



**Government Finance Officers Association**

1301 Pennsylvania Avenue, NW Suite 309

Washington, D.C. 20004

202.393.8020 fax: 202.393-0780

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Florence E. Harmon  
Acting Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549-1090

**RE: Release No. 34-58256; File No. SR-MSRB-2008-05**

Dear Secretary Harmon:

Thank you for the opportunity to comment on the Municipal Securities Rulemaking Board (MSRB) Notice 2008-33 to establish a continuing disclosure service of the electronic municipal market access system (EMMA). On behalf of our 17,500 members, the Government Affairs Officers Association supports ways to make disclosure filings more streamlined and easier for governments to file and investors to access. We believe the proposed EMMA system would do just that. It also would promote full compliance by issuers for their filing requirements.

The GFOA also has submitted comments to the SEC on its proposed rule (File # S7-21-08) that would grant the MSRB authority to run a central repository for continuing disclosure documents. We support the proposal to allow issuers to file electronically in one central location, rather than filing in multiple locations. We also believe that the MSRB has the technical expertise and system requirements to launch and maintain such a system. However, the GFOA strongly opposes any actions by the SEC or Congress to give the SEC or the MSRB direct authority over municipal bond issuers or to directly or indirectly impose new disclosure or accounting standards that would fall on state and local government issuers.

Allowing issuers, obligated parties and dissemination agents to submit information to one location, electronically and free of charge in order to meet the obligations of SEC Rule 15c2-12, is very useful to the state and local government community. Furthermore, allowing investors to retrieve information from this location – free of charge – would be advantageous to the marketplace, especially to retail investors. We have reviewed the current EMMA Web site that is available for offering documents and pricing data, and we applaud you on your efforts to create an easy to use platform with layers of beneficial information to the tax-exempt bond community.

Below are our comments on the various sections of the MSRB notice.

## **Timing**

In order to adequately alert the issuer community, we would ask that there be a three to six month time period before submissions to EMMA are mandatory. This also would allow for sufficient time for the system's pilot phase to be completed.

## **Use of Cover Sheets**

GFOA appreciates the need for issuers to use an electronic "cover sheet" when submitting documents to ensure that the information is indexed and filed correctly. We believe that the fields identified are neither onerous nor burdensome for issuers. We are unclear, however, if the cover sheet would need to be used for ALL filings (new and ongoing) or only for continuing disclosure filings for bond issues completed after EMMA's implementation date. In order to avoid any errors in filing, we believe that cover sheets should be used for ALL filings.

Additionally, in the future the MSRB should look to both improve the information provided by issuers that investors seek and separate information filed by the issuers from information generated in the secondary market due to the creation of derivative products.

## **Use of PDF Documents**

The rule proposes that at first, documents would be submitted as PDF files, and after nine months, the documents would need to be submitted as PDF-word searchable files (native PDFs). We do not believe that this task is overly burdensome for most issuers; however we think that the time period for mandating submission of native PDF documents should be extended from nine months to at least one year. We also will encourage issuers to work with their finance professionals if they need assistance preparing these documents in the short term. However, we would ask that the MSRB, in conjunction with the issuer community and other parties who provide services to the issuer community, work to educate the issuer community on creating native PDF documents, and, where needed, provide assistance to issuers who may need to learn how to create the documents in the correct format. Outside parties who provide documents to issuers that become part of continuing disclosure filings should be directed to provide these documents in native PDF. We also ask that EMMA have the capability to adapt and adopt to new technologies in the future that would better allow for electronic submissions (e.g., XBRL).

## **Submitting Other Types of Documents**

We support EMMA's capability to accept documents outside of the prescribed realm of SEC Rule 15c2-12 and to make those submissions available to the public.

## **Issuer Review of Documents**

The system should provide for a way in which issuers can verify their filings to insure that they were filed and indexed correctly. Such review should be available both upon the time of submission and on an ongoing basis. In order for issuers to alert the MSRB of any problems with a filing, the MSRB should establish a "hotline" either by phone or email – or both – that would provide a way to get problems resolved quickly.

