July 20, 2026

Mr. Ronald W. Smith
Corporate Secretary
Municipal Securities Rulemaking Board
1300 I Street, NW
Washington, DC 20005

RE: MSRB Notice 2026-03

Dear Mr. Smith:

The National Association of Municipal Advisors ("NAMA") appreciates the opportunity to comment on Notice 2026-03. The proposed rule amendments to update "financial advisor" ("FA") references and develop a roadmap for review of the rulebook as it pertains to municipal advisors are important initiatives that directly impact municipal advisor ("MA") professionals. We strongly recommend that these two efforts be integrated into a single process. This comment letter is being presented to document why we think this is so important. Initial discussions concerning FA to MA amendments have identified greater complexity than initially anticipated. The Municipal Securities Rulemaking Board ("MSRB") can avoid unintended consequences and ensure a clearer understanding of any amendments by conducting an extensive review of each of the core conduct rules before amendments are proposed.

The passage of the *Dodd-Frank Act* and subsequent regulation of municipal advisors was driven by Congress' intent to protect issuers. The existing principles-based approach of the MA rulebook achieves that goal while accommodating the broad diversity of firms engaged in municipal advisory activity. No fundamental changes to the rulebook are needed, but review of the rules and other publications is appropriate and important. Opportunities exist to (a) reconfirm that each rule, and the rulebook in the aggregate, operates within and corresponds to the MSRB's responsibilities to *prescribe means reasonably designed to prevent acts, practices, and courses of business as are consistent with a municipal advisor's fiduciary duty to its clients* (see *Securities Exchange Act 15B(b)(2)(L)(i));* (b) improve the guidance and resource materials available to the MA community; and (c) ensure that MSRB MA rules and references do not fall outside of the SEC's "municipal advisor" and "municipal advisor activity" definitions.

NAMA's comments on this Notice address three core areas: (a) the need to postpone adoption of the proposed Amendments to FA references at this time; (b) the need for a transparent Retrospective Rule Review (RRR) process; and (c) the need to clearly define the scope of RRR.

Proposed Amendments - FA to MA Terminology

NAMA supports revising FA terminology throughout the rulebook, including in MSRB guidance, to accurately reflect the current regulatory environment. These changes would bring the MSRB's regulatory scope into better focus, assist with rule understanding and compliance, and aid in curtailing continued problems associated with unregistered MAs engaging in MA activity.

For municipal securities, there is no statutory definition of "financial advisor" or "financial advisory and consultant services." Rather, pursuant to the *Dodd Frank Act*, the MSRB has authority to propose and adopt rules with respect to "advice" provided by MAs and with respect to MA activities (see *Securities Exchange Act 15B(b)(2))*. Because the "financial advisor" term is used within the statutory definition of municipal advisor in *Securities Exchange Act 15B(e)(4)(B*) and in other settings including money management, consulting services outside municipal advisory activity, and as a lingering colloquialism, it is vital that MSRB rules be clear and reflect actual law and regulation of municipal advisors within its authority.

Although eliminating the outdated FA references across MSRB's rules and related materials is necessary, the proposed Amendments must be postponed and addressed as part of the broader RRR process. Folding the FA revisions into that effort will allow the MSRB to take a comprehensive approach, evaluate related policy matters, identify additional changes needed within the cited rules, and avoid a drawn-out multi-step process where terminology revisions inadvertently create substantive or interpretive implications.

This is especially true regarding the proposed changes to Rule G-23.

The proposed Rule G-23 Amendments create changes that go beyond the stated intent of the Notice to revise the FA naming convention. This creates confusion and raises concerns about the purpose and practical impact of Rule G-23 and proposed amendments to Rule G-23.

