

thereunder in that the proposed rule change is concerned solely with the administration of MBSCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC.

All Submissions should refer to File No. SR-MBSCC-96-07 and should be submitted by December 27, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37997; File No. SR-MSRB-96-11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G-38 on Consultants

November 29, 1996.

On November 18, 1996, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed

rule change (SR-MSRB-96-11), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder. The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Board has designated this proposal as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board under Section 19(b) (3)(A) of the Act, which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board is filing herewith a notice of interpretation concerning rule G-38 on consultants (hereafter referred to as "the proposed rule change"). The proposed rule change is as follows:

Rule G-38 Questions and Answers

Role To Be Performed by Consultant

1. Q: Is there specific information concerning the role to be performed by a consultant that a dealer must disclose on Form G-37/G-38?

A: The role to be performed by a consultant may be described in general terms on Form G-37/G-38; however, dealers must include the state or geographic area in which the consultant is working on behalf of the dealer.

Compensation Arrangement, Total Dollar Amount Paid to Consultant During Reporting Period and Dollar Amounts Paid to Consultant Connected With Particular Municipal Securities Business

2. Q: When providing the information required to be disclosed on Form G-37/G-38, how should dealers describe the consultant's compensation arrangement?

A: Dealers must ensure that the compensation arrangement is clearly described and that it correlates with the information being disclosed concerning the total dollar amount paid to the consultant during the reporting period and the dollar amounts paid in connection with particular municipal securities business.

- For example, if a consultant is paid a monthly retainer, the amount of the monthly retainer must be disclosed and the total dollar amount paid during the reporting period must be reported.
- If a consultant is reimbursed for expenses, the amount of the reimbursed

expenses must be disclosed either separately or within the total dollar amount paid for the quarter.

- If a consultant is to be paid a success fee, dealers must disclose how the success fee will be arrived at (e.g., a certain percentage of profits). The sum total of the dollar amounts paid to the consultant in connection with particular municipal securities business should equal the total dollar amount paid to the consultant during the reporting period.

- In addition, if any discretionary bonus or similar payment is made, this amount must be included within the total amount paid for the quarter in which it is paid.

3. Q: What information must a dealer disclose on Form G-37/G-38 for the dollar amounts paid to a consultant connected with particular municipal securities business?

A: If any payment made during the reporting period is related to a consultant's efforts on behalf of the dealer which resulted in particular municipal securities business, whether the municipal securities business was completed during that or a prior reporting period, then the dealer must separately identify that business and the dollar amount of the payment.

Disclosure to Issuers of the Compensation Arrangement With Consultants

4. Q: Rule G-38 requires a dealer to disclose in writing its consulting arrangements to an issuer with which it is engaging or seeking to engage in municipal securities business and this written disclosure must include, among other things, the compensation arrangement. What is the level of disclosure required to issuers of the compensation arrangement with consultants?

A: The written disclosure to issuers of the compensation arrangement must explain the arrangement.

- For example, if a consultant is paid a monthly retainer, the amount of the monthly retainer must be disclosed.

- If a consultant also is reimbursed for expenses, this fact must be noted.

- If a consultant is to be paid a success fee, the dealer must disclose to the issuer how that fee will be arrived at (e.g., a certain percentage of profits).

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any

⁶ 17 CFR 200.30-3(a)(12) (1996).

comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) On January 17, 1996, the Commission approved Board rule G-38 on consultants.¹ Since that time, the Board has received inquiries concerning the application of the rule. In order to assist the municipal securities industry and, in particular, brokers, dealers and municipal securities dealers in understanding and complying with the provisions of the rule, the Board published a prior notice of interpretation which set forth, in question-and-answer format, general guidance on rule G-38.² In its prior filing with the Commission, the Board stated that it will continue to monitor the application of rule G-38, and, from time to time, will publish additional notices of interpretations, as necessary.³ In light of questions recently received from market participants concerning the disclosures to be made regarding consultants, the Board has determined that it is necessary to provide further guidance to the municipal securities industry. Accordingly, the Board is publishing this second set of questions and answers concerning rule G-38.⁴

(b) The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.⁵

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or

appropriate in furtherance of the purposes of the Act, since it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Board has designated this proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board under Section 19(b)(3)(A) of the Act, which renders the proposed rule change effective upon receipt of this filing by the Commission.

At any time within sixty (60) days of the filing of a proposed rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-96-11 and should be submitted by December 27, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-37998; File No. SR-MSRB-96-10]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Reports of Sales and Purchases, Pursuant to Rule G-14

November 29, 1996.

I. Introduction

On August 29, 1996, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-96-10), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), to expand its transparency program. The proposed rule change was published for comment in the Federal Register on October 30, 1996.¹ No comments were received on the proposal.

II. Description of the Proposal

The MSRB proposed to amend Board rule G-14 concerning reports of sales and purchases, and to amend Rule G-14 Transaction Reporting Procedures. The purpose of the proposed rule change is to increase transparency in the municipal securities market by adding retail and institutional customer transaction information to the inter-dealer transactions currently included in the Board's Transaction Reporting Program ("Program"). Under the proposed rule change, aggregate data about inter-dealer and customer market activity, and certain volume and price information about all transactions in frequently traded securities, would be disseminated to promote investor confidence in the market and its pricing mechanisms. The Program is designed to accomplish two objectives. The first is to increase the amount of information available about the market value of individual municipal securities. The second purpose of the Program is to provide a centralized audit trail of municipal securities transactions by making available to the National Association of Securities Dealers, Inc.

¹ Securities Exchange Act Release No. 37859 (October 23, 1996), 61 FR 56072.

¹ Securities Exchange Act Release No. 36727 (January 17, 1996); 61 FR 1955 (January 24, 1996). The rule became effective on March 18, 1996.

² See MSRB Reports, Vol. 16, No. 2 (June 1996) at 3-5. See also MSRB Manual (CCH) paragraph 3686.

³ Securities Exchange Act Release No. 36950 (March 11, 1996); 61 FR 10828 (March 15, 1996).

⁴ The Board plans to publish the interpretations in the 1996 MSRB Reports (Vol. 1, No. 1).

⁵ Section 15B(b)(2)(C) states in pertinent part that the rules of the Board "shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest."