

**Supporting Statement for the
Uniform Application for Municipal Securities Principal or Municipal Securities
Representative Associated with a Bank Municipal Securities Dealer
(MSD-4; OMB No. 7100-0100) and the
Uniform Termination Notice for Municipal Securities Principal or Municipal Securities
Representative Associated with a Bank Municipal Securities Dealer
(MSD-5; OMB No. 7100-0101)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, with minor revision, two mandatory municipal securities dealer reporting forms:

- the Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (FR MSD-4; OMB No. 7100-0100)
- the Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (FR MSD-5; OMB No. 7100-0101)

These mandatory information collections are submitted on occasion by state member banks (SMBs), bank holding companies (BHCs), and foreign dealer banks that are municipal securities dealers.¹ The Form MSD-4 collects information (such as personal history and professional qualifications) on an employee whom the bank wishes to assume the duties of municipal securities principal or representative. The Form MSD-5 collects the date of, and reason for, termination of such an employee.

On September 13, 2011, the Municipal Securities Rulemaking Board (MSRB) (MSRB Notice 2011-54) announced the creation of a new designation of registered person – Municipal Securities Sales Limited Representative – which is a sub-category of Municipal Securities Representative.² To conform to MSRB Notice 2011-54, the Federal Reserve proposes to make a minor revision to the Form MSD-4 to add the Municipal Securities Sales Limited Representative as a new type of qualification. Changes to the Form MSD-5 are not required at this time. The total annual reporting burden for these reporting forms is estimated to be 33 hours.

Background and Justification

Pursuant to the Securities Acts Amendments of 1975 (P.L. 94-29), the Congress imposed a comprehensive federal regulatory structure on the municipal securities industry. A new rulemaking body, the MSRB, was created as a self-regulatory organization (SRO) to prescribe rules for the municipal securities industry with respect to transactions in municipal securities. Rules of the MSRB take effect only after approval by the Securities and Exchange Commission (SEC). Although MSRB rules apply to all municipal securities dealers, the MSRB does not have

¹ At this time, there are no BHCs or foreign dealer banks that are registered as municipal securities dealers.

² See www.msrb.org/Rules-and-Interpretations/Regulatory-Notices/2011/2011-54.aspx.

authority to enforce its rules. For enforcement purposes the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.; the 1934 Act) designates appropriate regulatory agencies (ARAs) for specified municipal securities dealers. The Federal Reserve Board is the ARA for SMBs and BHCs, and certain of their subsidiaries, departments, and divisions that are municipal securities dealers. Although the 1934 Act does not specify the ARA for municipal securities dealer activities of foreign banks, uninsured state branches or state agencies of foreign banks, commercial lending companies owned or controlled by a foreign bank, or Edge Act corporations (collectively referred to as foreign dealer banks), the SEC has agreed that the Federal Reserve Board should examine the municipal securities dealer activities of foreign dealer banks.³

The federal bank regulatory agencies, in consultation with the MSRB, jointly drafted and adopted the Form MSD-4 and Form MSD-5 in 1977. The Form MSD-4 is the source document for initial information submitted to each agency. The Form MSD-5 is the source document for updating the information when an associated person's employment is terminated for any reason. Information collected on the Form MSD-4 and the Form MSD-5 may be routinely used by the ARA to: (1) refer information indicating a potential violation of law to another government agency or SRO, (2) aid in the resolution of any proceeding in which the federal securities laws or banking laws are at issue, (3) obtain additional information from a government agency or SRO concerning the applicant's qualifications, or (4) respond to a government agency or SRO request for information needed to issue a license or for similar action affecting the applicant.

The Department of the Treasury (Treasury) rules covering government securities broker and dealer activities became effective in July 1987. The specific rule that deals with associated persons of government securities brokers and dealers who are also associated persons of a municipal securities dealer allows the associated persons to fulfill the notification requirements by filing the Form MSD-4 (17 CFR 400.4). This was done to reduce burden by eliminating the need to file both the Form MSD-4 and Treasury's Form G-FIN-4 (Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer; OMB No. 1535-0089). These two reporting forms require almost identical information. Likewise, the Form MSD-5 may also be used in lieu of filing both the Form MSD-5 and the Form G-FIN-5 (Uniform Termination Notice for Person Associated with a Financial Institution Government Securities Broker or Dealer; OMB No. 1535-0089) to terminate an associated person.

