

(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 [r]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 [r]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.

Rule G-37(g)(v) defines the term "non-MFP executive officer" as: 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 [r]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. [emphasis added]

Dealers should first review the activities of their associated persons to determine whether they are municipal finance professionals, and then, once that list of individuals has been established, conduct a review of the remaining associated persons to determine whether they are non-MFP executive officers. Dealers should pay close attention to those associated persons who are soliciting municipal securities business and, thus, will be considered municipal finance professionals. The Board has previously stated that solicitation activities may include, but are not limited to,

responding to issuer Requests for Proposals, making presentations of public finance and/or municipal marketing capabilities to issuer officials, and engaging in other activities calculated to appeal to issuer officials for municipal securities business, or which effectively do so. [(See "Additional Rule G-37 Questions & Answers," MSRB Reports, Vol. 14, No. 5 (December 1994) at 8).]

(September 9, 1997)

#### Non-MFP Executive Officer

##### IV.19

Q: Who is a[n] non-MFP "executive officer?"

A: Pursuant to [r]Rule G-37(g)(v), a[n] non-MFP executive officer is defined as any associated person in charge of a principal business unit, division or function, or any other person who performs similar policy making functions for the dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in [r]Rule G-1), but does not include any municipal finance professional.

(May 24, 1994)

##### IV.20

Q: In a bank with a separately identifiable dealer department, who would be considered a[n] non-MFP executive officer?

A: For most bank dealer departments which deal only in municipal securities, there are no individuals who meet the definition of non-MFP executive officer within [r]Rule G-37.

(August 18, 1994)

#### Official of an Issuer

##### IV.21

Q: How is the term "official of an issuer" defined in [r]Rule G-37?

A: Rule G-37(g)(vi) defines the term "official of an issuer" [as any incumbent, candidate or successful candidate for elective office of the issuer, which office is directly or indirectly responsible for, or can influence the outcome of, the hiring of a dealer for municipal securities business. The definition includes any issuer official or candidate (or successful candidate) in a position which has influence over the awarding of municipal securities business.] to mean "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. Thus, contributions to certain state-wide executive or legislative officials would be included within the prohibition on engaging in municipal securities business.

(May 24, 1994)

##### IV.22

Q: How can a dealer determine whether an incumbent or candidate for a particular elective office will be able to award or influence the awarding of municipal securities business? For example, in many states, such influence is found in executive branch elected officials, not legislative branch officials.

A: The dealer must review the scope of authority of the particular office at issue, whether executive or legislative branch, not the individual, to determine whether influence over the awarding of municipal securities business is present.

(May 24, 1994)

##### IV.23

Q: An incumbent was seeking reelection as an issuer official but she lost the election. She is now soliciting money to pay for the debt incurred in connection with this election. Would there be a prohibition on engaging in municipal securities business with the issuer if a dealer or a municipal finance professional provides money for the payment of this debt?

A: No, under certain conditions. If the incumbent is out of office at the time she is soliciting money to pay for the election debt, then she is no longer considered to be within the definition of "official of an issuer" and any monies given for the payment of debt incurred in connection with the election in this instance is not subject to [r]Rule G-37. If the incumbent still holds her issuer official position at the time she is soliciting money to pay for the election debt, then, if a municipal finance professional contributed \$250 to her during the general election, the municipal finance professional would not be able to make any contributions for the payment of debt without causing a prohibition on municipal securities business with the issuer. If a municipal finance professional made no contributions to the incumbent prior to