

**Testimony of Ernesto A. Lanza
Senior Associate General Counsel
Municipal Securities Rulemaking Board**

Before the

**House Finance Committee
Pennsylvania House of Representatives**

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Chairman Levdansky, Chairman Nickol and Members of the Committee:

My name is Ernesto Lanza, Senior Associate General Counsel of the Municipal Securities Rulemaking Board. I appreciate the opportunity to testify this morning before the Committee on behalf of the MSRB concerning our Rules G-37 and G-38 relating to political contributions and solicitation of municipal securities business. These groundbreaking rules have been developed by the MSRB to address the real or perceived conflict of interest that may arise when an elected state or local government official receives political contributions from an underwriting firm and also awards contracts for the underwriting of municipal securities to that firm. The MSRB's efforts to forcefully address "pay-to-play" practices are generally acknowledged as having substantially reduced this type of behavior in the municipal securities market to the benefit of the investor, issuer and underwriting community.

I should note at the outset that my testimony this morning will focus solely on the purpose, operation and history of MSRB Rules G-37 and G-38. Neither I nor the MSRB has any opinion with regard to legislation under consideration by this Committee or pending before the

Pennsylvania Legislature, or with regard to any facts or circumstances relating to such legislation or any political campaigns that may be impacted by the legislation.

By way of introduction, the MSRB is a self-regulatory organization (“SRO”) established by Congress in 1975 to write rules with respect to transactions in municipal securities by broker-dealers and bank dealers. Under federal statute, the MSRB’s board of directors is composed, with equal weighting, of broker-dealers, bank dealers and public members.¹ Of the public members, at least one must be an issuer of municipal securities and another must be an investor. The MSRB’s operations are funded through assessments made on broker-dealers and bank dealers.²

The MSRB’s jurisdiction and authority are unique among the SROs active in our national securities marketplace in several important respects. First, our regulatory authority is product specific – that is, municipal securities. Municipal securities generally can be divided into two principal classes: traditional bonds, notes and other debt obligations issued to finance state and local government capital needs make up one class, while certain pooled-investment instruments such as 529 college savings plans and local government investment pools make up a newer, less traditional class of municipal securities.

The MSRB’s jurisdiction is also unique in that our rules apply not only to broker-dealers but also to commercial banks that deal in municipal securities. At the same time, Congress vested authority to enforce our rules in other existing regulatory bodies, such as the Financial

¹ Section 15B of the Securities Exchange Act of 1934.

² These fees are set forth in Board Rules A-12 through A-14.

Industry Regulatory Authority (“FINRA”) for broker-dealers and the Federal Reserve, the United States Treasury Department and the Federal Deposit Insurance Corporation (“FDIC”) for bank dealers. The Securities and Exchange Commission (“SEC”) also has overall enforcement authority with respect to our rules. The result is that MSRB rules cut across traditional fragmented regulatory boundaries to provide a single set of consistent standards for broker-dealers and bank dealers active in the municipal securities market.

It is important to note, however, that due to the unique position held by issuers of municipal securities in our federal system of government, the MSRB’s regulatory authority does not extend to state and local governmental issuers. From the beginning, the MSRB has recognized its role at the boundary between the federal government – seeking to establish an efficient national marketplace – and the 50 states exercising their sovereign powers to order their affairs and those of their subdivisions and municipalities in a way that best meets the needs of their citizens. As such, the MSRB always considers carefully and monitors closely how the activities of broker-dealers and bank dealers – and our regulation of such activities – may impact state and local government issuers.

With this background, let me now turn to a discussion of our rules on political contributions by underwriting firms and their engagements to underwrite and provide financial advisory services with respect to new issues of municipal securities.

As I noted at the start of my remarks, our Rule G-37 was adopted in 1994 in an effort to remove the real or perceived conflict of interest arising from political contributions that may be

tioned to the awarding of underwriting or related business.³ At the core of the rule is a general prohibition on broker-dealers and bank dealers from underwriting or serving in a financial advisory capacity with respect to municipal securities of an issuer⁴ if certain political contributions have been made to elected officials of that issuer by firms or their municipal finance personnel.⁵ In effect, a broker-dealer or bank dealer that has made a contribution to an issuer's elected official would generally be banned from underwriting, on a negotiated basis, a new offering of municipal securities for that issuer for the next two years.

