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Ernesto A. Lanza, Esq.  
Senior Associate General Counsel  
Municipal Securities Rulemaking Board  
1900 Duke Street, Suite 600  
Alexandria, VA 22314

Dear Mr. Lanza:

Following are DPC DATA Inc.'s observations and responses to the questions posed in MSRB Notice 2007-05 on January 25, 2007 regarding draft rule changes to establish an electronic access system for official statements.

***Inconsistencies and Misleading Presentations in the Notice***

First, I would like to point out some inconsistencies communicated in the Notice, as well as a significant material error of omission that we believe creates a misleading impression of the current general state of municipal primary market disclosure.

In your preface to Notice 2007-05, you state, "The immediate access to OSs for new issue customers provided through the electronic MSIL/Access system would permit significantly faster access to critical disclosure information than under the current dissemination system based historically on the physical movement of OSs by and among brokers, dealers and municipal securities dealers ("dealers") and to customers." While partly true, nowhere in this Notice do you acknowledge the fact that many major entities<sup>1</sup> make POSs, OSs and/or the complete MSIL collection of final official statements and refunding documents available in electronic form broadly to the market. In the case of DPC DATA, we have made our fully indexed archive of official statements and refunding documents (along with any associated document amendments) available online to the general public since 1999. This

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<sup>1</sup> DPC DATA Inc.'s online disclosure document repository is available online at [www.DPCDATA.com](http://www.DPCDATA.com) and soon to be released [www.MuniFILINGS.com](http://www.MuniFILINGS.com), Bloomberg LP's desktop trading system, and Thomson Financial's official statement collection available at [www.TM3.com](http://www.TM3.com) are examples of significant archives that serve the market. There are also other services such as DPC DATA's DownloadProspectus.com and Ipreo, which distribute electronic POSs and OSs to syndicate members, investors and others at no charge to the recipients. Many financial printing companies also maintain web sites and offer free public access to PDF copies of POSs and OSs.



archive is available to all market participants, including retail investors, without restriction. Most municipal market participants would agree that our disclosure archive web site is one of the most frequently visited web sites serving the municipal securities market, and it is primarily used for downloading final official statements. The absence of any mention in the Notice of the large number of highly used sources of electronic documents on the web misrepresents the current status of electronic delivery of disclosure documents in the market today. By that same token, we question why you would single out the College Savings Plans Network's plan to provide a web-based comprehensive archive to the market and refer to it as a "utility" for the municipal securities market when it does not yet exist, while you consciously omit any reference to all other proven, comprehensive, web-based archives and online delivery systems that have served as *de facto* market utilities for many years.

We do not recognize the MSRB's description of the proposed MSIL/Access portal concept as an original innovation for the municipal securities market. Since 1999, DPC DATA has successfully deployed our *MuniDOCS Online*<sup>TM</sup> portal to market participants, enabling them to directly link, through an API, securities records in their proprietary databases and web sites with the corresponding disclosure documents. Our portal not only links final official statements, advance refunding documents and associated document amendments, but also all secondary market disclosure documents and material event notices in the DPC DATA NRMSIR repository. The MSRB's representation in the Notice severely understates the current state of online access to OSs in the market.

We also wish to point out the fallacies in your treatment of the concept of 'free' documents for the entire market, and the analogy you draw with the SEC's EDGAR system. EDGAR is not free. It is an expensive system, and it is subsidized by American taxpayers. It only appears superficially free because there is no charge to users who access the EDGAR web site and download content. If the MSRB carries out the plan put forth in the Notice, the cost will be borne by the broker/dealer community, causing them to subsidize the entire cost of the MSIL/Access system for the market. This appears to be more biased and unfair than recovering the costs from the users of the system based on usage, and it is certainly not analogous to how the EDGAR system is financed. It should also be pointed out that the SEC did not develop and does not maintain the EDGAR system. It delivers the EDGAR system to the market through vendors under contract.<sup>2</sup>

### *Responses to Specific Questions Raised in the Notice*

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<sup>2</sup> The current list of vendors who operate and maintain the EDGAR system include Keane Federal Systems, Inc., XBRL US, Inc., Rivet Software Inc. and Wall Street on Demand.

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**“...the MSRB seeks comment on whether the MSIL/Access system should provide for voluntary submissions by underwriters of POSs to be made publicly accessible through the MSIL/Access portals.”**

DPC DATA believes that the municipal market would be better served if the MSIL/Access system accommodated the voluntary submission of POSs and if underwriters were encouraged to submit them through the system. The early receipt of preliminary documents by data vendors enhances data quality throughout the market and promotes the complete capture of new securities description data in all major market systems prior to deal closing. We would go one step further and recommend that the MSRB explore making the submission of POSs by underwriters to MSIL mandatory.

