



Summary

In response to member requests, the BDA has developed model language for firms to use in communications with issuers that states the communication is being provided in the capacity of an underwriter and not as a financial advisor. Several firms in the industry are already using such language. When the MSRB submitted the proposed revised Rule G-23 to the SEC, it included proposed guidance that said that if a firm makes clear from the earliest contact that it is acting as an underwriter and not as a financial advisor, communications about the issuance would not be considered financial advice that would bar the firm from serving as an underwriter. Subsequently, the MSRB indicated that dealers should expect proposed modifications to that guidance. Those modifications, as well as final action by the SEC, may require the BDA's model disclaimer language to be changed in the future. Firms are encouraged to adapt the language to their specific circumstances.

Suggested G-23 Disclaimer Language

Our [proposal] is delivered to you for the purpose of working with you as an underwriter on the transaction described [in the attached proposal] and we wish to define the nature of our relationship. We are providing the information contained in this proposal for discussion purposes in anticipation of serving as an underwriter to you [and understand that you cannot make a commitment at this time with respect to designating senior managers or co-managers of the syndicate or any level of allocation with respect to the transaction described in this proposal.] In our capacity as underwriter, we will be acting as a principal in a commercial, arms' length transaction and not as a municipal advisor, financial advisor or fiduciary to you regardless of whether we, or an affiliate has or is currently acting as such on a separate transaction. The information we provide to you is not intended to be and should not be construed as "advice" within the meaning of Section 15B of the Securities Exchange Act of 1934 and we encourage you to consult with your own legal, accounting, tax, financial and other advisors, as applicable, to the extent you deem appropriate.

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