Rule G-37 also prohibits the solicitation or bundling of contributions for elected officials of issuers with which such firms are engaged, as well as for state or local political parties operating within the jurisdiction of the issuers. Finally, underwriting firms are required to disclose their political contributions, as well as their underwriting and related engagements, to the MSRB. These disclosures are made available to the public by the MSRB on our website, at www.msrb.org, to allow public scrutiny.

The MSRB has also adopted related Rule G-38. This rule initially provided for public disclosure of the activities of paid outside consultants used by underwriting firms to solicit state or local governments on their behalf. In recent years, as the MSRB sought to address potential

³ The complete text of current Rule G-37 is attached.

⁴ The prohibition also applies to services as remarketing or placement agent for issuers but does not apply to underwritings or other such engagements awarded on a competitive-bid basis.

⁵ Included among the covered personnel, referred to in the rule as "municipal finance professionals," are certain personnel of the firm in the supervisory chain above those persons directly engaged in day-to-day municipal securities activities, including a broker-dealer's chief executive officer.

abuses through the use of paid consultants, the rule evolved to become an outright prohibition on the use of outside consultants to obtain underwriting and related engagements. Among other things, Rule G-38 helps to ensure that broker-dealers and bank dealers cannot use paid third parties to do an end-run around the prohibitions and disclosures imposed by Rule G-37.⁶

The MSRB's Rule G-37 has not been without controversy, having been challenged in court as a potential violation of the 1st Amendment to the United States Constitution as a result of its potential impact on the ability of firms and municipal securities personnel to make political contributions. The appellate court in *Blount v. SEC*⁷ found that Rule G-37 was in fact constitutional since the rule was narrowly drawn and served a compelling governmental interest under the strict scrutiny test applied to 1st Amendment cases. Characteristics of Rule G-37 that help ensure that it is narrowly tailored to meet its purposes include:

(1) not creating a prohibition on the making of contributions, but instead prohibiting broker-dealers and bank dealers from engaging in business with issuers where a contribution has been made – thus, the rule has no impact at all with respect to contributions made to elected officials of issuers with which the firm does not seek to do business, and a rule violation is never triggered merely by a firm or its personnel making a contribution;

(2) limiting the reach of the rule solely to municipal securities personnel who are likely to benefit from their firm being selected to engage in underwriting or related business;

⁶ The complete text of current Rule G-38 is attached.

⁷ 61 F.3d 938 (D.C. Cir. 1995), *cert. denied* 116 S.Ct. 1351 (1996).

(3) permitting municipal finance personnel to make contributions of up to \$250 per election to candidates for whom they are entitled to vote, thereby ensuring that such personnel are not unduly restricted in supporting candidates in which they have a direct electoral interest; and

(4) triggering the ban on business by a contribution to a political party only if such party contribution was likely to have been made as an end-run around the direct contribution provisions of the rule – that is, where the contribution to the political party ultimately reaches an elected official of an issuer with which the firm is seeking to do business.

Rules G-37 and G-38 operate in an environment of ever-increasing costs of political campaigns resulting in ever-increasing pressure to raise larger sums of money. Further, due to the fungibility of money, it can often be difficult to trace the flow of funds from their initial contribution to the ultimate beneficiary. Given the increasingly complex realities of political fundraising practices and the care which the MSRB must take not to overstep constitutional bounds, there can never be complete assurance that every avenue for using political contributions to influence the selection of underwriting firms by state and local governments will be completely closed. Nonetheless, the MSRB remains vigilant with respect to the operation of its rules and continues to provide interpretive guidance and to make necessary adjustments to rule language to address such new realities.

In summary, the impact of Rules G-37 and G-38 has been very positive. The rules have gone a long way towards severing the real or perceived connection between political contributions and the awarding of municipal securities business to broker-dealers and bank

dealers. These rules have greatly reduced the stigma of “pay-to-play” that once hovered as a stain on the municipal securities industry and have greatly assisted in maintaining public confidence in the state and local government capital markets.

I will be happy to answer any questions you may have. Thank you.

