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SEC Extends Comment Period on Proposed Rule G-42, MSRB Files Partial Amendment

On August 6, 2015, the Securities and Exchange Commission (“SEC”) filed an Order instituting proceedings intended to determine whether to approve or disapprove Proposed Municipal Securities Rulemaking Board (“MSRB”) Rule G-42 (standards of conduct for non-solicitor municipal advisors), and conforming changes to MSRB Rule G-8 (books and records) (the “Proposed Rule”). Our prior mailings dated January 22, 2014; August 1, 2014; and April 21, 2015 summarized Draft and Proposed Rules G-42.

The Order states that the SEC invites additional comment on the Proposed Rule, and that this does not indicate that the SEC has reached a conclusion with respect to the Proposed Rule. Comments are due to the SEC by September 11, 2015. The Order also provides that any person filing a rebuttal to another person’s submission must file the rebuttal by September 28, 2015.

The Federal Register publication of the Order is [here](#). Separately from the Order, on August 12, 2015, the MSRB filed with the SEC a response to comments received to date by the SEC on the Proposed Rule, and a partial amendment of clarifying and technical changes proposed by the MSRB in response to the comments, which include changes:

- Streamlining certain steps needed to comply with the conflict of interest disclosure requirements;
- Exempting a municipal advisor that had previously fully provided conflict of interest disclosures to a client from having to include such disclosures in written documentation of the municipal advisory relationship, provided there has been no material change to the information previously disclosed to the client;
- Clarifying that a municipal advisor making a recommendation must have a reasonable basis to believe that the transaction or product is suitable for the client;
- Supplementing the Proposed Rule’s requirement that the municipal advisor provide the date of the last material change or addition to the legal or disciplinary event disclosures on any Form MA or MA-I, by requiring a brief explanation of the basis for the materiality of the change or addition; and
- Clarifying that a municipal advisor is prohibited from delivering an invoice for fees or expenses for municipal advisory services that is “materially” inaccurate.

The MSRB’s response to comments is [here](#).

The MSRB’s partial amendment to the Proposed Rule is [here](#).

Please contact us with questions.