If the MSIL system is to handle the submission of POSs from underwriters, the system will have to be capable of managing version control for these documents. It would not suffice to treat updated versions of POSs for the same deal as new, incremental additions to the document collection. In order to avoid misinformation, the system should handle the automatic cancellation of access to (or deletion of) the older version of the POS, updates to the corresponding data record in the MSIL system, and automatic notification to all recipients in the distribution channel

**“The MSRB seeks comment on whether the URL included in the notice to customers should be restricted to a specific MSIL/Access portal or could be for any of the MSIL/Access portals, or whether dealers should be permitted to identify a source other than a MSIL/Access portal.”**

Since the MSRB's plan calls for the URL for a given document to point to a file that resides only on the MSRB's central portal, and since the other MSIL/Access portals will all present the same URL to the public, the MSRB should be indifferent about which portal dealers direct their customers to for accessing the URL. If dealers want to direct customers to another source that is not an MSIL/Access portal to obtain a copy of the document, we believe the MSRB should look upon this as analogous to dealers' current practice of delivering photocopies of printed documents instead of the printed documents themselves.

A more important threshold issue, as suggested in footnote [14] and footnote [29] of the Notice, is that it appears that the MSRB only plans to provide URLs for documents directly through its proposed web site and through the MSIL/Access portals, and not deliver (or 'push') copies of the definitive PDFs as is its current practice. The MSRB must disclose whether it will continue to affirmatively push PDF files of documents and accompanying descriptive data to vendors, or if it intends for the proposed MSIL/Access system only to deliver URLs and thereby

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require that recipients 'pull' the PDF file on demand. DPC DATA believes that it would not serve the best interests of the market if the MSIL ceased pushing documents to vendors, because it would be harmful to frustrate in any way the production of data derived from these documents that serve the market in many critical ways, ranging from the creation of terms and conditions database products that are essential for trade settlement, to the flow of vendor data into risk management and credit products that drive transactions. All of it is time-sensitive, so the bulk delivery of definitive documents is crucial to the smooth working of the market overall. Clearly, it would be best for the MSRB to push the documents to vendors in real time, simultaneous with the delivery of the URLs to MSIL/Access portals.

Considering that the MSRB does not address in the Notice whether or not it will continue to provide document and data feeds to vendors, it appears that the MSRB may be seeking to supplant completely the commercial interests that serve the market in providing primary market disclosure documents. If so, the system as described in the Notice suggests risk of irreparable impairment of vendors' economic interests.

**"The MSRB seeks comment on potential technical difficulties that might result from requiring that the notice include a URL assigned to a specific OS, particularly in respect to assuring that the unique URL for each OS remains operative throughout the time such document remains publicly available. Would it be appropriate to limit the period of time during which the URL for a specific OS is required to be maintained unchanged, such that after such period the OS could be archived and be made accessible through an on-line search function at the MSIL/Access portal? What would be the appropriate period of time (beyond the end of the new issue disclosure period) for maintaining such URLs unchanged prior to permitting OSs to be moved to an archival collection accessible through an on-line search function?"**

Since a URL can only resolve to one specific Internet address, and since it appears that the definitive document PDF will only reside on the MSIL/Access server, then there does not appear to be a technical obstacle to distributing multiple copies of the URL to entities all over the Internet. They will all point to the same absolute address for the document file on the MSIL/Access server.

However, this raises a related issue of how the MSIL/Access system will handle hundreds or thousands of simultaneous 'hits' to the same document file and maintain acceptable performance without undue latency. Likewise, if the sanctity of the document file on the MSIL/Access server is disturbed or the server's connection to the Internet is interrupted, then ALL links to it will be broken and the document will become completely invisible to the market until the problem is

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corrected. From a risk management perspective, the basic premise of requiring all market participants who want to view a particular OS PDF file to 'pull' it down from a single-point source, engenders concern, especially if that source is a monopoly provider. This risk of failure is mitigated today by the decentralized, competitive web-based delivery systems that currently exist in the market. People who are in a position to influence the proposed rule change the MSRB seeks in order to accommodate the proposed monopoly model of the MSIL/Access system should carefully weigh this risk against the allure of 'free' documents.