ATTACHMENTS

A MSRB Rule G-37

B MSRB Rule G-38

ATTACHMENT A

Rule G-37 – Political Contributions and Prohibitions on Municipal Securities Business

(a) *Purpose.* The purpose and intent of this rule are to ensure that the high standards and integrity of the municipal securities industry are maintained, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to perfect a free and open market and to protect investors and the public interest by: (i) prohibiting brokers, dealers and municipal securities dealers from engaging in municipal securities business with issuers if certain political contributions have been made to officials of such issuers; and (ii) requiring brokers, dealers and municipal securities dealers to disclose certain political contributions, as well as other information, to allow public scrutiny of political contributions and the municipal securities business of a broker, dealer or municipal securities dealer.

(b) *Ban on Municipal Securities Business.*

(i) No broker, dealer or municipal securities dealer shall engage in municipal securities business with an issuer within two years after any contribution to an official of such issuer made by: (A) the broker, dealer or municipal securities dealer; (B) any municipal finance professional associated with such broker, dealer or municipal securities dealer; or (C) any political action committee controlled by the broker, dealer or municipal securities dealer or by any municipal finance professional; provided, however, that this section shall not prohibit the broker, dealer or municipal securities dealer from engaging in municipal securities business with an issuer if the only contributions made by the persons and entities noted above to officials of such issuer within the previous two years were made by municipal finance professionals to officials of such issuer for whom the municipal finance professionals were entitled to vote and which contributions, in total, were not in excess of \$250 by any municipal finance professional to each official of such issuer, per election.

(ii) For an individual designated as a municipal finance professional solely pursuant to subparagraph (B) of paragraph (g)(iv) of this rule, the provisions of paragraph (b)(i) shall apply to contributions made by such individual to officials of an issuer prior to becoming a municipal finance professional only if such individual solicits municipal securities business from such issuer.

(iii) For an individual designated as a municipal finance professional solely pursuant to subparagraph (C), (D) or (E) of paragraph (g)(iv) of this rule, the provisions of paragraph (b)(i) shall apply only to contributions made during the period beginning six months prior to the individual becoming a municipal finance professional.

(c) *Prohibition on Soliciting and Coordinating Contributions.*

(i) No broker, dealer or municipal securities dealer or any municipal finance professional of the broker, dealer or municipal securities dealer shall solicit any person, including but not limited to any affiliated entity of the broker, dealer or municipal securities dealer, or political

action committee to make any contribution, or shall coordinate any contributions, to an official of an issuer with which the broker, dealer or municipal securities dealer is engaging or is seeking to engage in municipal securities business.

(ii) No broker, dealer or municipal securities dealer or any individual designated as a municipal finance professional of the broker, dealer or municipal securities dealer pursuant to subparagraphs (A), (B), or (C) of paragraph (g)(iv) of this rule shall solicit any person, including but not limited to any affiliated entity of the broker, dealer or municipal securities dealer, or political action committee to make any payment, or shall coordinate any payments, to a political party of a state or locality where the broker, dealer or municipal securities dealer is engaging or is seeking to engage in municipal securities business.

(d) *Circumvention of Rule.* No broker, dealer or municipal securities dealer or any municipal finance professional shall, directly or indirectly, through or by any other person or means, do any act which would result in a violation of sections (b) or (c) of this rule.

(e) *Required Disclosure to Board.*

(i) Except as otherwise provided in paragraph (e)(ii), each broker, dealer or municipal securities dealer shall, by the last day of the month following the end of each calendar quarter (these dates correspond to January 31, April 30, July 31 and October 31) send to the Board Form G-37 setting forth, in the prescribed format, the following information:

(A) for contributions to officials of issuers (other than a contribution made by a municipal finance professional or a non-MFP executive officer to an official of an issuer for whom such person is entitled to vote if all contributions by such person to such official of an issuer, in total, do not exceed \$250 per election) and payments to political parties of states and political subdivisions (other than a payment made by a municipal finance professional or a non-MFP executive officer to a political party of a state or a political subdivision in which such person is entitled to vote if all payments by such person to such political party, in total, do not exceed \$250 per year) made by the persons and entities described in subclause (2) of this clause (A):

(1) the name and title (including any city/county/state or political subdivision) of each official of an issuer and political party receiving contributions or payments during such calendar quarter, listed by state;

(2) the contribution or payment amount made and the contributor category of each of the following persons and entities making such contributions or payments during such calendar quarter:

(a) the broker, dealer or municipal securities dealer;

(b) each municipal finance professional;

(c) each non-MFP executive officer; and

(d) each political action committee controlled by the broker, dealer or municipal securities dealer or by any municipal finance professional;

(B) a list of issuers with which the broker, dealer or municipal securities dealer has engaged in municipal securities business during such calendar quarter, listed by state, along with the type of municipal securities business;

(C) any information required to be included on Form G-37 for such calendar quarter pursuant to paragraph (e)(iii);

(D) such other identifying information required by Form G-37; and

(E) whether any contribution listed in this paragraph (e)(i) is the subject of an automatic exemption pursuant to section (j) of this rule, and the date of such automatic exemption.

