

require self-clearing specialists in less than 200 securities to maintain, at a minimum, the greater of (i) \$250,000, or (ii) the amount set forth in the Net Capital Rule. The proposal would require self-clearing specialists in 200 or more securities to maintain, at a minimum, the greater of (i) \$350,000, or (ii) the amount set forth in the Net Capital Rule. Finally, the proposal would require members that clear the accounts of other CHX specialists to maintain, at a minimum, the greater of (i) \$500,000, or (ii) the amount set forth in the Net Capital Rule. Under the proposal, specialists would continue to be required to comply with the Exchange requirement that subordinated cash borrowings and secured demand notes equal or exceed 50% of their total subordinated borrowings to the extent that the borrowings are part of their equity total.

The Exchange proposes to implement the increased net capital requirements over three phase-in dates during a twelve-month period. The phase-in dates would be issued in a Notice to Members within 30 days following approval of this proposal by the Commission. The \$100,000 requirement for non-clearing specialists would apply on the first phase-in date. The applicable net capital requirements for self-clearing specialists registered in less than 200 securities would be \$150,000, \$200,000, and \$250,000 for the first, second, and third phase-in dates respectively. The applicable net capital requirements for self-clearing specialists registered in 200 or more securities would be \$200,000, \$275,000, and \$350,000 for the first, second, and third phase-in dates respectively. The net capital requirements for members and member organizations that clear for other specialists would be \$350,000, \$450,000, and \$500,000 for the first, second, and third phase-in dates respectively.

III. Discussion

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁵ The Commission believes that the proposal is consistent with the Section 6(b)(5) requirement that the rules of an exchange be designed, in general, to protect investors and the public interest.⁶ Specifically, the Commission believes that raising the minimum level

of liquidity that specialists and members that clear for specialists are required to maintain should serve to protect customers and other market participants from potential losses due to the financial failure of specialists, or members or member organizations that clear for specialists. Additionally, the Commission believes that by reducing the risk associated with the financial failure of specialists the proposal should help to ensure the integrity of the securities markets. The Commission also believes that the allocation of different net capital requirements, as set forth in the proposal, is appropriate due to the different levels of risk associated with the categories of net capital requirements.

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 6(b)(5).⁷

It is therefore ordered, pursuant to Section 19(b)(2)⁸ of the Act, that the proposed rule change (SR-CHX-99-01), is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41338; File No. SR-MSRB-99-2]

Self Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to Rule G-11 on Sales of New Issue Municipal Securities During the Underwriting Period

April 28, 1999.

I. Introduction and Description of the Proposal

On March 11, 1999, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend Rule G-11, on sales of

new issue municipal securities during the underwriting period. Notice of the proposed rule change appeared in the **Federal Register** on March 25, 1999.³ No comments were received on the proposal. This order approves the proposed rule change.

The proposed rule change clarifies certain ambiguities in the Board's present syndicate practices rules. Rule G-11(g)(iii), as amended in November 1988,⁴ requires a managing underwriter to disclose to syndicate members, in writing, all available designation information within 10 business days following the date of sale and all information with the sending of the designation checks pursuant to Rule G-12(k). Three general questions have been raised by dealers concerning this rule as currently worded.

First, dealers have asked whether the rule requires the managing underwriter to disclose to each syndicate member its own designation information or whether all members are to receive information about all the designations. The proposed rule change clarifies that all designation information must be disclosed to each syndicate member.

Second, dealers have asked whether the managing underwriter is required to disclose designations by total dollar amounts, bond amounts, or both total dollar amounts and bond amounts. The proposed rule change clarifies that the designation information must be expressed in total dollar amounts.

Third, dealers have asked whether the rule requires the managing underwriter to disclose to syndicate members designations made to anyone other than syndicate members, e.g., selling group members. The proposed rule change clarifies that the manager must disclose to each syndicate member all designations, including both those paid to syndicate members and those paid to non-syndicate-members.

II. Discussion

The Commission believes the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder.⁵ Specifically,

³ See Securities Exchange Act Rel. No. 41192 (March 19, 1999), 64 FR 14479.

⁴ See Securities Exchange Act Release No. 40717 (November 27, 1998), 63 FR 67157 (December 4, 1998).

⁵ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. The proposed rule change should make information dissemination more efficient because it clarifies ambiguities that may have impeded compliance with existing rules and because it requires disclosure to syndicate members to be made in a form most useful to them. Competition in the marketplace should also benefit because

⁷ *Id.*

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁵ The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

the Commission believes that approval of the proposed rule change is consistent with Section 15B(b)(2)(C) ⁶ of the Act.

The Commission set forth its reasons for approving Rule G-11(g)(iii) in its current form, requiring increased disclosure of designation information, when it was amended in November 1998. It believes that the instant proposal, resolving questions that have arisen since that time, provides answers that are fully consonant with those reasons.

The new language that, in response to the first question outlined above, expressly stipulates that designation information must be disclosed to all syndicate members merely clarifies the intent of last year's amendment as understood by the Commission. Concerning the second question, the Commission agrees with the Board that designation information is most useful to syndicate members when stated in terms of dollar amounts, and that there is no need to further require that the information also be stated in terms of bond amounts. Finally, the Commission agrees with the Board that requiring managers to disclose designations paid to non-syndicate-members as well as syndicate members is consistent with the purpose of last year's amendment generally to increase the disclosure of designation information.

III. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 15B(b)(2)(C).

It is therefore ordered, pursuant to Section 19(b)(2) ⁷ of the Act, that the proposed rule change (SR-MSRB-99-2) is hereby approved.

designation information, including information concerning non-syndicate members, will be available to all members of the syndicate. 15 U.S.C. 78c(f).

⁶ Section 15B(b)(2)(C) requires the Commission to determine that the Board's rules are 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. 15 U.S.C. 78o-4(b)(2)(C).

⁷ 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41339; File No. SR-NASD-99-19]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Use of Non-SRO Arbitration Forums

April 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on April 14, 1999, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The proposed rule change has been filed by the Association as a "non-controversial" rule change under Rule 19b-4(f)(6) ³ under the Act. The Association proposes to make the rule change operative on May 17, 1999. 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

NASD Regulation is proposing to amend the Code of Arbitration Procedure to facilitate use of dispute resolution programs offered by providers other than self-regulatory organizations. Below is the text of the proposed rule change. Proposed new language is in *italic*; proposed deletions are in brackets:

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

10000. CODE OF ARBITRATION PROCEDURE

10100. ADMINISTRATIVE PROVISIONS

IM-10100. Failure to Act Under Provisions of Code of Arbitration Procedure

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2110 for a member or a person associated with a member to:

(a)-(c) No change.

(d) fail to honor an award, or comply with a written and executed settlement agreement, obtained in connection with an arbitration submitted for disposition pursuant to the procedures specified by the National Association of Securities Dealers, Inc., the New York, American, Boston, Cincinnati, Chicago, or Philadelphia Stock Exchanges, the Pacific Exchange, Inc., the Chicago Board Options Exchange, the Municipal Securities Rulemaking Board, or pursuant to the rules applicable to the arbitration of [securities] disputes before the American Arbitration Association *or other dispute resolution forum selected by the parties* where timely motion has not been made to vacate or modify such award pursuant to applicable law; or

(e) No change.

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

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation 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

1. Purpose

The proposed rule change is intended to facilitate use of dispute resolution programs offered by providers other than self-regulatory organizations, and to ensure that NASD Regulation may take disciplinary action for the failure of a member or associated person to comply with an award obtained pursuant to the rules and procedures of such dispute resolution programs.