**SEC Approves New Rule Codifying Principle-Based Rule and Interpretive Notices;   
SEC Approves Incorporation of Requirements in Suitability Determination**

On March 7, 2014, the Municipal Securities Rulemaking Board (MSRB) received approval from the Securities and Exchange Commission (SEC) to consolidate extensive interpretive guidance on the   
fair-practice obligations of municipal securities dealers into three new rules and amendments to an existing rule. Rules focused on Time-of-Trade Disclosures to investors, dealers’ dealings with sophisticated municipal market professionals and suitability of dealers’ recommendations of municipal securities transactions will be effective July 5, 2014.

As protection of the retail and non-sophisticated market participant continues to be a priority for regulators, the new rule (Rule G-47) clarifies obligations previously embedded in interpretive notices and makes clear that the Time-of-Trade Disclosure obligation applies when you “sell a municipal security to a customer, or purchase a municipal security from a customer, whether unsolicited or recommended, and whether in a primary offering or secondary market transaction…” The Time-of-Trade requirement also makes clear that the disclosure obligation includes “the duty to give a customer… facts that are material to assessing the potential risks of the investment.” The suitability rule (Rule G-19) was amended to specifically reference the requirements of Rule G-47 when making a reasonable basis suitability determination.

The disclosure rule, (Rule G-47) requires the disclosure of “material information reasonably accessible” – consistent with what has been required for years. However, technological evolution and the emergence of new sources of information may be critical as one contemplates the reality that the obligation was and is to “disclose material information that is *reasonably accessible*.” What was “reasonably accessible” even a year or two ago has changed. Technology has evolved as have the ways in which to ensure your firm’s practices are in line with its policies.

Combine the advances in technology with the reality that there is clarification around what is required to be disclosed and you have a changed landscape in terms of what is available and what is to be disclosed. A read of G-47 makes clear that a simple review of past material event disclosure filings or an OS summary from the time of issuance will fall short of “material information reasonably accessible.”

Current market conditions and the introduction of a clarified rule should be cause for re-examination of policies, procedures and what is actually being done. One may also want to consider whether or not they can “prove” or document that the disclosure was made. While G-47 is a codification of an old rule and its interpretive guidance, it is silent on the subject of requiring proof. The subject of being able to document what has been done has been the topic of discussion at several forums and most recently was cited by several participants at the March 2014 FINRA Conference in New York, NY.

For a more comprehensive review of the new and amended rules, please [click here](http://www.lumesis.com/pdf/Time-of-Trade-Disclosure-Final-Rule.pdf).