

Bond Case Briefs

Municipal Finance Law Since 1971

Frequently Asked Questions About MSRB Form G-32.

The MSRB is providing the following set of responses to frequently asked questions (FAQs) to enhance understanding of the process for completing Form G-32.

These FAQs do not create new legal or regulatory requirements or new interpretations of existing requirements and should not be interpreted by regulated entities or examining authorities as establishing new standards of conduct. This resource has not been filed with the Securities and Exchange Commission (SEC) and has not been approved nor disapproved by the SEC. Regulated entities, examining authorities, and others should not interpret this resource as establishing new or additional obligations for any person.

This resource should be read in conjunction with MSRB Rule G-32 and all related rules and interpretations. The full text of MSRB rules and interpretations can be found at <https://msrb.org/Rules-and-Interpretations/MSRB-Rules>.

1. Restrictions on Issue

Form G-32 requires information regarding when a subsequent “sale, resale, or transfer” of a municipal security is subject to certain qualifying terms or conditions (a “Restriction on Issue”). An example of a Restriction on Issue could be that a sale, resale, or transfer of a municipal security is contingent on a prospective purchaser meeting a requisite level of sophistication, as may be evidenced by investor affirmations about the investor’s knowledge, experience, and capability to evaluate the merits and risks of the prospective purchase (e.g., similar or analogous affirmations as those of a ‘Qualified Institution Buyer’).

1.1 Would the state-by-state restrictions on the sale of certain municipal securities commonly referred to as “State Blue Sky Restrictions” need to be identified on Form G-32’s field regarding *Restriction on Issue*?”

No, State Blue Sky Restrictions do not need to be identified on Form G-32 as a *Restriction on Issue*.

1.2 Would the contractual restrictions on the sale, resale, or transfer of municipal securities that are typically incorporated into the transactional documents (e.g., on the bond certificate itself and/or in the bond indenture or trust agreement) need to be identified on Form G-32 in the *Restrictions on Issue* field?

Yes, Form G-32 is intended to capture these types of contractual restrictions on the sale, resale, or transfer of municipal securities. Underwriters who believe the *Restrictions on Issue* field is applicable should check the box to indicate yes, there are such contractual restrictions, as for example, in a primary offering structured to meet the exemption requirements of Rule 15c2-12(d)(1)(i) for purchase by thirty-five investors or less (as further described therein).

2. Additional Syndicate Managers

Form G-32 requires information regarding each of the other co-managers in a syndicate.

2.1 Who should be identified as a co-manager?

For purposes of the *Additional Syndicate Managers* field on Form G-32 and the determination of which firms should be identified as a senior manager or co-manager, an underwriter completing Form G-32 should identify all the other underwriting firms that it understands to be participating in the syndicate account's offering, sale, and distribution, such as, for example, those firms acting as underwriters and listed in a final pricing wire and/or by the issuer in a final official statement.

2.2 Must the underwriter identify selling group members?

No, for purposes of the *Additional Syndicate Managers* field on Form G-32, the MSRB does not expect an underwriter to identify selling group members.

3. Name of Municipal Advisor

Form G-32 requires information regarding the name of each municipal advisor.

3.1 If a municipal advisor firm is described in the issuer's official statement as a "financial advisor" should an underwriter provide the name of that firm as a municipal advisor in Form G-32?

Yes, an underwriter completing Form G-32 should provide the name of a deal participant who the underwriter understands to be acting in the role of a municipal advisor, even in instances where a municipal advisor may be identified by a different term, such as financial advisor, in an official statement or offering memorandum.

4. Credit Enhancers and LEIs

Form G-32 requires information regarding the legal entity identify or "LEI" for credit enhancers when such LEI is readily available.

4.1 For purposes of Form G-32, should the underwriter identify the municipal securities as having a credit enhancement when the form of credit enhancement does not fall into the category of a letter of credit nor bond insurance?

Yes, the *Credit Enhancement* section on Form G-32 indicates whether the municipal securities have a form of credit enhancement. In situations where the form of credit enhancement does not fall into the categories of "letter of credit" or "bond insurance," the underwriter can select the "other" option. An underwriter should select the "other" category when the offering includes a different form of credit enhancement. For example, state intercept programs,¹ other guarantees (like a state guarantee), federal or state agency guarantees,² and/or standby bond purchase agreements should be identified as "other."

