Remarks Of

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"Customer Protection and Political Contributions"

Public Securities Association
San Francisco, CA
May 26, 1993

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*/ The views expressed herein are those of Commissioner Roberts and do not necessarily represent those of the Commission, other Commissioners or the staff.

U.S. Securities and Exchange Commission
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"Customer Protection and Political Contributions"

I. Introduction

I appreciate the opportunity to participate in this Regional Issues and Answers Forum on Customer Suitability, and I commend the Public Securities Association ("PSA") for holding such a forum.

The municipal securities market from a supply and demand standpoint has been enjoying almost unparalleled good times. I have always held the view that it is wise during the good times to step back, consider the developments that are taking place, and attempt to prepare for the future. While this view goes against the grain of the old saying "if it ain't broke, don't fix it," more often than not, a little fine tuning is helpful to avoid the necessity for more massive and expensive tinkering under a pressure cooker environment when times are not so good.[1] Thus, I am pleased that the Municipal Securities Rulemaking Board ("MSRB") is in the throes of a customer protection study. With all the additional investor attention now being focused on the municipal securities market, I believe that it is timely and appropriate to undertake such a project.

The MSRB should be congratulated for conducting the study. I know that it would have been much easier not to. In this regard, everyone should recognize that the MSRB was established not to be a lobbying arm for municipal securities dealers but to serve as a self-regulatory organization for those dealers -- on the ground that self-regulation, where feasible, may be more useful in some cases than direct governmental control.

II. Customer Protection Study

As a result of the comment process conducted by the MSRB for the study, a couple of positive developments have already occurred for the municipal securities marketplace in my judgment.

A. Developments

The Commission, the MSRB, and the National Association of Securities Dealers ("NASD") have indicated an intent to coordinate, intensify, and improve their collective

municipal securities compliance and enforcement efforts.[2] I anticipate that more resources will be directed by these organizations toward additional enforcement efforts in the municipal securities marketplace. I know that all three organizations are committed to performing the best job possible given the fragmented regulatory jurisdiction that exists in the municipal area.

Several comment letters to the MSRB identified, correctly in my view, the lack of secondary market information as one of the more serious problems in the area of customer protection for the municipal securities market.[3] Certainly most municipal bondholders now lack access to the information they need to assess the continuing creditworthiness and value of the bonds they own, or may consider purchasing, in the secondary market.[4]

This lack of secondary market disclosure will continue to be an impediment to the liquidity and efficiency of the municipal securities secondary market. While this problem remains a long way from being solved, there are indications that the heightened awareness caused, among other things, by the study comment letters has accelerated the progress of the improvements beginning to take place in the municipal securities secondary market disclosure area.[5]

Hopefully, with time, secondary market disclosure in the municipal securities market will improve dramatically through voluntary means. If eventually these voluntary means prove to be ineffective, then I intend to pursue Commission regulation or, if necessary, to pursue legislation to partially repeal the Tower Amendment in order to empower the Commission with the direct ability to develop an involuntary secondary market disclosure scheme.[6]

I understand that there is already growing sentiment in the municipal securities dealer community in favor of repeal of the Tower Amendment. I recognize that the municipal securities dealer community has become weary of bearing the brunt of the regulatory burden that currently exists in the municipal securities market. This disenchantment with the Tower

Amendment was partially reflected in comments arising from the most recent attempt by the East Baton Rouge Mortgage Finance Authority to refund certain housing bonds.[7] While I am not prepared at the present to join those seeking legislation to repeal the Tower Amendment, my reluctance to join the fray is subject to reconsideration over time.

B. MSRB Rulemaking Action

The MSRB's study should generate MSRB rulemaking action as well. Currently I understand that the MSRB is considering revising its suitability rule, Rule G-19.[8] I am of the opinion that Rule G-19 at least should be amended to conform generally to the NASD's equity suitability requirements.

A municipal firm recommending securities should determine the suitability of its recommendation based on what has been disclosed by the customer and, in the absence of such disclosure, should not be able to assume that its recommendations are suitable. Given the flood of new products with complex features and the increase in retail investor interest in the municipal securities market, this appears to be a reasonable proposition. I am encouraged by the MSRB's announced intention to amend Rule G-19, and I look forward to the publication of a proposed revised rule in the near future.

There are other rulemaking actions apparently being considered by the MSRB as a result of its study. For example, I understand that the MSRB is contemplating requiring some form of additional notice with respect to the sale of non-rated bonds.[9] Along these lines, I have encouraged that strong consideration be given to expressly requiring municipal securities dealers to emphasize to customers the potential special risks related to a non-rated security prior to or at the time of the trade through the confirmation.[10] This approach would provide information to allow the customer to protect himself or herself, rather than relying solely on broker-dealer suitability determinations. However, I am not wedded to this suggestion, and I recognize that other notice alternatives are available as well.

I recently reviewed with interest the municipal bond default survey conducted by J.J.

Kenny which covered the past decade ("Kenny Survey").[11] It appeared to be professionally prepared and generally consistent with a similar survey conducted earlier by the PSA.[12] The Kenny Survey indicated that the municipal bond market experiences few defaults, which is a conclusion that reflects favorably upon municipal securities dealers. In fact, according to the Kenny methodology, there were no defaults recorded for general obligation bonds, whether rated or non-rated, for the period under review.

According to the Kenny Survey, approximately 1.93% of the total dollar volume of non-rated bonds and 2.12% of the total number of non-rated issues defaulted during the covered period. Approximately 0.27% of the total dollar volume of rated bonds and 0.08% of the total number of rated issues defaulted during the covered period. Thus, the likelihood of the default of a rated municipal bond is very small according to the Kenny Survey. However, it is ironic to note that the largest defaults in the history of the municipal securities market involved bonds that at one time had been considered investment grade by the rating agencies.

Although the Kenny Survey should put to rest the notion that all or even most non-rated municipal bonds are highly speculative in nature and likely to default, it did indicate that non-rated bonds are indeed more likely to default than rated bonds. The Kenny Survey further indicated that the non-rated defaults were concentrated in the healthcare and industrial development sectors and mainly involved issues of $10 million or less. I suspect this surprises no one.

According to the Kenny Survey, approximately 76% of all defaulted non-rated bonds by dollar volume were healthcare bonds and industrial development bonds. Healthcare bonds alone comprised approximately 46% of the total dollar volume of non-rated defaults. Further, almost 90% of all the non-rated defaults occurred on issues that were less than $10 million in size.

One of the most interesting but little noticed findings of the Kenny Survey was the following:

> The fact that more than one-half of the non-rated defaults in our study occurred less than 43 months after their date of issuance provides strong anecdotal evidence that many non-rated defaults occur on projects with a low initial probability of success. Many of these projects are only able to support debt service payments for a limited period of time following the depletion of capitalized interest and reserve funds, as evidenced by the small differential between the median time to default and the time at which capitalized debt service funds are exhausted.[13]

I suspect that the bonds associated with these projects pose the bulk of the customer protection problems in the non-rated area.

The Kenny Survey reinforces my conclusion that there are often special circumstances associated with the purchase of a non-rated security, such as credit or liquidity concerns, that should be emphasized to potential investors.[14] Alerting investors that they are purchasing a non-rated security through the confirmation should not be burdensome to the securities industry and could help avoid substantial future customer problems. In fact, while such an approach may pose difficult definitional problems, non-rated securities that do not pose a higher default risk, such as general obligation bonds, possibly could be excluded from any additional notice requirement. This approach would be even less burdensome to the securities industry.

I do not agree as some have stated that any additional notice requirement would result in a bifurcated market for non-rated securities. I submit that only non-rated securities issued by a tax-exempt issuer, without any significant positive operating history, would be adversely impacted from a pricing standpoint by such a requirement. I suspect that those issuers encounter pricing problems already and deservedly so, at least according to the Kenny Survey.[15]

Another area that I understand the MSRB is giving some consideration to addressing through its customer protection study is the area of derivative municipal securities.[16] The development of derivative municipal securities does merit continued close regulatory scrutiny as the market for these products expands to include smaller institutional investors and retail customers. Given the risks associated with investing in these products, careful scrutiny is needed not only to monitor the evolution of a market for these securities, but more importantly, to ensure that sufficient measures are taken by the appropriate authorities to maintain investor protection and to articulate adequate suitability criteria for investment in these complicated products.

I know that the MSRB is reviewing the current market practices in the derivatives area in conjunction with its study, and I hope that one result of this examination will be the modernizing of the MSRB's customer protection rules. Municipal securities have historically been viewed by investors as a relatively "safe" investment, and I believe that everyone wishes for that view to continue, particularly with the recent influx of new investors.[17]

III. Political Contributions

I wish to spend the remainder of my time today discussing the issue of political contributions which has received a substantial amount of attention recently, particularly from the press.[18] While this issue is not encompassed by the MSRB's customer protection study, the MSRB has recently announced that it will be focusing on this issue in the coming months and, in the course thereof, will be considering its own options for action in this area, including requiring dealers and associated persons to make additional disclosures regarding their political contributions prior to any underwriting activity.[19] I noticed that the PSA applauded the MSRB announcement.[20]

The willingness of the MSRB to attempt to address this issue is commendable.

While the connection between political contributions and municipal securities underwriting business has caused concern for many years, the recent press reports have heightened this concern, as well as heightened public awareness in general, over the role of political contributions in the municipal underwriting process.[21]

These press reports call into question the integrity of the municipal securities market and of the business activities municipal underwriters use to obtain underwriting contracts.[22] While it may have been a long time in coming, a regulatory response to this issue is now necessary in my opinion in order to restore integrity to a marketplace supposedly known for its integrity.

A. Alternatives

A reasonable question to pursue is just what response would be appropriate. Issuers or state legislatures could adopt additional measures to help ensure that political contributions do not influence the underwriter selection process. Of course, the MSRB would be limited to making recommendations in this area, but I suppose that is an option worth considering.

The Treasurer of Maine apparently has called on the MSRB to institute a nationwide ban on contributions to election campaigns from municipal bond firms.[23] Although I have not researched the issue, I suspect that there exist constitutional questions that pose substantial problems to the implementation of such a ban. Further, I consider a ban to be rather impractical and not a likely response to be pursued.[24]

I imagine that if the MSRB were to pursue a rulemaking response, and I believe it should, the rule would most likely require some form of disclosure of political contributions. This approach makes sense, at least to me. Disclosure of political contributions to the marketplace "should serve to temper both the appearance of impropriety and the actual excesses that often accompany political gifts . . .."[25]

The MSRB could limit any disclosure requirement to cover only contributions to those officials who are (directly or indirectly) responsible for underwriter selection decisions and could further limit the requirement to contributions to officials whose decisions involve non-competitive underwritings.[26] Of course, as a result of the Tower Amendment, the MSRB may have to limit any direct disclosure requirements to municipal securities dealers and their associated persons.

B. MSRB Authority

It may be helpful at this juncture to briefly discuss the authority of the MSRB in this area. Section 15B of the Exchange Act provides the MSRB primary rulemaking authority with respect to the activities of municipal securities brokers and dealers and transactions in municipal securities. In enacting Section 15B, Congress provided the MSRB broad rulemaking authority limited to Section 15B's enumerated purposes and standards.[27] Two principal purposes of Section 15B include the prevention of fraudulent and manipulative acts and practices and the promotion of just and equitable principles of trade.[28]

Pursuant to this mandate, the MSRB's fair practice rules, rules G-17 through G-35, establish just and equitable principals of trade applicable to municipal brokers and dealers. MSRB Rule G-20 governs gifts by municipal securities brokers and dealers to persons other than employees of the broker or dealer. Rule G-20 prohibits brokers and dealers from providing any gift or gratuity in excess of $100 per year to any person other than an employee of that broker or dealer.[29] Municipal securities dealers that make illegal payments to obtain underwriting business probably violate Rule G-20.[30]