These include:

- using the term "new issue municipal advisor" which lacks adequate purpose, context and definition, creates confusion and could have significant unintended consequences;
- ignoring the SEC's Final MA Rule, including the statutory definition of fiduciary duty, and MA activity definition which conflicts with the 2011 Rule G-23 and guidance;
- not considering Rule G-42 and Rule G-17 and other MA rules (including Rule D-13) that have overlapping and corresponding implications for MA and underwriter activities and practices;
- not achieving the goal stated in pages 2-3 of the Notice to eliminate *potential ambiguities stemming from the ongoing presence of the older term financial advisor*. The proposed Amendments add to the ambiguities and confusion of the Rule.
- Not acknowledging the long-standing challenges and questions raised with current Rule G-23 that now resurface under this effort to change FA phrasing (see MSRB Notice 2019-13 Request for Comment on MSRB Rule G-23 on Activities of Dealers Acting as Financial Advisors).

Given the lack of clarity in the proposed Amendments, and the need to review Rule G-23 within the broader context of the SEC MA Rule and other MA core conduct MSRB rules, the MSRB must withdraw the G-23 amendments from the Notice.

We propose that any Rule G-23 changes be made only within the RRR context. Consideration of changes to Rule G-23 must include substantial review of:

- the conflicts between Rule G-23 and its Interpretive Guidance, the SEC's Municipal Advisor Rule and other MSRB core conduct rules, including Rule D-13;
- whether the key tenets of Rule G-23 and anti-role switching language belong in Rule G-42 instead of Rule G-23 and guidance;
- the overall intention of the Rule; and
- whether the MSRB's proposed changes have the potential to weaken issuer protections.

Process for Retrospective Rule Review

Before discussing the scope of the RRR, the MSRB should provide a clear and comprehensive roadmap of its process for reviewing, receiving input, proposing changes, revising, and approving the rules and publishing guidance and resources that are part of this initiative.

NAMA has long urged the MSRB to seek input from a broad range of MAs, especially at the outset of an initiative, to understand how MA firms implement and comply with MSRB rules. It is especially important that the MSRB seek input from both practitioners and compliance officers as the process for RRR is developed, and participation will be increased if a variety of formats for communication are used.

The MSRB staff charged with drafting rules, conceptualizing resources, and developing guidance, do not seem to recognize the difficulties faced by MA firms when implementing new compliance protocols. They simply haven't been in our shoes and do not have the hands-on experience necessary to understand how MA firms address compliance matters. Our concern is heightened because small MA firms, who are the majority of this market segment, do not have in-house counsel or compliance departments and their compliance programs are typically being led by practicing MAs. By contrast broker-dealer firms tend to be larger, and by the nature of their business have in-house counsel and compliance functions. Recognizing this difference will help MSRB counsel write rules and guidance for non-counsel, practicing MA professionals. This does not mean that rules should be diluted, but rather that guidance be updated and developed to clarify context and more plainly explain rules and their application while minimizing legalese. **Informal and formal input, on both the policy of rules and guidance review and development, and the approach used to address the broad MA audience, is imperative in the MA RRR effort**.

We strongly request a robust guidance development process, including streamlining and differentiating the types of guidance and resources (e.g., SEC-approved interpretive guidance, interpretive guidance, various types of resources). Guidance that explains rules in plain English, with a focus on practical application and minimal legal terminology, will help MA firms determine how a rule applies to their practice and establish appropriate compliance procedures. Streamlining guidance will also surface common questions, alleviating the need (especially acute for small firms) to consult counsel simply to understand a rule.

While the MSRB's Compliance Advisory Group (CAG) assists the MSRB with its compliance agenda, the MSRB cannot rely on CAG alone for input on compliance matters, given the few number of MAs on CAG, its limited agendas and meetings, and the wide variation in MA firms and their compliance functions.

The process for MSRB rule proposals and approvals also needs to be more transparent and consistently followed. There have been instances where rules were adopted or deliberated by the Board without public notice, circumventing the ability of regulated entities to provide input and calling into question the integrity of the approval process. Rule G-34 is a case in point: in 2017 the Board approved significant changes, which the SEC approved; in 2019 the Board rescinded those changes but never filed the amended Rule with the SEC (leaving the 2017 changes in place); and in 2021 the MSRB announced it would maintain the 2017 version of the Rule, without prior notification nor providing an opportunity for public comment. Clarity about rule approvals and subsequent SEC filings is vital to the integrity of the process.

