

MEMO# 24217

April 6, 2010

SEC Seeks Comment on MSRB's Proposal to Increase Available Information for Municipal ARS and VRDO

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TO: MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 8-10 RE: SEC SEEKS COMMENT ON MSRB'S PROPOSAL TO INCREASE AVAILABLE INFORMATION FOR MUNICIPAL ARS AND VRDOs

The Securities and Exchange Commission ("SEC") has requested comment on a Municipal Securities Rulemaking Board ("MSRB") proposed rule change to enhance the interest rate and descriptive information currently collected and made transparent by the MSRB on municipal Auction Rate Securities ("ARS") and Variable Rate Demand Obligations ("VRDOs"). [\[1\]](#)

Specifically, the proposed rule change would: (i) amend Rules G-8, books and records, and G-34(c), variable rate security market information, to require brokers, dealers, and municipal securities dealers (collectively "dealers") to submit to the MSRB (a) documents that define auction procedures and interest rate setting mechanisms for ARS and liquidity facilities for VRDOs ("short-term obligation document disclosure rule change"); (b) ARS bidding information ("ARS bidding information rule change"); and (c) additional VRDO information ("VRDO information rule change") (collectively, the "rule change proposal"); (ii) amend the MSRB Short-term Obligation Rate Transparency ("SHORT") System Facility to collect and disseminate information identified in the ARS bidding information rule change and the VRDO information rule change and documents identified in the short-term obligation document disclosure rule change (the "SHORT System Facility amendment proposal"); and (iii) amend the MSRB EMMA Short-term Obligation Rate Transparency Service to make the documents collected in the SHORT System Facility amendment

proposal available on the MSRB's Electronic Municipal Market Access (EMMA) Web site (the "EMMA Short-term Obligation Rate Transparency Service amendment").

Background

Since January 30, 2009 for ARS and April 1, 2009 for VRDOs, MSRB Rule G-34(c), on variable rate security market information, has required dealers that act as Program Dealers for ARS [\[2\]](#) or Remarketing Agents for VRDOs to report (either directly or through an agent) certain information following an ARS auction or VRDO interest rate reset to the SHORT System. Information generally is required to be reported to the SHORT System by no later than 6:30 p.m. Eastern Time on the day that an ARS auction or VRDO interest rate reset occurs, and all collected information is made available to market participants for free in real-time on the EMMA Web site. The specific items of interest rate and descriptive information about ARS and VRDOs currently required to be reported to the SHORT System are listed in the Release.

Rule Change Proposal

The proposed rule change would enhance the interest rate and descriptive information currently made available to market participants about ARS and VRDOs. The proposed rule change would require dealers to report to the MSRB documents that set forth auction procedures and interest rate setting mechanisms for ARS and liquidity facilities for VRDOs, as well as ARS bidding information and additional VRDO information. All collected documents and information would be made available in real-time on EMMA. [\[3\]](#)

- *ARS Bidding Information:* The proposed rule change would require each ARS Program Dealer to report to the SHORT System an electronic document containing "ARS bidding information," which would include information about all orders placed by an ARS Program Dealer with an ARS Auction Agent for inclusion in an auction. This information would augment the interest rate and descriptive information currently provided to market participants by also providing information that would show, for example, how the interest rate was determined for a successful auction. The specific items of ARS bidding information an ARS Program Dealer would be required to report to the SHORT System are listed in the Release.
- *Additional VRDO Information:* The proposed rule change would require VRDO Remarketing Agents to submit additional items of VRDO information to the SHORT System in conjunction with the VRDO interest rate and descriptive information currently required to be reported under Rule G-34(c). This information would provide additional details concerning the interest rate set for a VRDO, such as the effective date of the interest rate, and would facilitate the tendering of a position in a VRDO by investors by requiring VRDO Remarketing Agents to report the identity of the agent of the issuer of the VRDOs to which a holder may tender their security. The additional VRDO information also would provide transparency related to the current holders of the VRDO. A complete list of the specific items of additional VRDO information a VRDO Remarketing Agent would be required to report to the SHORT System under the proposed rule change are listed in the Release.
- *ARS and VRDO Documents:* The proposed rule change would require ARS Program Dealers and VRDO Remarketing Agents to submit certain documents to the SHORT

System to ensure that market participants have centralized access to critical documents about ARS programs and VRDO issues. For existing ARS programs, dealers would be required to submit the current versions of ARS documents defining current auction procedures and interest rate setting mechanisms to the SHORT System within 90 days after the effective date of the proposed rule change. For existing VRDO issues, dealers would be required to undertake and document best efforts to obtain current versions of VRDO liquidity facility documents, including Letters of Credit, Stand-by Bond Purchase Agreements, and any other document that establishes an obligation to provide liquidity, and submit such documents to the SHORT System within 90 days after the effective date of the proposed rule change. On an ongoing basis, dealers would be required to submit any new or amended versions of these documents within one business day of receipt.

SHORT System Facility Amendment Proposal

The SHORT System is an MSRB Facility for the collection and public dissemination of information about ARS and VRDO. The amendment to this facility would provide for the collection and public dissemination of documents identified in the rule change proposal as described above. The Release describes the information and documents to be submitted (which is the same as those items required to be submitted to the MSRB under MSRB Rule G-34(c)), a list of authorized submitters, timing of submissions, method of submission, and the designated electronic format for documents (i.e., PDF).

EMMA Short-Term Obligation Rate Transparency Service Amendment Proposal

The EMMA short-term obligation rate transparency service currently makes the information collected by the SHORT System available to the public, at no charge, on the EMMA portal. The amendment to this service would add the documents identified in the rule change proposal to this service so that such documents also would be available to the public, at no charge, on the EMMA portal.

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endnotes

[1] SEC Release No. 34-61793 (March 26, 2010) ("Release"), available on the SEC's website at <http://sec.gov/rules/sro/msrb/2010/34-61793.pdf>. Comments on the proposal are due to the SEC no later than 21 days after publication in the Federal Register.

[2] An ARS Program Dealer is defined in Rule G-34(c) as a dealer that submits an order directly to an Auction Agent for its own account or on behalf of another account to buy, hold, or sell ARS through the auction process.

[3] In the future, the MSRB plans to make all information collected under the rule change proposal available on a subscription basis.

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