



New MSRB Rule G-46: Duties of Solicitor MAs – Compliance Considerations

NAMA has developed this Resource as an overview of MSRB's new Solicitor MA Rule. Firms should determine on their own if the Rule applies to their Firm and develop their own Firm policies and procedures and consult counsel as needed. This Resource does NOT serve as legal advice or a specific course of action. (February 2024)

On March 1, new MSRB Rule G-46, Duties of Solicitor MAs, goes into effect. While much of the Rule focuses on professionals that undertake certain solicitations of a municipal entity or obligated persons on behalf of certain third-party financial professionals (mostly for pension funds), all MAs should be aware of the Rule to ensure their activities do not trigger the Rule from applying to their Firm.

MA Firms should review the Rule and determine if any of their Firm's activity may be deemed solicitor MA activity. Solicitor MA activity is defined in the Rule as*:

- *Direct or indirect communication with a municipal entity or obligated person*
- *For direct or indirect compensation*
- *On behalf of a MA or Investment Adviser**, that is a third party (not controlled by or under common control with the MA Firm)*
- *For the purpose of obtaining or retaining an engagement by a municipal entity or obligated person of a municipal advisor**, or in connection with municipal financial products or the issuance of municipal securities or of an investment adviser to provide investment advisory services to or on behalf of a municipal entity*
- *As long as the engagement does not include excluded communications, as defined in Rule G-46(a)(ii).*

Firms should determine if they engage in, even inadvertently, solicitor MA activity. This could include, for example, recommending another MA or Investment Adviser for compensation (either directly or indirectly, including any quid pro quo arrangements, or unrequested gifts) to a municipal entity or obligated person in relation to an issuance of municipal securities or municipal finance products, or investment advisory services to or on behalf of a municipal entity.

Solicitor MA activity would trigger the need for the Firm to have Solicitor MA core standards of conduct in place. These activities include: Disclosures to Solicitor Clients, Documentation of the Solicitor Relationship, Representations to Solicited Entities, Disclosures to Solicited Entities (including role, compensation and conflict disclosures), Timing and Manner of Disclosures, and certain prohibitions.

Firms should consider adding to their WSP either that they do not engage in Solicitor MA activity, or develop appropriate policies and procedures related to the Firm's work and complying with Rule G-46 and corresponding obligations under Rule G-8. Firms not engaged in Solicitor MA activity should review their Form MA and ensure that Item 4.L (7) and (8) are not checked.

The MSRB's Notice on Rule G-46, Duties of Solicitor Municipal Advisors and Related Amendment to MSRB Rule G-8, may be accessed here - <https://www.msrb.org/sites/default/files/2023-03/2023-03.pdf>.

*language in italic is from the Rule, other language is paraphrased to assist with easier reading

** Rule G-38 has similar prohibitions for broker-dealers from engaging with third parties for solicitation