4.2 Must the underwriter attempt to provide the LEI when a municipal entity, federal agency, or other similar public entity is the entity providing credit enhancement?

Yes, an underwriter should input LEI information for credit enhancers into the *Credit Enhancement* section of Form G-32 when such information is “readily available,” in other words, easily obtainable via a general search on the internet. The underwriter should attempt to provide an LEI for entities providing a credit enhancement that falls into the “other” category (such as those credit enhancements described in the response to frequently asked question 4.1).

5. Obligated Persons and LEIs

Form G-32 requires information regarding the LEI for obligated persons (other than the issuer of the municipal securities) when such LEI is readily available.

5.1 Does Form G-32 allow for situations where obligated persons are subject to objective criteria and may change?

Yes, the *Obligated Persons* section of Form G-32 allows an underwriter to indicate that the obligated person(s) for the municipal securities are determined by objective criteria and may not be known at the time of issuance or may subsequently change in the future, such as in the case of certain pooled financings. Instances when an underwriter understands that obligated persons are subject to objective criteria (and so may change), and the official statement identifies the obligated person(s) who initially meet the stated objective criteria, then the underwriter should identify such obligated person(s) and indicate that the municipal securities are subject to objective criteria. Instances when an underwriter understands that obligated persons are subject to objective criteria (and so may change), but the official statement does not identify any such obligated persons, the underwriter need only indicate that the municipal securities are subject to objective criteria.

6. Private Placements

An underwriter must submit information about private placements on Form G-32, including when the municipal securities are not eligible for the New Issue Information Dissemination Service (“Non-NIIDS-Eligible Offerings”).

6.1 Are underwriters required to complete Form G-32 for Non-NIIDS-Eligible Offerings, like certain private placements?

Yes, underwriters are required to complete Form G-32 for Non-NIIDS-Eligible Offerings, like certain private placements. Effective as of August 2, 2021, for a Non-NIIDS-Eligible Offering, an underwriter would continue to be required to manually complete the same data fields that it currently completes on Form G-32, with the addition of three new data fields regarding: (i) the original minimum denomination, (ii) whether the original minimum denomination of the offering could change, and (iii) whether there is a Restriction on Issue. For purposes of Form G-32, the term “underwriter,” as defined by reference in Rule G-32 to SEC Rule 15c2-12, encompasses certain dealers acting as agents in the private placements of municipal securities. See File No. SR-MSRB-2020-08 (Oct. 13, 2020), at note 12 .

7. Submission Timing

[Rule G-32's](#) submission requirements depend on whether the new issuance is a *NIIDS-Eligible Primary Offering* or a *Non-NIIDS-Eligible Primary Offering*. See Rule G-32(b)(i)(A)(1) and Rule G-32(b)(i)(A)(2), respectively. For *NIIDS-Eligible Offerings*, the information auto-populated into Form G-32 is sourced from information submitted by an underwriter to NIIDS pursuant to MSRB Rule G-34 (which governs the content and timing of submissions to NIIDS to facilitate the timely reporting, comparison, confirmation, and settlement of transactions in a new issue). See Rule G-34(a)(ii).

7.1 For advance refundings, when must the CUSIP(s) and dollar amount(s) of the refunded securities be submitted on Form G-32?

In a primary offering generating proceeds to advance refund previously issued municipal securities (i.e., "Advance Refunded Bonds"), Form G-32 requires information regarding the dollar amount of each of the Advance Refunded Bonds being advance refunded and CUSIP information for those Advance Refunded Bonds (when applicable). This information must be submitted on Form G-32 at the earlier of either (i) the date of official statement submission or (ii) the closing date. *(Added July 30, 2021)*

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1. The MSRB understands that it is common for municipal securities issued by school districts to include a credit enhancement mechanism by which public funds in support of school district activities are redirected to satisfy debt service shortfalls.
 2. The MSRB understands that it is common for municipal securities issued by housing agencies to incorporate certain guarantees or insurance provided by other federal and/or state agencies, like Ginnie Mae, Fannie Mae, or Freddie Mac.