The Board shall make public a copy of each Form G-37 received from any broker, dealer or municipal securities dealer.

(ii) No broker, dealer or municipal securities dealer shall be required to send Form G-37 to the Board for any calendar quarter in which either:

(A) such broker, dealer or municipal securities dealer has no information that is required to be reported pursuant to clauses (A) through (C) of paragraph (e)(i) for such calendar quarter; or

(B) such broker, dealer or municipal securities dealer has not engaged in municipal securities business, but only if such broker, dealer or municipal securities dealer:

(1) had not engaged in municipal securities business during the seven consecutive calendar quarters immediately preceding such calendar quarter; and

(2) has sent to the Board completed Form G-37x setting forth, in the prescribed format, (a) a certification to the effect that such broker, dealer or municipal securities dealer did not engage in municipal securities business during the eight consecutive calendar quarters immediately preceding the date of such certification, (b) certain acknowledgments as are set forth in said Form G-37x regarding the obligations of such broker, dealer or municipal securities dealer in connection with Forms G-37 and G-37x under this paragraph (e)(ii) and rule G-8(a)(xvi), and (c) such other identifying information required by Form G-37x; provided that, if a broker, dealer or municipal securities dealer has engaged in municipal securities business subsequent to the submission of Form G-37x to the

Board, such broker, dealer or municipal securities dealer shall be required to submit a new Form G-37x to the Board in order to again qualify for an exemption under this clause (B). The Board shall make public a copy of each Form G-37x received from any broker, dealer or municipal securities dealer.

(iii) If a broker, dealer or municipal securities dealer engages in municipal securities business during any calendar quarter after not having reported on Form G-37 the information described in clause (A) of paragraph (e)(i) for one or more contributions or payments made during the two-year period preceding such calendar quarter solely as a result of clause (B) of paragraph (e)(ii), such broker, dealer or municipal securities dealer shall include on Form G-37 for such calendar quarter all such information (including year and calendar quarter of such contributions or payments) not so reported during such two-year period.

(iv) A broker, dealer or municipal securities dealer that submits Form G-37 or Form G-37x to the Board shall either:

(A) send two copies of such form to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending; or

(B) submit an electronic version of such form to the Board in such format and manner specified in the current *Instructions for Forms G-37 and G-37x*.

(f) *Voluntary Disclosure to Board.* The Board will accept additional information related to contributions made to officials of issuers and payments to political parties of states and political subdivisions voluntarily submitted by brokers, dealers or municipal securities dealers or others provided that such information is submitted in accordance with section (e) of this rule.

(g) *Definitions.*

(i) The term "contribution" means any gift, subscription, loan, advance, or deposit of money or anything of value made: (A) for the purpose of influencing any election for federal, state or local office; (B) for payment of debt incurred in connection with any such election; or (C) for transition or inaugural expenses incurred by the successful candidate for state or local office.

(ii) The term "issuer" means the governmental issuer specified in section 3(a)(29) of the Act.

(iii) The term "broker, dealer or municipal securities dealer" used in this rule does not include its associated persons.

(iv) The term "municipal finance professional" means:

(A) any associated person primarily engaged in municipal securities representative activities, as defined in rule G-3(a)(i), provided, however, that sales

activities with natural persons shall not be considered to be municipal securities representative activities for purposes of this subparagraph (A);

(B) any associated person (including but not limited to any affiliated person of the broker, dealer or municipal securities dealer, as defined in rule G-38) who solicits municipal securities business;

(C) any associated person who is both (i) a municipal securities principal or a municipal securities sales principal and (ii) a supervisor of any persons described in subparagraphs (A) or (B);

(D) any associated person who is a supervisor of any person described in subparagraph (C) up through and including, in the case of a broker, dealer or municipal securities dealer other than a bank dealer, the Chief Executive Officer or similarly situated official and, in the case of a bank dealer, the officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, as required pursuant to rule G-1(a); or

(E) any associated person who is a member of the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G-1) executive or management committee or similarly situated officials, if any; provided, however, that, if the only associated persons meeting the definition of municipal finance professional are those described in this subparagraph (E), the broker, dealer or municipal securities dealer shall be deemed to have no municipal finance professionals.