It is not possible for DPC DATA to respond to your question regarding how long a document URL should be made public before being placed in a searchable archive, because the MSRB has not shared enough technical details and specifications in the Notice. DPC DATA currently maintains a searchable archive of more than 246,000 primary disclosure documents<sup>3</sup> that have been mostly sourced from the MSIL system under subscription agreement with the MSRB, and our index and the documents have been available to the general public on our web site since 1999. If the MSRB intends to reproduce the same type and level of indices built with data extracted from the documents as is available in the DPC DATA online document center and web sites provided by other vendors, and offer this service for free to all users indefinitely, it raises the question of how severe the impact would be on private vendors' businesses and their continued ability to support their current level of services and secondary products, which are consumed by the entire spectrum of the municipal marketplace. Alternatively, if the MSRB simply intends to provide nothing more than the same quality of documents and accompanying data elements that it currently sells in its MSIL subscription service with the only change being online access, then we anticipate that the impact would be less severe. Until the MSRB offers more clarity about its intentions, it is impossible for us to discuss the precise implications or offer a concrete response.

**"The MSRB seeks further comment on whether ... an exclusion for limited offerings should be provided and, if so, why such an exclusion would be appropriate."**

DPC DATA believes that the interests of the market as a whole would be better served if there were no exemptions under SEC Rule 15c2-12 for publicly issued securities or for limited offerings. Removing the exemptions from SEC Rule 15c2-12 and from any MSRB rule pertaining to final official statement delivery would favor transparency.

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<sup>3</sup> This number is effective as of March 5, 2007, and it includes 199,150 official statements, 28,827 refunding documents, and 18,387 associated document amendments, all referenced in 359,416 separate series of bonds and notes. These numbers do not include the additional 631,672 secondary market disclosure documents and material event notices that are indexed to them in our system as of this date.

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**“The MSRB seeks further comments from the industry on what parameters are important in determining the suitability of an electronic format for documents accessible through the MSIL/Access system and whether any such formats, other than PDF, currently exist or are in development”**

New data formats and presentation schemes are constantly under development in the market. Which of these formats will possess the critical elements for success in the future is unpredictable. We believe that the list of critical elements necessary for success, in terms of what the MSRB should require, include the following at a minimum: (a) The format must not require the end user to purchase specialized software to read a file; (b) the creator of an official statement in the format must have the ability to ‘lock’ the resulting file such that another party would be unable to alter it; (c) the format should be ubiquitous and supported by all operating systems, and (d) it should preserve the look and feel of the original document as if it had been produced on paper. The only format generally available today that meets all of these criteria is PDF.

It is unclear at this moment whether other formats will ever fully address all of the essential elements. Since the proposed rule change imposes definitive standards on broker/dealers and their agents who will be submitting documents and data to the MSIL system online, the MSRB has a golden opportunity to choose formats that either have or are gaining broad popularity not just in the municipal securities market, but across all markets and industries. Our recommendation is to require that (i) all official statements, refunding documents and amendments be submitted in PDF form, and (ii) all descriptive data be captured in formatted fields on the MSIL web site and validated, and then converted automatically through a parser into XML and stored in that format for distribution.

**”The MSRB seeks comments on whether this would be the appropriate timeframe for requiring CUSIP information and initial offering prices, as well as notice that no OS or POS will be provided (if applicable), to be provided to the MSIL/Access system for public dissemination through the MSIL/Access portals.”**

DPC DATA believes that the MSRB’s proposed change to rule G-32 which would require the initiation of a deal record in the MSIL system with CUSIP numbers and initial offering prices at the time of bond sale is appropriate and recommended. However, a parallel system of accepting, disseminating and tracking POSs in the system that does not rely on CUSIP numbers or coupon and maturity data to initialize a filing would have to be implemented if the MSIL/Access system were to include dealer submissions of POSs. The reason is that the true benefit of including POSs in the collection would be to make the POSs available at the

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earliest possible date, whereas the CUSIP numbers are only available at approximately the date of the underwriting.

**“The MSRB seeks comment on whether there is any justification for retaining [the exclusion of commercial paper from the definition of new issue municipal securities], given the modifications to the disclosure dissemination system that would be made.”**

DPC DATA does not believe there is any justification for retaining the exemption for commercial paper.

**“The MSRB is seeking further comment on ...parameters and characteristics for the MSIL/Access portals.**

As a longstanding vendor of disclosure documents and information to the municipal market, it is our opinion that the MSRB's portal concept, whereby only URLs to specific documents are provided to MSIL/Access portal operators, is prejudicial to the economic interests of existing vendors whose delivery services require that the definitive PDF file be archived on their web sites for public access. It is our expectation that the MSIL will continue its current delivery service for official statements, refunding documents and document amendments in PDF form and enhance it by offering real time delivery over the Internet instead of the current practice of daily delivery of this content on CD-ROM. However, the MSRB has offered no indication in the Notice of what its intentions are with regard to the continuation or discontinuation of its MSIL service to vendors, and must clarify its position.