An argument can be made that the MSRB's fair practice rules already cover political contributions, although to date, the MSRB has not interpreted Rule G-20 or any of its other rules to apply to political contributions. Historically, state law regulated such contributions and was relied upon for oversight in this area, and most states do have extensive laws regarding campaign financing.[31] Further, most state election laws require candidates to

disclose the amount and originator of political contributions.[32] However, there may now exist a need, as a result of recent developments, for a national, more centralized mechanism for requiring disclosure and reporting of political contributions to state and local officials by municipal securities dealers that are involved in underwriting activity in that locality.

I believe that the MSRB does have the authority to adopt a rule requiring underwriters to disclose political contributions.[33] The rule would have to address the manner and content of disclosure and should not conflict with existing disclosure requirements of the states. The rule could require an underwriter to report political contributions when it is required to deliver official statements pursuant to Rule G-36.[34] The MSRB could make the information available to interested parties through the MSRB's Municipal Securities Information Library ("MSIL") system.[35] This would be preferable to requiring disclosure to the issuer, since that approach could be abused.

I recognize that it is possible for underwriters to funnel political contributions to municipal officials through employees or their spouses. The MSRB could address this potential loophole by fashioning the disclosure rule to require the firm to include in its disclosure materials information about employee or employee-directed contributions that specifically identify the underwriter in connection with the contribution. I understand that many states have contribution disclosure laws that require disclosure of the contributor's employer. There may be a sufficient nexus between the disclosure of the underwriter's identity on state election disclosure forms and the resulting potential "influence" benefit to justify requiring underwriters to obtain and disclose (on an aggregated basis) such information from their employees (perhaps as a condition of continued employment). In any event, the issue of how far to cast the disclosure net can be deferred in favor of establishing a consensus on the need for a requirement that underwriters disclose political contributions.

Such a disclosure rule would be within the broad authority and purposes enumerated in Section 15B, and in particular, could be seen as promoting just and equitable principles of

trade. Such a rule would also promote one of the principal goals of the 1975 Exchange Act Amendments -- to raise the level of conduct and integrity in the municipal securities market.[36]

Such a rule may not deter political contributions in light of the current disclosure by the political candidates. Such a rule also may duplicate state regulation of campaign financing. Given the nature of municipal securities issuance, which historically has been regulated by the states, the MSRB may wish to leave regulation of political contributions to the states. While I am not sure that I agree with such an approach, I suppose that is an alternative. The MSRB would also have to consider whether a disclosure rule would be unduly burdensome on underwriters and on competition. I recognize that no one desires for the MSRB to become a mini-federal election commission.

I wish to point out, though, that an MSRB political contribution disclosure rule would provide an alternate method of disclosure directly to the marketplace that is not currently available through disclosure by political candidates. Rule G-36 requires that underwriters file a final official statement within ten business days after the final agreement to purchase, offer, or sell the securities. Thus, information regarding political contributions could be available to investors while reviewing the disclosure documents.

The final regulatory alternative in this area that I wish to mention is that the Commission could engage in a rulemaking action to enhance disclosure of political contributions. Exchange Act Rule 15c2-12 governs municipal securities disclosure. The Commission could amend this rule to require disclosure similar to the MSRB alternative discussed previously. However, at this time, I believe that it would be preferable to defer to the MSRB with respect to any rulemaking initiatives on this issue, at least for a reasonable time.

I should point out that the Commission's Acting Chairman, Mary Schapiro, is also very interested in this subject, and I would not be surprised to see some Commission

activity, short of rulemaking, in this area in the near future.

IV. Conclusion

I recognize that the issue of political contributions in the municipal securities marketplace has been a sensitive and controversial issue for many years. However, a strong argument can be made that it is now time for a centralized disclosure requirement to be imposed by the MSRB in addition to whatever disclosure requirements are imposed by state and local election laws. A strong argument can also be made that it is time for the Commission to look a little closer at the market practices in this area.

I am of the opinion that the MSRB has the authority, pursuant to Section 15B of the Exchange Act, to adopt a rule requiring municipal securities underwriters to disclose political contributions. I acknowledge that such a rule may have minimal impact in light of current disclosure by political candidates. However, by requiring underwriters to disclose political contributions when filing a final official statement, the information would be available to the marketplace when reviewing disclosure documents and making investment decisions. This approach appears to me to be a reasonable regulatory response to the concerns that are currently being raised regarding political contributions by the municipal securities industry .

I wish the MSRB well as it tackles all the issues now heaped on its plate. I will be following the MSRB's actions in both the customer protection and the political contribution area with interest.

ENDNOTES

1. See Antilla, "Short Memories for the Bad Times," The New York Times (April 18, 1993), at F13; O'Neill, "New Investors Are Entering the Bond Market; Educate Them Now to Avoid Disruption Later," The Bond Buyer (April 19, 1993), at 26; King, "Individual Investors Need to Brush Up On Bond Market, Say Muni Officials," The Bond Buyer (April 28, 1993), at 1; and "Here Come the Muni Funds -- Caveat Emptor," The New York Times (April 25, 1993), at F13.

2. See Stamas, "SEC Intensifies Muni Inspections As Sales Increase To Individuals," The Bond Buyer (March 9, 1993), at 1; and Stamas, "NASD Tells Staff To Look Closely At Bond Sales To Retail Buyers," The Bond Buyer (April 30, 1993), at 1.

3. See Letter from Gerald P. McBride, Chairman, Municipal Securities Division, PSA, to Harold L. Johnson, Deputy General Counsel, MSRB, dated January 8, 1993 ("PSA Letter"); letter from Victoria Westall and Richard Ciccarone, Chairperson of the NFMA Board of Governors and the NFMA Standards & Practices Committee, respectively, to Harold L. Johnson, Deputy General Counsel, MSRB, dated December 16, 1992 ("NFMA Letter"); and letter from Michael G. Wadsworth, Senior Vice President, Southwest Securities, to Harold L. Johnson, Deputy General Counsel, MSRB, dated December 1, 1992 ("Southwest Letter").

4. See Apfel and Reguer, "Point and Counterpoint: Bond Lawyers And Secondary Market Disclosure," The Quarterly Newsletter of the National Association of Bond Lawyers (Feb. 14, 1993), at 14; and Roberts, "Education and Secondary Market Disclosure Will Help Preserve Growth of Municipal Securities Market," Remarks delivered at the Public Securities Association 1993 Annual Meeting, White Sulphur Springs, West Virginia (May 1, 1993).

5. For example, J.J. Kinny Co. has recently executed an agreement with Bloomberg Financial Markets to provide municipal bond price quotes and other financial information via Bloomberg's global electronic news network. See King, "J.J. Kinny to Transmit Muni Data Via Bloomberg Network," The Bond Buyer (March 24, 1993), at 4.

   For another example, the National Federation of Municipal Analysts ("NFMA") in January approved the first standardized format for tax-exempt bond issuers and trustees to use to provide the municipal securities secondary market with disclosure information. See Stamas, "Analysts Group

Approves Standardized Disclosure Format," The Bond Buyer (Feb. 1, 1993), at 5.

For a third example, the MSRB is apparently exploring with the NFMA the potential expansion of its Continuing Disclosure Information pilot system to accept annual financial reports and other longer documents and not just notices of up to three pages. See Stamas, "Expansion Eyed For MSRB Pilot On Disclosure In Secondary Markets," The Bond Buyer (May 21, 1993), at 1. The MSRB earlier had announced an intention to open the pilot system to issuers. See "MSRB's Continuing Disclosure Pilot System to Accept Information Directly From Issuers This Month," Redemption Digest (May 11, 1993), at 1.

