

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45881; File No. SR-MSRB-2002-05]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Electronic Mail Contacts

May 6, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> notice is hereby given that on April 30, 2002, 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-2002-05). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. 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 proposed rule change relating to electronic mail representatives. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

##### Rule G-40. Electronic Mail Contacts

(a) *Each broker, dealer or municipal securities dealer shall appoint an Electronic Mail Contact to serve as the official contact person for purposes of electronic mail communication between the broker, dealer or municipal securities dealer and the MSRB. Each Electronic Mail Contact shall be a registered municipal securities principal of the broker, dealer or municipal securities dealer.*

(b)(i) *Upon completion of its Rule A-12 submissions and assignment of an MSRB Registration Number, each broker, dealer or municipal securities dealer shall submit to the MSRB by mail a completed Form G-40 setting forth, in the prescribed format, the following information:*

(A) *The name of the broker, dealer or municipal securities dealer, and the date.*

(B) *The MSRB Registration Number of the broker, dealer or municipal securities dealer.*

(C) *The name of the Electronic Mail Contact, and his/her electronic mail address, telephone number and*

*Individual Central Registration Depository (CRD) Number.*

(A) *The name, title, signature and telephone number of the person who prepared the form.*

(ii) *A broker, dealer or municipal securities dealer may change the name of its Electronic Mail Contact or other information previously provided by electronically submitting to the MSRB an amended Form G-40.*

(c) *Each broker, dealer or municipal securities dealer shall update information on its Electronic Mail Contact periodically as requested and prescribed by the MSRB and shall submit such information electronically to the MSRB.*

##### Rule G-8. Books and Records To Be Made by Brokers, Dealers and Municipal Securities Dealers

(a) Description of Books and Records to be Made. Except as otherwise specifically indicated in this rule, every broker, dealer and municipal securities dealer shall make and keep current the following books and records, to the extent applicable to the business of such broker, dealer or municipal securities dealer:

(i)-(xxi) No change.

(xxii) *Records Concerning Electronic Mail Contacts. Records reflecting copies of Form G-40 and any amended forms, as required by Rule G-40.*

(b)-(e) No change.

(f) Compliance with Rule 17a-3. Brokers, dealers and municipal securities dealers other than bank dealers which are in compliance with rule 17a-3 of the Commission will be deemed to be in compliance with the requirements of the rule, provided that the information required by subparagraph (a)(iv)(D) of this rule as it relates to uncompleted transactions involving customers; paragraph (a)(viii); and paragraphs (a)(ix) through (a)(xxi) (xxii) shall in any event be maintained.

(g) No change.

##### Rule G-9. Preservation of Records

(a) No change.

(b) Records to be Preserved for Three Years. Every broker, dealer and municipal securities dealer shall preserve the following records for a period of not less than three years:

(i)-(xiii) No change.

(xiv) the records to be maintained pursuant to rule G-8(a)(xx); [and]

(xv) the records to be maintained pursuant to rule G-8(a)(xxi)[.]; and

(xvi) the records to be maintained pursuant to rule G-8(a)(xxii).

(c)-(g) No change.

\* \* \* \* \*

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

In its filing with the Commission, the MSRB 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 texts of these statements may be examined at the places specified in Item IV below. The MSRB 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) The events of September 11th, as well as the weeks that followed, emphasized the importance of, and need for, a formalized business continuity plan that includes an efficient and reliable means of official communication between regulators and the industry. Establishing a reliable method for electronic communication is needed to allow the MSRB to efficiently alert dealers to official communications, including time-sensitive developments, rule changes, notices, etc., and will facilitate dealers' internal distribution of such information. In addition, the MSRB has discontinued publication of *MSRB Reports*. MSRB notices now will be available exclusively on its Web site at [www.msrb.org](http://www.msrb.org). To ensure that such notices and other MSRB communications continue to reach each broker, dealer and municipal securities dealer, the MSRB has adopted the proposed rule change to add new Rule G-40, on electronic mail contacts.

Paragraph (a) of Rule G-40 requires that each dealer appoint an "Electronic Mail Contact" to serve as its official contact person for purposes of communicating with the MSRB, and that such person be a registered municipal securities principal of the dealer. Paragraph (b) requires that each dealer, upon completion of its Rule A-12 submissions and assignment of an MSRB Registration Number,<sup>2</sup> submit by

<sup>2</sup> Rule A-12, on initial fee, requires each dealer, prior to effecting any transaction in or inducing or attempting to induce the purchase or sale of any municipal security, to pay to the MSRB an initial fee of \$100, accompanied by a written statement setting forth the dealer's name, address and SEC registration number.

