

MEMO# 26506

September 17, 2012

ICI Files Comment Letter with MSRB on Proposal to Collect 529 Plan Data from Primary Distributors on Form G-45

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TO: BROKER/DEALER ADVISORY COMMITTEE No. 44-12 RE: ICI FILES COMMENT LETTER WITH MSRB ON PROPOSAL TO COLLECT 529 PLAN DATA FROM PRIMARY DISTRIBUTORS ON FORM G-45

As you may recall, last month the Municipal Securities Rulemaking Board (MSRB) published for comment a proposal to collect data on 529 plans by requiring primary distributors of 529 plans to file a new Form G-45 with the MSRB. [*](#) As proposed, the data required to be reported on Form G-45 would include both aggregate plan data as well as information on the plan's assets, "strategies," "portfolios," contributions, and distributions. The Institute has filed the attached comment letter with the MSRB on the proposal. While the letter supports the MSRB collecting basic information on 529 plans and their assets, it recommends a number of substantive changes to the Form and its filing requirements. It also includes as Appendix A a revised version of the Form G-45 that incorporates our recommended revisions.

A copy of the Institute's letter is attached. Among other things, it recommends:

- Clarifying that Form G-45 does not impose upon primary distributors a duty to seek out information in order to complete Form G-45 and primary distributors are not responsible for the reliability or accuracy of information provided to them from another service provider to the 529 plan;
- Requiring the filing of Form G-45 no more frequently than semi-annually and permitting primary distributors to determine (and indicate on the Form) whether it is being filed based on a calendar year or fiscal year;
- Providing primary distributors a minimum of sixty days following the reporting period to file Form G-45;
- Providing filers a minimum of one year to comply with the new filing requirements;
- The MSRB give serious reconsideration to re-proposing Rule G-45 and Form G-45 after revising the proposal in response to commenters' comments;
- The definitions for "asset class," "portfolio," and "strategy" be substantively revised and the definition of "program manager" be technically revised;

- Eliminating the reporting of any information relating to benchmarks, contributions, distributions, or performance, and,
- Revising Form G-45 to:
 - Add a “check the box” format for reporting information on fee structures;
 - Eliminate data elements of questionable regulatory value, including those relating to the inception date of a portfolio, performance, and benchmark information;
 - Delete the portion of the Form (currently Section (iii)) that requires the reporting of “strategy” information;
 - Revise the portfolio section of the Form (currently Section (iv)) to: list all investment options (“portfolios”) of the 529 plan; indicate whether the investment option is used as a stand-alone (static) investment option, an age-based option, or both; and capture all data concerning each portfolio;
 - Permit the reporting of certain information within ranges; and
 - Eliminate contribution and distribution information from the Form.

Each of the above recommendations is discussed in detail in the letter.

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[Attachment](#)

endnotes

*See Institute [Memorandum](#) to 529 Plan Advisory Committee [No. 26370] or to 529 PlanMembers [No. 26371], dated August 6, 2012, which summarizes Request for Comment on Draft Proposal to Collect 529 College Savings Plan Data, MSRB Notice 2012-40 (August 6, 2012