On September 13, 2011 (MSRB Notice 2011-54), the MSRB announced the creation of a new designation of registered person, a Municipal Securities Sales Limited Representative. The Municipal Securities Sales Limited Representative, a sub-category of Municipal Securities Representative, is limited to sales to and purchases from customers of municipal securities.

The creation of the Municipal Securities Sales Limited Representative designation resulted from changes in the structure of the Series 7 qualification examination which now focuses on a broader range of securities products.⁴ Because of the shift in emphasis and cut in the number of municipal securities questions, the Series 7 exam will no longer qualify associates

³ Letter from Catherine McGuire, Chief Counsel, SEC's Division of Market Regulation, to Laura M. Homer, Assistant Director, Federal Reserve Board's Division of Banking Supervision and Regulation, June 14, 1994.

⁴ Individuals seeking to become a stockbroker must take the General Securities Representative Exam, commonly referred to as the Series 7 or Stockbroker Exam. A passing grade is required in order to obtain the professional license needed to become a Registered Representative of a broker-dealer in the United States.

as “municipal securities representatives.” Rather, individuals who take the Series 7 examination will be referred to as a “municipal securities sales limited representative” and be limited solely to sales activities. All other individuals will be required to pass the Series 52 exam in order to qualify as full municipal securities representatives.⁵

Description of Information Collection

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 (persons performing supervisory functions) or representatives (persons engaged in underwriting, trading, or sales of municipal securities or furnishing financial advice to issuers in connection with the issuance of municipal securities) to provide certain background information to the municipal securities dealers. The rule also requires municipal securities dealers to obtain and report this information. Generally, the information required to be disclosed by MSRB rule G-7 relates to employment history and professional background including any disciplinary sanctions and any claimed basis for exemption from MSRB examination requirements. MSRB rule G-7 provides that the information may be provided on the Form MSD-4 for a bank dealer.

The Form MSD-4 is the source document for initial information submitted to each regulatory agency on an employee whom the bank wishes to assume the duties of municipal securities principal or representative. Generally, the Form MSD-4 collects such information as employment history and professional background, including any disciplinary sanctions and any claim basis for exemption from MSRB examination requirements. In addition, the reporting form solicits personal information that most people would include on a resume.

The Form MSD-5 is the source document for updating the information when an associated person’s employment is terminated for any reason. The Form MSD-5 requires such information as the reason for termination and whether any investigations or actions by agencies or SROs involving the associated person occurred during the period of employment. Both information collections are event-generated.

Currently, there are 12 SMBs registered as municipal securities dealers. Any SMB, BHC, or foreign dealer bank registering as a municipal securities dealer in the future will be required to file these event-generated reporting forms for its employees. Bank municipal securities dealers must retain exact copies of the Form MSD-4 for each associated person during the entire term of employment and both the Form MSD-4 and Form MSD-5 for three years from the date of termination of employment.

Proposed Revision

To conform to MSRB Notice 2011-54, the Federal Reserve proposes to make a minor revision to the Form MSD-4 reporting form to add the Municipal Securities Sales Limited

⁵ Individuals seeking to become a municipal securities representative must take the Municipal Securities Representative Qualification Examination. A passing grade is required in order to obtain the professional license needed to sell municipal securities, such as municipal bonds, agency bonds and Section 529 plans for college education.

Representative as a new type of qualification. The proposed reporting form, in all other respects, would preserve the structure of the current form.

Time Schedule for Information Collection

MSRB rule G-7 requires filing the Form MSD-4 prior to permitting a person to be associated with a municipal securities dealer. Further, a bank is required to file the Form MSD-5 within 30 days after a principal or representative terminates association with the municipal securities dealer. Completed reporting forms are sent directly to the Federal Reserve Board. The information collected on the Form MSD-4 and Form MSD-5 is not published, nor is it otherwise available to the public.