Each person designated by the broker, dealer or municipal securities dealer as a municipal finance professional pursuant to rule G-8(a)(xvi) is deemed to be a municipal finance professional. Each person designated a municipal finance professional shall retain this designation for one year after the last activity or position which gave rise to the designation.

(v) The term "non-MFP executive officer" means an associated person in charge of a principal business unit, division or function or any other person who performs similar policy making functions for the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G-1), but does not include any municipal finance professional, as defined in paragraph (iv) of this section (g); provided, however, that if no associated person of the broker, dealer or municipal securities dealer meets the definition of municipal finance professional, the broker, dealer or municipal securities dealer shall be deemed to have no non-MFP executive officers.

Each person listed by the broker, dealer or municipal securities dealer as a non-MFP executive officer pursuant to rule G-8(a)(xvi) is deemed to be a non-MFP executive officer.

(vi) The term "official of such issuer" or "official of an issuer" means any person (including any election committee for such person) who was, at the time of the contribution, an

incumbent, candidate or successful candidate: (A) for elective office of the issuer which office is directly or indirectly responsible for, or can influence the outcome of, the hiring of a broker, dealer or municipal securities dealer for municipal securities business by the issuer; or (B) for any elective office of a state or of any political subdivision, which office has authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the hiring of a broker, dealer or municipal securities dealer for municipal securities business by an issuer.

(vii) The term "municipal securities business" means:

(A) the purchase of a primary offering (as defined in rule A-13(f)) of municipal securities from the issuer on other than a competitive bid basis (*e.g.*, negotiated underwriting); or

(B) the offer or sale of a primary offering of municipal securities on behalf of any issuer (*e.g.*, private placement); or

(C) the provision of financial advisory or consultant services to or on behalf of an issuer with respect to a primary offering of municipal securities in which the dealer was chosen to provide such services on other than a competitive bid basis; or

(D) the provision of remarketing agent services to or on behalf of an issuer with respect to a primary offering of municipal securities in which the dealer was chosen to provide such services on other than a competitive bid basis.

(viii) The term "payment" means any gift, subscription, loan, advance, or deposit of money or anything of value.

(ix) Except as used in section (c), the term "solicit" means the taking of any action that would constitute a solicitation as defined in rule G-38(b)(i).

(h) *Operative Date.* The prohibition on engaging in municipal securities business, as described in section (b) of this rule, arises only from contributions made on or after April 25, 1994.

(i) *Application for Exemption.* A registered securities association with respect to a broker, dealer or municipal securities dealer who is a member of such association, or the appropriate regulatory agency as defined in Section 3(a)(34) of the Act with respect to any other broker, dealer or municipal securities dealer, upon application, may exempt, conditionally or unconditionally, a broker, dealer or municipal securities dealer who is prohibited from engaging in municipal securities business with an issuer pursuant to section (b) of this rule from such prohibition. In determining whether to grant such exemption, the registered securities association or appropriate regulatory agency shall consider, among other factors:

(i) whether such exemption is consistent with the public interest, the protection of investors and the purposes of this rule;

(ii) whether such broker, dealer or municipal securities dealer

(A) prior to the time the contribution(s) which resulted in such prohibition was made, had developed and instituted procedures reasonably designed to ensure compliance with this rule;

(B) prior to or at the time the contribution(s) which resulted in such prohibition was made, had no actual knowledge of the contribution(s);

(C) has taken all available steps to cause the contributor involved in making the contribution(s) which resulted in such prohibition to obtain a return of the contribution(s); and

(D) has taken such other remedial or preventive measures, as may be appropriate under the circumstances, and the nature of such other remedial or preventive measures directed specifically toward the contributor who made the relevant contribution and all employees of the broker, dealer or municipal securities dealer;