See generally Roberts, "Continue Secondary Market Disclosure Progress," Remarks delivered to the Government Finance Officers Association's Committee on Governmental Debt & Fiscal Policy, Washington, D.C. (Jan. 20, 1993).

6. While arguably the Tower Amendment does not prohibit the Commission from requiring issuers to make secondary market disclosure, repeal of the Tower Amendment would allow the Commission to require filing of such disclosure with the Commission.

7. See Hume "Investors Ask SEC To Decide Legality Of Plan to Redeem Escrowed Bonds," The Bond Buyer (May 17, 1993), at 1; Connor, "Pending Louisiana Muni Redemption Threatens to Bring Call for SEC Inquiry," The Wall Street Journal (May 17, 1993), at C6; Hume, "MSRB Official Says He'll Ask for Probe If Mortgage Agency Does Its Redemption," The Bond Buyer (May 18, 1993), at 1; Hume, "East Baton Rouge Mortgage Authority Shelves Redemption of Escrowed-to-Maturity Bond Issue," The Bond Buyer (May 20, 1993), at 3; and Hume, "East Baton Rouge Agency Puts Off Call Until Probe Finished by SEC," The Bond Buyer (May 24, 1993), at 1.

8. See Stamas, "MSRB to Amend Suitability Standard Saying Intricate Deals Raise Risk for Buyers," The Bond Buyer (Feb. 24, 1993), at 1.

9. See Stamas, "MSRB Eyes New Steps Aimed at Derivatives, Pricing, Nonrated Bonds," The Bond Buyer (May 4, 1993), at 1.

10. See Stamas, "SEC Commissioner Wants Brokers to Put Warnings On Bond Confirmations," The Bond Buyer (March 1, 1993), at 1. See generally Roberts, "Commentary on Customer Protection Study Comments," Remarks delivered to the PSA's

Regional Issues and Answers Forum on Customer Suitability, Chicago, Illinois (Feb. 25, 1993).

11. Municipal Bond Defaults, The 1980's: A Decade in Review, J.J. Kenny Co., Inc. (1993)("Kenny Survey").

12. An Examination of Non-Rated Municipal Defaults 1986-1991, Public Securities Association (Jan. 8, 1993).

13. Kenny Survey, supra note 11, at 8.

14. See, e.g., Schifrin, "Hello, sucker," Forbes (Jan. 18, 1993), at 40; Wayne, "The Fuss Over Nonrated Bonds," The New York Times (Jan. 24, 1993), at F15; and Merrigan, "Investors Need to Have Ratings on Speculative Bonds," Letters to the Editor, The Bond Buyer (Jan. 18, 1993), at 17.

15. See Kenny Survey, supra note 11, at 8.

16. See Stamas, "MSRB to Amend Suitability Standard, Saying Intricate Deals Raise Risk for Buyers," supra note 8; and Stamas, "MSRB Eyes New Steps Aimed at Derivatives, Pricing, Nonrated Bonds," supra note 9. See generally Roberts, "Modernize Customer Protection Rules Too," Remarks delivered to the Municipal Forum of New York, New York, New York (April 21, 1993).

17. See Hinden, "A Stampede to Municipal Bond Funds," The Washington Post (May 24, 1993), at 29.

18. See Dickson, "Merrill Reports 'Irregularities' On Trades Tied To U.S. Probe," The Bond Buyer (May 4, 1993), at 1; and Pressman and Monsarrat, "SEC and State Board Are Now Scrutinizing New Jersey Turnpike Over Bond Refunding," The Bond Buyer (May 6, 1993), at 1.

