

## SUPPORTING STATEMENT

### UNIFORM APPLICATION/UNIFORM TERMINATION FOR MUNICIPAL SECURITIES PRINCIPAL OR REPRESENTATIVE

(OMB No. 3064-0022)

#### INTRODUCTION

The FDIC is requesting OMB approval to continue the use of the information collection system captioned above. The current clearance for the collection expires on October 31, 2008. There is no change in the method or substance of the collection. An insured state nonmember bank that serves as a municipal securities dealer must file Form MSD-4 or Form MSD-5, as applicable, to permit an employee to become associated with, or to terminate the association with, the municipal securities dealer. The filing requirements are based on rules promulgated by the Municipal Securities Rulemaking Board under the authority of the 1975 Amendments to the Securities Exchange Act of 1934 (15 U.S.C. 78o-4).

#### A. JUSTIFICATION

##### 1. Circumstances and Need

The 1975 Amendments to the Securities Exchange Act of 1934 established a comprehensive framework for the regulation of the activities of municipal securities dealers. Under Section 15B(a) of the Securities Exchange Act, municipal securities dealers which are banks, or separately identifiable departments or divisions of banks engaging in municipal securities activities, are required to be registered with the Securities and Exchange Commission in accordance with such rules as the Municipal Securities Rulemaking Board (MSRB), a rulemaking authority established by the 1975 Amendments, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

One of the areas in which the Act directed the MSRB to promulgate rules is the qualifications of persons associated with municipal securities dealers as municipal securities principals and municipal securities representatives as those positions are defined in MSRB Rule G-3. Paragraph (b) of MSRB Rule G-7 "Information Concerning Associated Persons," requires persons who are or seek to be associated with municipal securities dealers as municipal securities principals or municipal securities representatives to provide certain background information and conversely, require the municipal securities dealers to obtain the information from such persons. Generally, the information required to be furnished relates to employment history and professional background including any disciplinary sanctions and any claimed bases for exemption from MSRB examination requirements.

Paragraph (b) of MSRB Rule G-7 provides that a "completed Form U-4 or similar form prescribed . . . in the case of a bank municipal securities dealer, by the appropriate regulatory agency, containing the foregoing information, shall satisfy the requirements of this paragraph." The FDIC and the other two Federal bank regulatory agencies, the Comptroller of the Currency, and the Federal Reserve Board, have prescribed Form MSD-4 to satisfy the provisions of Paragraph (b) of MSRB Rule G-7. State nonmember bank municipal security dealers submit Form MSD-4 to the FDIC as their appropriate regulatory agency for each person associated with the dealer as a municipal securities principal or municipal securities representative.

The FDIC, Comptroller of the Currency, and the Federal Reserve Board, have prescribed Form MSD-5 for notification by a bank municipal securities dealer that a municipal securities principal's or a municipal securities representative's association with the dealer has terminated and the reason for such termination. State nonmember bank municipal security dealers submit Form MSD-5 to the FDIC as their appropriate regulatory agency for each person terminating their association with the dealer as a municipal securities principal or municipal securities representative.

Paragraph (e) of MSRB Rule G-7 requires that every municipal securities dealer shall maintain and preserve a copy of the application form (Form MSD-4) until at least three years after the associated person's employment with the municipal securities dealer has terminated.

2. Use of Information Collected

The FDIC reviews the information reported for the purpose of determining the applicant's compliance with the professional qualifications requirements for municipal securities principals and municipal securities representatives set forth in the General Rules of the Municipal Securities Rulemaking Board. These rules are designed for investor protection by eliminating improper and unethical trading and selling practices.

3. Use of Technology to Reduce Burden

The FDIC created an interactive Website, *FDICconnect*, between FDIC insured institutions and the FDIC. All collections of information are reviewed to determine if converting to electronic collection is cost beneficial. FDIC will consider adding the MSD-4 and MSD-5 to *FDICconnect* at the same time other low volume transactions are considered.

4. Efforts to Identify Duplication

The information reported is not duplicated by any other reporting system. It is unique to the applicant wishing to be associated with a particular bank municipal securities dealer under the jurisdiction of the FDIC. There is no other source of this personal qualifications information except from the individual applicant.

5. Minimizing the Burden on Small Banks

Small banks generally do not have municipal securities dealers and, therefore, are unlikely to be burdened with these reporting requirements.

6. Consequences of Less Frequent Collections

The form is submitted only on the occasion of making application to become associated with a bank municipal securities dealer as a municipal securities principal or representative. Amending statements are also required to correct inaccuracies or to make the application more complete. The form is also submitted on the occasion of termination of being associated with a bank municipal securities dealer.

7. Special Circumstances

None.

8. Summary of Public Comments; Consultation with Persons Outside the FDIC

A "first" Federal Register notice (attached) seeking comment was published on July 29, 2008 (73 FR 43934). No comments were received.

9. Payment or Gift to Respondents

None.

10. Confidentiality

The "Privacy Act Notice" printed on the Form MSD-4 advises the applicant of the authority, purposes and use of the information reported.

11. Questions of a Sensitive Nature

There are no questions on the application relating to sexual behavior and attitudes, and religious beliefs. However, there are other questions of a personal nature. One is concerned with the applicant's possible conviction of any felony or misdemeanor within the past 10 years (#25). There is also a question about disciplinary action pertaining to the applicant's past violations relating to securities matters (#23). These questions are necessary to determine the applicant's fitness to be associated with a bank municipal securities dealer where proper and ethical trading and selling practices are vital to the protection of the investor.

12. Estimates of Annualized Hour Burden

Approximately 75 forms are submitted annually. It is estimated it takes the respondent approximately one hour to prepare the form. The preparation time includes completing and mailing the form as well as placing a copy in the file. Therefore the burden is computed as  $75 \times 1 = 75$  hours.

13. Total Annual Cost Burden

None.

14. Annualized cost to the Federal Government

None.

15. Reason for Program Changes or Adjustments to Burden

There is no program change or adjustment to annual burden.

16. Publication

No publication is made of this collection of information. The information is used internally within the FDIC to ensure compliance with the rules of the Municipal Securities Rulemaking Board.

17. Display of Expiration Dates

The new expiration date will be shown.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.

Attachments

1. Form MSD-4/MSD-5
2. Legal authority (15 USC 78o-4; MSRB Rule G-7)
3. “First” Federal Register notice; “Second” Federal Register notice