Legal Status

The Federal Reserve Board's Legal Division has determined that the Federal Reserve Act (12 U.S.C. § 248(a)(1)) for state member banks and (12 U.S.C. § 3105(c)(2)) for foreign bank branches and agencies authorizes the Federal Reserve Board to require these notices. Sections 15B(a)-(b) and 17 of the Securities Exchange Act (the Act) (15 U.S.C §§ 78o-4(a)-(b) and 78q) authorize the SEC and MSRB to promulgate rules requiring municipal security dealers to file reports about associated persons with the SEC and the ARA. In addition, Section 15B(c) of the Act provides that ARAs may enforce compliance with the SEC's and MSRB's rules (15 U.S.C. § 78o-4(c)). Section 23(a) of the Act also authorizes the SEC, the Federal Reserve Board, and the other ARAs to make rules and regulations in order to implement the provisions of the Act (15 U.S.C. § 78w(a)). The Federal Reserve Board is the ARA for municipal securities dealers that are state member banks and their divisions or departments, and for state branches or agencies of foreign banks that engage in municipal security dealer activities (15 U.S.C. § 78c(a)(34)(A)(ii)).⁶ Accordingly, the Federal Reserve Board's collection of Form MSD-4 and Form MSD-5 for these institutions is authorized pursuant to 15 U.S.C. §§ 78o-4, 78q, and 78w.

The obligation of state member banks and foreign banks to file the forms with the Federal Reserve Board is mandatory, and the filing of both forms is event generated. Under the Freedom of Information Act, the Federal Reserve Board regards the information provided by each respondent as confidential (5 U.S.C. § 552(b)(6)).

⁶ Although Section 3(a)(34) of the Act, 15 U.S.C. § 78c(a)(34), does not specify the ARA for municipal securities dealer activities of foreign banks, uninsured state branches or state agencies of foreign banks, commercial lending companies owned or controlled by a foreign bank, or Edge Act corporations (collectively referred to as foreign dealer banks), the Division of Market Regulation of the SEC has agreed that the Federal Reserve should examine the municipal securities dealer activities of foreign dealer banks. See Letter from Catherine McGuire, Chief Counsel, SEC's Division of Market Regulation, to Laura M. Homer, Assistant Director, Federal Reserve Board's Division of Banking Supervision and Regulation, June 14, 1994.

Consultation Outside the Agency

The Federal Reserve has consulted with the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation to ensure uniformity of the reporting forms. On February 11, 2013, the Federal Reserve published a notice in the *Federal Register* (78 FR 9691) requesting public comment for 60 days on the extension, with minor revision, of the FR MSD-4 and the extension, without revision, of the FR MSD-5. The comment period for this notice expired on April 12, 2013. The Federal Reserve did not receive any comments. The revision will be implemented as proposed. On April 26, 2013, the Federal Reserve published a final notice in the *Federal Register* (78 FR 24745).

Estimate of Respondent Burden

As shown in the following table, the total annual burden for both notices is estimated to be 33 hours. The Federal Reserve estimates that it takes one hour to complete the FR MSD-4 and 15 minutes to complete the FR MSD-5. The Federal Reserve estimates the proposed revision would not result in a change to the average hours per response. The Federal Reserve used the actual number of reporting forms filed during 2012 by SMBs registered as dealers to estimate the burden. Because respondents are required to retain these reporting forms during the employee's tenure and for three years after termination of employment, the estimated total annual burden of these information collections includes both reporting and recordkeeping burden. The annual burden of this information collection represents less than 1 percent of the total Federal Reserve System paperwork burden.

	<i>Estimated number of respondents⁷</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
FR MSD-4	20	1	1.00	0
FR MSD-5	50	1	0.25	<u>13</u>
<i>Total</i>				** Expression is faulty **

The current annual cost to the public of these information collections is estimated to be \$1,480.⁸

Sensitive Questions

⁷ Each of the respondents is expected to be associated with a small entity as defined by the Small Business Administration (i.e., entities with less than \$175 million in total assets) www.sba.gov/content/table-small-business-size-standards.

⁸ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support @ \$17, 45% Financial Managers @ \$52, 15% Legal Counsel @ \$55, and 10% Chief Executives @ \$81). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2011, www.bls.gov/news.release/ocwage.nr0.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc.

These information collections contain no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve System

The cost to the Federal Reserve System, including processing, printing, and mailing, is negligible.