The Wall Street Journal recently reported that the Commission's New York Regional Office commenced an investigation concerning the sale of New Jersey Turnpike Authority bonds and whether associated persons of a municipal securities dealer made illegal payments to receive part of the underwriting business. Cohen and Siconolfi, "SEC Launches New Jersey Bond Investigation," The Wall Street Journal (May 5, 1993) at C1. In a related article, The Wall Street Journal reported that political contributions are considered by many municipal securities dealers to be an ordinary cost associated with obtaining municipal underwriting business. Mitchell and Vogel, "Illegal Payments Mar the Muni Market," The Wall Street Journal (May 5, 1993), at C1. Moreover, two recent articles in The Bond Buyer provided accounts of two New York City

officials who receive political contributions from securities firms that are commonly awarded municipal underwriting contracts. Doran, "Holtzman Dials Direct for Dollars, Asking Bankers to Help Pay Off Debt," The Bond Buyer (May 12, 1993) at 1; and Doran, "Mayor Dinkins is More Than a Match for Holtzman When it Comes to Tapping Wall Street," The Bond Buyer (May 12, 1993), at 31.

19. See Stamas, "MSRB May Offer Rule to Require Firms to Disclose Their Donations," The Bond Buyer (May 20, 1993), at 1.

20. "The Public Securities Association Release," The Bond Buyer (May 20, 1993), at 28.

21. See Mysak, "This Story Is Very Big, Before Its Over, It Will Mean Scores of Lives, Millions of Dollars, a Few Pulitzers," The Bond Buyer (May 10, 1993), at 22; and Allan, "When Politics and Money Clash," The Bond Buyer (May 10, 1993), at 22.

22. See Spiro, "Back-Scratching On The Street," Business Week (May 14, 1993) at 2.

23. See Fitzgibbons, "Shapiro of Maine Seeks MSRB Ban On Political Funds From Bond Firms," The Bond Buyer (May 14, 1993), at 1.

24. But see Allan, "The Shapiro Proposal," The Bond Buyer (May 24, 1993), at 22.

25. Ferris, "A Long Overdue Beginning," The Bond Buyer (May 24, 1993), at 22.

26. The potential for improper influence in connection with sealed-bid underwritings would appear to be insignificant because pricing is usually the predominant selection criteria. See Mysak, "Watching the New Jersey Bond Scandal Unfold Is A Lot Like Waiting for the Hindenburg to Land," The Bond Buyer (May 24, 1993), at 22.

27. The legislative history to the 1975 Exchange Act Amendments adopting Section 15B stated that Congress did not believe it would be desirable to restrict the MSRB's authority by a specific enumeration of subject matters. "The ingenuity of the financial community and the impossibility of anticipating all future circumstances are obvious reasons for allowing the [MSRB] a measure of flexibility in laying down the rules of the municipal securities industry." Senate Comm. on Banking, Housing, and Urb. Affairs, Report to Accompany S. 249; Exchange Act Amendments of 1975, S.

Rep. No. 75, 94th Cong., 1st Sess. 7-9 [Comm. Print 1975], reprinted in [1975] U.S. Code Cong. & Ad. News 179, 225 ("Senate Report").

28. Section 15B(b)(2)(C); [15 U.S.C. § 78o-4(b)(2)(C)].

29. The NASD has a similar provision. NASD Rules of Fair Practice, Article III, Section 10.

30. Illegal payments by municipal securities brokers or dealers also may violate other MSRB fair practice rules such as Rule G-17. Rule G-17 requires each municipal securities broker and dealer, in the conduct of its business, to deal fairly with all persons and prohibits any deceptive, dishonest, or unfair practice.

31. See Campaign Finance Law 92; A Summary of State Campaign Finance Laws With Quick Charts, Federal Election Commission (1992).

32. Id. See also NY CLS Elect. § 14-102.

33. State and local governments of course are exempt from the MSRB's rulemaking authority. See Section 15B(d)(2); [15 U.S.C. § 78o-4(d)(2)] (so called "Tower Amendment").

34. Rule G-36 requires that brokers, dealers, and municipal securities dealers that act as underwriters of municipal securities deliver to the MSRB, among other things, copies of final official statements if such documents are prepared by or on behalf of the issuer.

35. MSIL is an electronic library through which information collected pursuant to Rule G-36 is made available electronically to market participants and information vendors. Securities Exchange Act Release No. 29298 (June 13, 1991), 56 FR 28194.

36. See Senate Report, supra note 27, at 224.