

MEMO# 23608

July 6, 2009

MSRB Publishes Guidance Regarding Solicitation Activity on Behalf of Affiliated Companies

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TO: MUNICIPAL SECURITIES ADVISORY COMMITTEE No. 26-09
529 PLAN MEMBERS No. 2-09 RE: MSRB PUBLISHES GUIDANCE REGARDING SOLICITATION
ACTIVITY ON BEHALF OF AFFILIATED COMPANIES

The Municipal Securities Rulemaking Board (MSRB) has published an interpretive letter regarding the application of MSRB Rules G-37 and G-38, relating to political contributions and the solicitation of municipal securities business, to the activities of a broker-dealer on behalf of an affiliated company. [*](#) Specifically, the letter addresses the impact of these rules on associated persons of a pre-existing broker-dealer when, after that broker-dealer enters into a joint venture with another broker-dealer, the associated persons continue to solicit municipal securities business on its behalf.

Employee Solicitation on Behalf of Pre-Existing Broker Dealer

The MSRB's interpretive letter concludes that employees of a joint venture broker-dealer that is controlled by pre-existing broker-dealers should be viewed as affiliates of those legacy firms. Accordingly, Rule G-38 would not be violated if employees of a joint venture broker-dealer were paid by one of the pre-existing broker-dealers for a solicitation of municipal securities business on behalf of that firm.

Status as Municipal Finance Professional for Pre-Existing Broker-Dealer

The MSRB's interpretive letter analyzes whether, under Rule G-37, an employee of a joint venture broker-dealer who solicits municipal securities business on behalf of one of the pre-existing broker-dealers would be considered a municipal finance professional (MFP) solely of the legacy firm on whose behalf the employee solicits municipal securities business, rather than of both legacy firms. In the letter, the MSRB states that, generally, an associated person who solicits municipal securities business on behalf of a broker-dealer becomes an MFP of that dealer; the solicitation does not by itself result in the individual becoming an MFP of a different broker-dealer with which such individual may be associated but for which he or she has not solicited municipal securities business. Where multiple associations exist, however, the individual must clearly indicate for which broker-dealer he or she is soliciting business. Moreover, the MSRB states that broker-dealers must take extra precautions to ensure that the solicited issuer understands that the solicitation is solely on behalf of the directly-benefited broker-dealer and that the identification of another broker-dealer (e.g., the other legacy firm) is limited and does not serve to promote the other firm.

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endnotes

[*See MSRB Notice 2009-40, MSRB Publishes Interpretive Letter Regarding Solicitation Activity on Behalf of an Affiliated Company Pursuant to Rules G-37 and G-38, July 2, 2009, available at: <http://www.msrb.org/msrb1/whatsnew/2009-40.asp>.](http://www.msrb.org/msrb1/whatsnew/2009-40.asp)

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