## **Security Issues**

We applaud the MSRB's efforts to create a secure site. This is a vitally important issue for all parties involved and will likely be an evolving piece in the weeks, days and years to come. The GFOA looks forward to working with the MSRB on an ongoing basis to ensure that the security matters are reviewed and well developed. These include:

### *Issuer Identification*

A government may have multiple authorized users for each issue/CUSIP. In order to ensure that only authorized person(s) are establishing themselves within the system, safeguards need to be implemented that would either notify the original contact for a particular CUSIP that another party has joined that account or determine another appropriate means to ensure proper security for each account at initial establishment and for ongoing filings.

### *Third Party Authorization*

Some issuers have contracts with third parties to submit applicable documents to be in accordance with SEC Rule 15c2-12. As proposed, the system would allow third parties to act as an agent and make filings for an issuer under two circumstances: 1) through a statement by the issuer verifying the third party is authorized to make a filing, and 2) by having the third party authorize themselves on the EMMA site that they are allowed to act as an agent, per the continuing disclosure agreement. We believe that the system should allow for easy access by authorized dissemination agents and others (e.g. trustees) to make filings. However, we would request that the system verify with the issuer that the third party is a designated agent before allowing such agents to make submissions.

## **Conduit Borrowers**

We share some concerns with others in the conduit issuer community about the manner in which the system would accept submissions on conduit transactions. While the conduit issuer is the party that issues the bonds and provides the primary market disclosure, the party obligated to submit secondary market information is typically the conduit borrower. As noted above, we believe the issuer should approve each third party authorization under their CUSIP. However, we want to work with the MSRB staff to determine a methodology that allows conduit borrowers (the obligors) to submit information without ongoing certification from the issuing entity but also ensures appropriate security with respect to the ongoing filings.

## **Search Functions**

As demonstrated, we believe that there are ample ways for the public to locate particular documents, either through a CUSIP number or an entity's name. It is imperative for these fields to be applied to all securities and for the MSRB to determine the most efficient way to do so.

## **State Information Depositories**

We have commented to the SEC that in order for the State Information Depositories (SIDs) to maintain their systems, the information delivered to EMMA should be provided to them free of charge. Optimally this would be done by a state-specific feed of information. We strongly

encourage the MSRB and the SEC to work directly with the SIDs to ensure that information is delivered without additional costs or administrative burdens to those entities.

### **Content Review**

Will must reiterate our position that the MSRB should have no authority over content or in any way shape or form over those parties making submissions to EMMA.

### **Added Value Components**

There may be new features that the MSRB may wish to add to EMMA in the future. We strongly suggest that the MSRB discuss any such features with marketplace participants and allow for a comment period for any proposed additions or deletions to the system.

### **Future Changes to EMMA**

We recognize that in the future, the MSRB may need to make technological changes or feature changes to EMMA. Similar to our reaction to “added value components”, we ask that if changes are made to EMMA that impact the manner in which issuers interface with the site or in other ways that impact issuers, the MSRB propose these changes and allow for public comment.

### **Pilot Phase**

Per our comments to the SEC, we hope that those issuers and obligated parties making submissions during EMMA’s pilot phase will have met their Sec Rule 15c2-12 obligations. Allowing these submissions to be SEC Rule 15c2-12 compliant will make it unnecessary for issuers to simultaneously send their documents to either the [www.disclosureusa.org](http://www.disclosureusa.org) or the four nationally recognized municipal securities information repositories (NRMSIRs).

### **Conclusion**

Once again, we applaud the MSRB on their creation of a system that is easy to use and valuable to issuers and investors alike. However, our support for EMMA and MSRB’s role in creating and administering EMMA does not diminish our position that neither the SEC nor the MSRB should have direct authority over municipal securities issuers or impose additional regulations on the municipal securities disclosure regime that would be burdensome to state and local governments. As the SEC considers and hopefully approves the implementation of a central repository, we would like to work with you to make the system work well and educate issuers and the community about its benefits.

Sincerely,

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Susan A. Gaffney  
Director, Federal Liaison Center

cc: Ernesto Lanza, MSRB