(iii) whether, at the time of the contribution, the contributor was a municipal finance professional or otherwise an employee of the broker, dealer or municipal securities dealer, or was seeking such employment;

(iv) the timing and amount of the contribution which resulted in the prohibition;

(v) the nature of the election (e.g, federal, state or local); and

(vi) the contributor's apparent intent or motive in making the contribution which resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

(j) *Automatic Exemptions.*

(i) A broker, dealer or municipal securities dealer that is prohibited from engaging in municipal securities business with an issuer pursuant to section (b) of this rule as a result of a contribution made by a municipal finance professional may exempt itself from such prohibition, subject to subparagraphs (ii) and (iii) of this section, upon satisfaction of the following requirements:

(1) the broker, dealer or municipal securities dealer must have discovered the contribution which resulted in the prohibition on business within four months of the date of such contribution;

(2) such contribution must not have exceeded \$250; and

(3) the contributor must obtain a return of the contribution within 60 calendar days of the date of discovery of such contribution by the broker, dealer or municipal securities dealer.

(ii) A broker, dealer or municipal securities dealer is entitled to no more than two automatic exemptions per 12-month period.

(iii) A broker, dealer or municipal securities dealer may not execute more than one automatic exemption relating to contributions by the same municipal finance professional regardless of the time period.

ATTACHMENT B

Rule G-38 – Solicitation of Municipal Securities Business

(a) *Prohibited Payments.* Subject to section (c) of this rule, no broker, dealer or municipal securities dealer may provide or agree to provide, directly or indirectly, payment to any person who is not an affiliated person of the broker, dealer or municipal securities dealer for a solicitation of municipal securities business on behalf of such broker, dealer or municipal securities dealer.

(b) *Definitions.* For purposes of this rule, the following terms shall have the following meanings:

(i) The term “solicitation” means a direct or indirect communication by any person with an issuer for the purpose of obtaining or retaining municipal securities business.

(ii) The term “affiliated person of the broker, dealer or municipal securities dealer” means any person who is a partner, director, officer, employee or registered person of the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, any person occupying a similar status or performing similar functions for the bank dealer) or of an affiliated company of the broker, dealer or municipal securities dealer.

(iii) The term “affiliated company of the broker, dealer or municipal securities dealer” means any entity directly or indirectly controlling, controlled by, or under common control with the broker, dealer or municipal securities dealer whose activities with respect to the broker, dealer or municipal securities dealer or with respect to any other affiliated company of the broker, dealer or municipal securities dealer are not limited solely to the solicitation of municipal securities business.

(iv) The term “registered person” means any associated person of the broker, dealer or municipal securities dealer duly qualified in one or more categories of qualification under Rule G-3 or duly qualified and registered in one or more categories of registration under the rules of a registered securities association.

(v) The terms “issuer,” “municipal securities business” and “payment” shall have the meanings set forth in Rule G-37(g).

(c) *Transitional Payments.*

(i) A broker, dealer or municipal securities dealer may make payments to a person other than an affiliated person of the broker, dealer or municipal securities dealer for a solicitation of municipal securities business on behalf of such broker, dealer or municipal securities dealer if such payment is made with respect solely to solicitation activities undertaken by such person on or prior to the effective date of this rule pursuant to a Consultant Agreement under former Rule G-38, but only if:

(A) such person has not solicited municipal securities business from any issuer on behalf of the broker, dealer or municipal securities dealer at any time after the effective date of this rule; and

(B) the broker, dealer or municipal securities dealer sends to the Board, by the last day of the month following the end of each calendar quarter during which payments to such person are made or remain pending, Form G-38t, setting forth, in the prescribed format, the information required to be disclosed to the Board pursuant to section (e) of former Rule G-38; provided that each item of municipal securities business for which payment remains pending (together with a specific dollar amount or objective formula for determining the specific dollar amount of the pending payment) must be listed on the first quarterly Form G-38t due after the effective date of this rule and on each subsequent quarterly Form G-38t until such quarter in which payment is finally made. The broker, dealer or municipal securities dealer shall send two copies of Form G-38t to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending. The Board shall make public a copy of each Form G-38t received from any broker, dealer or municipal securities dealer.

(ii) For purposes of this section (c), the term "effective date of this rule" means August 29, 2005, and the term "former Rule G-38" means Rule G-38 of the Board in effect on the day prior to the effective date of this rule.