We note some apparently conflicting statements in the MSIL/Access portal concept disclosed in the Notice as it pertains to vendors. For example, the MSRB offers that portal operators "...could provide these services on such commercial terms as they deem appropriate...", but at the same time the MSRB would require them "...to provide the URL for the specific OS and any amendments thereto...for free throughout the new issue disclosure period and for a reasonable limited period of time thereafter..." If the documents are in the public domain and the general public can obtain free access to the document URL by going directly to the MSRB's central portal, what is the MSRB's justification for restricting the commercial activity of vendors who would otherwise provide enhanced services for document delivery for a fee? This could be construed as interfering with standard commercial processes of private businesses, especially since users who do not want value-added services would have options to go to other portals.

**“The MSRB seeks comment on the appropriate limited period of time beyond the end of the new issue disclosure period during which documents should**

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**remain publicly available through free MSIL/Access portals in order to ensure that new issue customers have had an adequate opportunity to access and retain copies of such documents.”**

DPC DATA is of the opinion that it would be appropriate for the primary MSIL/Access portal to offer new OSs to the public for free during the new issue disclosure period and for a period not exceeding twenty-five days after the closing date. Leaving the document available for free after this length of time would impair the economic interests of information vendors that currently make OSs available on a commercial basis.

**“The MSRB seeks comment on the merits of partially automating the Form G-37 process through information provided on Form G-32. In particular, would the added burden of additional information submissions by underwriters under revised Rule G-32 be outweighed by the possible benefits realized in partially automating the Form-G-37 process?”**

DPC DATA has no comment with regard to automating the Form G-37 process.

***Summary Observations and Conclusion***

As a member of the vendor community and as a representative of the interests of our customers, we look for the MSRB to explain why it has chosen this path to improve efficiency of dissemination of OSs to the market instead of any other path that would include vendor involvement. The MSIL/Access system appears to have been conceived in a relative vacuum by the MSRB, and it is presented in the Notice as a *fait accompli*. The proposed system's broader impact on the market, on other essential vendor products already in the market, and the benefits of competition among commercial firms that must operate efficiently and provide excellent service to the marketplace do not appear to have been carefully evaluated or factored into the MSRB's apparent decision to go forward with the plan as described in the Notice. In many cases, the MSRB has not presented adequate technical specifications or service design details that would be necessary to answer some questions raised in the Notice, especially those that may involve economic impairment of vendors or potential anticompetitive behavior.

The basic premise of the MSIL/Access system that each PDF version of an OS will only reside on the MSRB's central portal server ignores the practical problem of response time and latency, and it does not address the likelihood of local *force majeure* events causing documents to be unavailable.

A careful examination of the Notice raises additional questions. Clearly, one of the most glaring omissions is the lack of information about the MSIL/Access project



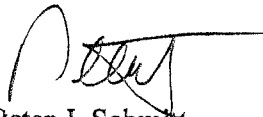
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from a normal project management perspective that includes objectives, costs and funding, specific user concerns, and implementation dates. Furthermore, at the level of description offered, the only meaningful distinction between the current new issue market disclosure dissemination regime carried out by vendors and the proposed monopoly of the MSIL/Access project is the idea that access to users will be free of charge. The implications of 'free' should raise other questions about the short-term and long-term objectives of the project, and its viability as a sole venue of mandatory primary market disclosure dissemination.

The industry should question the wisdom of the MSRB investing the sums of money and the time that would be required to replicate the back-end data production systems, web delivery mechanisms, and the databases of vendor systems that already exist and function at the highest levels of efficiency and reliability. If improving the efficiency of primary market disclosure dissemination practices in the municipal market is the MSRB's true objective, then it could accomplish this simply by (a) consolidating rules G-36 and G-32 as proposed to require more timely submission of deal data and the submission of documents in electronic form only, and (b) delivering these materials in real time to vendors along the lines of straight-through-processing. Further, the MSRB could offer better terms to vendors for this feed if the vendors would agree to make the OSs available to the general public free of charge during the underwriting period and for a brief, defined period thereafter.

All of the objectives stated by the MSRB in the Notice could be met under such an arrangement, and they could be met at extremely low cost without delay. DPC DATA is prepared to cooperate with the MSRB because it would benefit all involved and make best use of existing, proven web distribution channels. We suggest that replicating these vendor channels, which have evolved to serve the market under intense competitive pressure, makes questionable sense when there are faster, less expensive and more efficient alternatives at hand that could meet the same objectives.

Yours truly,



Peter J. Schmitt  
Chief Executive Officer