More recently, amendments to Rule G-20 were handled in a manner unnecessarily confusing and burdensome. While we support the need for regulatory parity, MAs had no opportunity to comment, and the MSRB gathered no data on implementation pressure points before the revised Rule was enacted. Further, the Notice for immediate effectiveness set an implementation date of December 1, 2026, but without explicit notification or opportunity for public comment, the MSRB changed the effective date in an email alert sent on May 26, 2026, to anytime during the June 1 – December 1 period. That change was not formally submitted to the SEC and was addressed in an additional Notice on July 2, 2026, only after concerns were expressed. Going forward, the MSRB should not send rules to the

SEC without a comment period to explore the impact on *all* regulated firms, and any change to a rule's effective date should be vetted with regulated entities following established regulatory procedures. The MSRB's chaotic implementation of what should have been straightforward changes raises great concern about how the MSRB will address rule changes within RRR of more significance for MA compliance.

The RRR must also include an intentional focus on how MSRB rules impact small MA firms. We have consistently called for more focus on the impact of regulation on small MA firms; we believe that SEC Exchange Act 15B(b)(L)(iv) requires the MSRB to consider the impact of its rules on those small MA firms trying to adhere to the rulebook. The overwhelming majority of MA firms are small, both in the general sense and under the MA Rule's small firm definition, as demonstrated in SEC Number of Registered MAs by Size data. While the MSRB now describes small firm impact in its rule filings and conducts economic analyses in rulemaking proposals, it has never made a finding that the impact of a rule change was significant, nor has it examined how the rulebook in its totality affects small firms. Its *Request for Information on Impacts of MSRB Rules on Small Firms* (Notice 2023-11) yielded no further discussion or follow-up, nor determined how the MSRB defines "small" (if outside of the SEC MA Rule's reference to the Small Business Administration's definition), a missed opportunity that deserves renewed attention within the RRR.

As the RRR begins, an initial step should be to define the process the MSRB will use to ensure public input, including how small firms interact with the rulebook, and its approach to review and propose revisions to the MA suite of rules, guidance, resources, and other publications. This will also keep the RRR effort focused on rules, guidance, and materials pertaining only to MA and UW activity, avoiding matters outside the scope of the MSRB's regulatory mandate under Section 15B of the Securities Exchange Act.

Scope of Retrospective Rule Review

We appreciate the MSRB's initiative in undertaking the MA RRR. It is an opportunity to review MA rules and guidance, some now more than a decade old; to look holistically at what is working well and what needs improvement; to address municipal market and technological advances; to identify where resources are insufficient or not yet available; and to emphasize how MSRB rules protect issuers.

Our overarching comment about the scope of RRR, is that it should focus first on the core conduct rules, then turn to the guidance and other materials. Enhancing and streamlining these resources will make them more accessible to the MA audience.

As noted above, the implementation of MA rules and the principles-based foundation of the rulebook have worked well. The MA community is diverse and, compared to broker-dealers, only recently regulated. Just as MA professionals have adjusted to regulation, the MSRB has had to adjust to writing rules outside its historical broker-dealer focus. While the MSRB's early reliance on its BD rulemaking and guidance approach was understandable, now there is the opportunity to step back and determine how MSRB rules and guidance can best reflect the MA profession.

The continued use of dealer-MA and non-dealer-MA phrasing within Rule G-23 and elsewhere in MSRB materials also needs considerable discussion and review. MA rules apply to MA activity regardless of whether a firm also provides broker-dealer services, thus the differentiation is likely not needed. However, we recognize the compliance challenges for dual-registered firms. A conversation should ensue about the delineation between MA and UW activities (as with current Rule G-23, the SEC MA Rule and its UW exemptions, and Rule G-42), and whether some of the matters should be addressed in guidance, rather than in rule text.