Upon Commission approval of the proposed rule change, the MSRB will contact its current list of dealers (since these dealers will have previously satisfied their Rule A-12 submissions) to obtain completed Forms G-40. Thereafter, any new dealer will be required to send its initial Form G-40 by

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

mail to the MSRB a completed Form G-40 setting forth the dealer's name, date, MSRB Registration Number, name of its E-mail Contact and his/her e-mail address, telephone number and Individual Central Registration Depository (CRD) Number, and the name, title, signature and telephone number of the person who prepared the Form G-40.<sup>3</sup> Paragraph (b) also provides that the dealer may change its E-mail Contact or other information previously submitted by sending an amended Form G-40 to the MSRB by e-mail. Paragraph (c) requires each dealer to update information on its E-mail Contact as periodically requested and prescribed by the MSRB and to submit such information to the MSRB by e-mail.

The proposed rule change also amends Rule G-8, on books and records, to require that dealers maintain records reflecting copies of Form G-40 and any amended forms, as required by Rule G-40. The proposed rule change amends Rule G-9, on preservation of records, to require that dealers retain these records for a period of three years.

(b) The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(I) of the Exchange Act, which authorizes the MSRB to adopt rules that provide for the operation and administration of the MSRB.

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

The MSRB 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**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to

mail when the dealer completes its Rule A-12 submissions, as noted above.

<sup>3</sup> The MSRB will assign passwords in order to limit access to each dealer's Form G-40 and to maintain the integrity of the information contained therein. Therefore, each dealer will be required to submit its initial Form G-40 by mail. The MSRB will then issue a password to the designated E-mail Contact that will be used to electronically submit to the MSRB any required updates and amendments to the form.

90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submissions, 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 offices. All submissions should refer to File No. SR-MSRB-2002-05 and should be submitted by June 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-45882; File No. SR-MSRB-2002-03]

#### **Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to Professional Qualifications of Municipal Fund Securities Limited Principals**

May 6, 2002.

On March 21, 2002, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange

Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("Commission") the proposed rule change relating to professional qualifications of municipal fund securities limited principals.

The Commission published the proposed rule change for comment in the **Federal Register** on March 26, 2002.<sup>3</sup> The Commission received two comment letters relating to the forgoing proposed rule change. This order approves the proposal.

### **I. Description of the Proposed Rule Change**

The MSRB proposed rule change consists of an amendment to Rule G-3, on professional qualifications, to address a new category of principals that serve permanently as municipal fund securities limited principals. Under MSRB Rule G-3, which governs professional qualifications, a broker, dealer or municipal securities dealer ("dealer") must have at least one municipal securities principal (and in some cases two municipal securities principals), even if the dealer's only municipal securities transactions are sales of municipal fund securities.<sup>4</sup> In July 2001, MSRB amended Rule G-3 to provide a temporary alternative method for qualification of principals in connection with municipal fund securities.<sup>5</sup> The amended rule provided relief to small dealers seeking to enter the market for municipal fund securities from Rule G-3's requirement to immediately obtain a municipal securities principal. Under the temporary provision, until July 31, 2002, if a dealer's municipal securities activities are limited exclusively to municipal fund securities and the dealer has fewer than eleven associated persons engaged in such activities, the dealer may fulfill its obligation to have a municipal securities principal by designating a general securities or investment company/variable contracts limited principal to act as a limited

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Release No. 34-45652 (April 3, 2002), 67 FR 15844.

<sup>4</sup> A municipal fund security is defined in MSRB's Rule D-12 as a municipal security issued by an issuer that, but for section 2(b) of the Investment Company Act of 1940 (the "Investment Company Act"), would constitute an investment company within the meaning of the Investment Company Act. Section 2(b) exempts states and political subdivisions, and agencies, authorities, and instrumentalities thereof, from the Investment Company Act.

<sup>5</sup> See SR-MSRB 2001-05; Release No. 34-44584 (July 23, 2001), 66 FR 39541 (July 31, 2001).

<sup>4</sup> 17 CFR 200.30-3(a)(12).