

as the Commission may designate up to 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 change 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 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-2002-14 and should be submitted by July 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46043; File No. SR-MSRB-2002-05]

#### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval to the Proposed Rule Change Relating to Electronic Mail Contacts

June 6, 2002.

On April 30, 2002, pursuant to section 19(b)(1) of the Securities Exchange Act

of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> 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 relating to electronic mail contacts.

The Commission published the proposed rule change for comment in the **Federal Register** on May 6, 2002.<sup>3</sup> The Commission did not receive comment letters relating to the forgoing proposed rule change. This order approves the Board's proposal.

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

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. The Board's establishment of a reliable method for electronic communication will allow it to efficiently alert dealers to official communications, including time-sensitive developments, rule changes, notices, etc., and will facilitate dealers' internal distribution of such information. To ensure that all MSRB communications continue to reach each broker, dealer and municipal securities dealer, the MSRB proposed the creation of Rule G-40, on Electronic Mail Contacts, and amendments to Rule G-8, on Books and Records to be Made by Brokers, Dealers and Municipal Securities Dealers, and Rule G-9, on Preservation of Records.

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>4</sup> submit by

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>5</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.

#### II. Summary of Comments

The Commission did not receive comment letters relating to this proposal.

#### III. Discussion

The Commission must approve a proposed MSRB rule change if the Commission finds that the proposal is consistent with the requirements set forth under the Exchange Act and the rules and regulations thereunder, which govern the MSRB.<sup>6</sup> The language of section 15B(b)(2)(C) of the Exchange Act requires that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national system, and, in general,

will be required to send its initial Form G-40 by mail when the dealer completes its Rule A-12 submissions, as noted above.

<sup>5</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.

<sup>6</sup> Additionally, in approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

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

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

<sup>3</sup> See Release No. 34-45881 (May 14, 2002), 67 FR 34507.

<sup>4</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

<sup>7</sup> 17 CFR 200.30-3(a)(12).

to protect investors and the public interest.<sup>7</sup>

After careful review, the Commission finds that the Board's proposed rule change consisting of the creation of Rule G-40, on Electronic Mail Contacts, and amendments to Rule G-8, on Books and Records to be Made by Brokers, Dealers and Municipal Securities Dealers, and Rule G-9, on Preservation of Records, meets the requisite statutory standard. The Commission believes that this proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder. In addition, the Commission finds that the proposed rule is consistent with the requirements of section 15B(b)(2)(C) of the Act, as set forth above.

#### IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. MSRB-2002-05) be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Margaret H. McFarland,  
Deputy Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46046; File No. SR-NYSE-2002-16]

#### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Regarding an Interpretation to NYSE Rule 345 ("Employees-Registration, Approval, Records") and Registered Persons Who Volunteer or Are Called Into Active Military Duty, and Deletion of a Provision Regarding Verbal Transfer Approvals

June 6, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 5, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange.

The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with 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 Exchange proposes an interpretation to NYSE Rule 345 ("Employees-Registration, Approval, Records") to provide relief from the Rule's registration requirements, annual registration maintenance fees, compensation prohibitions, and continuing education requirements as prescribed by NYSE Rule 345A, for registered persons who volunteer or are called into active military duty. Further, and as a separate matter, the NYSE proposes to delete Interpretation /01 to NYSE Rule 345(a)(i) of the NYSE Interpretation Handbook, which provides for verbal transfer approvals for registered persons, as such approvals are administered through the National Association of Securities Dealers, Inc.'s ("NASD") Web-based Central Registration Depository ("CRD") system. The text of the proposed rule change is below. Proposed additions are in italics; proposed deletions are in brackets.

#### NYSE Interpretation Handbook

#### Rule 345 Employees—Registration, Approval, Records

##### (a) Registration.

##### /01 Exceptions.

No change.

##### /02 "Independent Contractors."

No change.

*/03 Registered Persons Who Volunteer or Are Called to Active Military Duty The Exchange will grant specific relief to registered employees of members or member organizations who volunteer or are called into active military duty. Such registered employees will be placed in a specifically designated "inactive" status upon notification to the Exchange of their volunteering or military call-up. However, such employees will remain registered with the Exchange, and, therefore are eligible to receive transaction-based compensation. Since such employees are "inactive," they may not perform any of the duties*

*performed by a registered representative. However, his or her member or member organization may make arrangements with another registered representative of the member or member organization to have the accounts of such registered person serviced and to provide for a sharing of the commissions such accounts generate.*

*Further, members and member organizations shall be waived from remitting to the Exchange the annual maintenance fees for such registered employees as prescribed in Rule 345.14.*

*Such registered employees who volunteer or are called into active military duty shall receive a deferment from the Regulatory Element and Firm Element of the Continuing Education Program as prescribed in Exchange Rule 345A. Continuing Education requirements will be reinstated upon the registered person's return from active military duty.*

*Dual members or member organizations of the NYSE and NASD should notify the NASD of their registered employees who volunteer or are called into active military duty by mailing or faxing to the CRD/Public Disclosure Department of the NASD a letter (on firm letterhead) identifying the name and CRD number of the registered person called into active duty, the name and CRD number of the firm, or firms, with whom such person is associated, and a copy of the official call-up notification.*

*NYSE-only members or member organizations should notify the Exchange of their registered employees who volunteer or are called into active duty by mailing or faxing to the Exchange's Qualifications and Registrations Department, a letter (on firm letterhead) identifying the name and CRD number of person(s) who volunteer or are called into active duty, the name and CRD number of the firm, or firms, with whom such person is associated, and a copy of the official call-up notification.*

\* \* \* \* \*

#### NYSE Interpretation Handbook

#### Rule 345 Employees—Registration, Approval, Records

##### (a)(i) Transfer of registered representatives

##### /01 Verbal Transfer Approvals

Members and member organizations requesting verbal transfer approval for registered representatives of dual NYSE/NASD member organizations must contact the Central Registration Depository ("CRD") and request such approval through the Temporary Agent

<sup>7</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>8</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6). The NYSE provided the Commission with written notice of its intention to file this proposed rule change on April 25, 2002. The Exchange has asked the Commission to waive the 30-day operative delay.