that was published on December 20, 1993. Over the past several years, the NFMA has submitted several letters and otherwise communicated with the Commission and the MSRB regarding issues affecting the usability and effectiveness of the MSRB's EMMA system. Our most recent letter dated May 3, 2019 (available at www.nfma.org under Resources/Position Statements) provides a detailed discussion of five key areas that our members believe need to be addressed for EMMA to better meet the needs of both institutional and individual investors:

1. Link bonds not only by issuing entity but by ultimate borrower (obligor) and project.
2. Standardize or define sector classifications consistent with market use.
3. Introduce quality assurance procedures and entry-system technology to reduce errors and enhance consistency.
4. Provide a mechanism to identify active material events and those that have been resolved.
5. Provide greater transparency on the timeliness of audit filings.

MSRB's Proposed Submission Calculator

The MSRB recently proposed changes to the EMMA system to address one of the NFMA's suggestions, to provide greater transparency on the timeliness of audit filings. We note that a disclosure calculator does not directly address or improve the timeliness of audit filings, rather it provides transparency on the currency of such disclosures.

The NFMA stated in its May 3, 2019 letter, "Users of EMMA do not have an easy way to determine the currency of financial reporting by an issuer. Based on the information provided with filings on EMMA, the system could create a counter that would calculate and prominently display the greater of the number of days since the end of the last fiscal year to the audit filing date or the number of days since the last fiscal year for which there is not a submitted audit. Users of EMMA could then quickly screen issuers to determine if they are providing ongoing information in an acceptable timeframe for their investment and/or underwriting standards. This feature could improve market disclosure by providing an incentive for issuers to be timelier in their audit submissions."

Unfortunately, the MSRB's proposal to provide a static calculator based on the number of days between the last annual financial disclosure to the EMMA system and the end of the fiscal year applicable to such filing doesn't adequately address the needs of municipal investors because of shortcomings in the areas of comparability and accuracy. To be effective, any disclosure "calculator" should measure similar documentation and fiscal periods, and the information on which such calculations are based should be reasonably free from error.



We note the following issues with the MSRB's proposed Submission Calculator:

Comparability issues: The MSRB's Submission Calculator is triggered based on the submission of any document tagged as a required annual financial disclosure, whether it is an audit, a different type of annual financial filing, or a failure to file notice. In practice, this means that the calculation for one obligor can be triggered by an annual filing of tax base information and/or other unaudited data versus the audited financials of other obligors. This construction is likely to result in confusion among market participants (particularly non-professional investors), and opens the opportunity for manipulation of the calculation as issuers can improve their "number" through the submission of incomplete or alternative disclosure documents.

Transactions with multiple obligated parties also pose problems under the proposal since the earliest party to submit an annual filing will trigger the calculated date regardless of its relative importance to the repayment of the debt.

Additionally, the Submission Calculator has the potential to be misleading since it is based on the last submitted annual financial disclosure. For the obligated party that hasn't disclosed for the recently concluded fiscal year, the number displayed will be based on the last time annual financial filings were made, even if that number of days has been exceeded for the current fiscal year. And without visibility on historical timeliness information, an obligor that hasn't provided disclosures in several years can appear to be a timely discloser if it posts annual financial information sooner than usual because of an upcoming bond sale.

Accuracy challenges: Submission errors, including classification errors and incorrect dates, that are frequent in today's EMMA system, pose a high risk that a meaningful number of calculations will be based on inaccurate information. As EMMA is the public source of information for market participants, the NFMA has repeatedly suggested that there should be greater oversight over the submission process to ensure that documentation is at least classified and labeled correctly.

Introduced over a decade ago, the EMMA system improved investor access to relevant information needed for sound investment decisions in the municipal market by creating a centralized repository where none existed. Despite the MSRB's significant investment of time and capital, the EMMA system has not been adequately improved to reflect technology advances or address many investor-requested information needs. To address the challenges with the EMMA system, address the varying sophistication and needs of municipal investors, and modernize the system to meet today's technology standards, we believe that significant participation from private sector technology firms and information vendors is likely needed, with consideration given to outsourcing the design, development, oversight, and maintenance functions of EMMA.

The NFMA believes that the Commission and the MSRB have a responsibility to ensure that



updates to the EMMA system, such as the proposed Submission Calculator, improve the information available to municipal investors, not lead to greater opacity and confusion. We urge that this proposal not be approved unless the issues raised in this letter are adequately addressed.

We look forward to your response and welcome any questions on the disclosure needs of municipal investors.

Sincerely,

/s/

Scott Andreson
Chair
NFMA