To aid in the RRR endeavor, please see our observations about the MSRB Rulebook, resources, guidance and other general topics in Appendix A. This document also highlights items discussed in this letter that should be given the highest priority in the RRR initiative. Appendix B lists past NAMA comment letters relevant to upcoming RRR efforts.

NAMA looks forward to engaging with the MSRB on these items as the RRR moves forward.

NAMA's key comments on the Notice are summarized below:

FA to MA Amendments

1. While it is important to address the use of "financial advisor" in MSRB rules, the MSRB should not move forward with its current proposed changes to FA terminology within the Notice. These changes should be addressed within the broader RRR effort.
2. Most importantly, the proposed changes to Rule G-23 have policy implications beyond the stated intent of revising FA phrasing and require further consideration and discussion. **Any changes to Rule G-23 and its interpretive guidance should only be made as part of the RRR, reviewed thoughtfully alongside the SEC's Municipal Advisor Rule, the statutory definition of fiduciary duty, and other MSRB core conduct rules including Rules G-42 and G-17, and not in isolation or on an immediately effective basis.**

Fundamentals of the MA Rulebook

3. The MSRB's development of principles-based rules that serve the wide variety of MA firms has been successful. No structural changes to this approach of the rulebook are needed.
4. Attention must be given to small MA firms and how they interact with MSRB rules and guidance as the RRR is conducted. This is necessary to comply with Securities Exchange Act Section 15B(b)(2)(L)(iv) and to ensure MSRB rules and publications serve the majority of MA firms.

RRR Process and Priorities

5. The MSRB's process for reviewing and revising rules should be established upfront in a clear, transparent manner and should invite discussion and input, with public comment periods throughout development and before any SEC submissions.
6. Engagement with market participants, including robust, **substantive** dialogue with MAs and ample opportunity for public comment, must occur early in rule, guidance, and resource reviews and development. In some cases, review of these latter products is just as - if not more - important as the rules themselves.
7. Priority should be given to review of the MA core conduct rules.

Thank you again for the opportunity to comment on this wide-ranging Notice. The MSRB's development of rules for municipal advisors has been an overall success, protecting issuers and establishing appropriate professional standards. The RRR effort will provide opportunities for improving on this foundational success.

NAMA members and NAMA's Policy Committee look forward to continued engagement with the MSRB on its MA RRR efforts.

Sincerely,

Susan Gaffney

Susan Gaffney
Executive Director

Appendix A – Observations on MSRB MA Items

See separate document

Appendix B – Past NAMA Comment Letters Related to Retrospective Rule Review Efforts

Notice 2023-11: Request for Information on Impacts of MSRB Rules on Small Firms
https://www.msrb.org/sites/default/files/2024-02/NAMAsmallfirmFEB2024.pdf

SR-MSRB-2022-05, Rule G-34 (filed with SEC)
https://www.sec.gov/comments/sr-msrb-2022-05/srmsrb202205-20135430-306322.pdf

SR-MSRB-2022-03, MSRB Fees (filed with SEC)
https://www.sec.gov/comments/sr-msrb-2022-03/srmsrb202203-20133786-303787.pdf

Notice 2019-20: MSRB Requests Input on Strategic Goals and Priorities
https://www.msrb.org/sites/default/files/RFC/2020-19/NAMA.pdf

Notice 2019-13: MSRB Rule G-23 on Activities of Dealers Acting as Financial Advisors
https://www.msrb.org/sites/default/files/RFC/2019-13/NAMA.pdf

Notice 2017-22: MSRB Seeks Input on Compliance Support
https://www.msrb.org/sites/default/files/RFC/2017-22/NAMA.pdf

Notice 2016-25: MSRB Long Term Strategic Priorities
https://www.msrb.org/sites/default/files/RFC/2016-25/Gaffney.pdf