

the clearing agency or for which it is responsible. For the reasons set forth below, the Commission believes that GSCC's proposed rule change is consistent with GSCC's obligations under the Act.

By allowing GSCC to enter into repurchase transactions with its highly creditworthy netting members and clearing agent bank members, GSCC should be able to obtain more favorable financing terms that should result in lower financing costs being allocated to members. As repurchase transactions are safe, widely accepted financing mechanisms, there should be no reduction in GSCC's ability to safeguard securities and funds which are in the custody or control of GSCC or for which it is responsible.

Accordingly, the Commission finds that the ability to enter into repurchase transactions with GSCC netting members and/or clearing agent bank members satisfies GSCC's obligations to assure the safeguarding of securities and funds which are in the custody or control of GSCC or for which it is responsible.

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

*It Is Therefore Ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-00-01) 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.

[FR Doc. 00-29887 Filed 11-21-00; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43568; File No. SR-MSRB-00-02]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rules G-8 and G-38 and Form G-37/G-38

November 15, 2000.

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 January 27, 2000, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Board. The Board filed Amendment No. 1 to the proposed rule change on November 15, 2000.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Board proposes to amend Rule G-38, on consultants, Rule G-8, on books and records, and revise Section IV of Form G-37/G-38 and the attachment page to the form. The text of the proposed rule change is available at the MSRB and at the Commission.

#### 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 comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange 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 Board has received inquiries from dealers that have indicated that there is confusion about certain information required to be reported in Section IV of Form G-37/G-38 as well as the attachment page to the form.<sup>4</sup> One area

of confusion concerns whether an individual's name must be disclosed on Form G-37/G-38 in each instance in which the dealer lists a consultant. Part of this confusion is due to the format of Section IV of the form as well as the attachment page. Dealers list their consultants in Section IV of Form G-37/G-38 and they must provide additional information about each consultant on separate attachment pages. Under Section IV, there is one column labeled "Name of Consultant" and another column labeled "Consultant Company Name." On the attachment page to the form, the first line indicates that a dealer is to report the "Name of Consultant" and the next line indicates the reporting of the "Consultant Company Name." The Instructions for Completing and Filing Form G-37/G-38<sup>5</sup> state that a dealer should list the name of each consultant along with the consultant company name under Section IV and on the attachment page a dealer should list the name of the consultant as well as the consultant company name.

A dealer must determine whether its consultant is an individual or a company based upon its Consultant Agreement<sup>6</sup> with the consultant.<sup>7</sup> If the Consultant Agreement is with an individual, then only the individual's name should be reported on the form and not a company name. Conversely, if the Consultant Agreement is with a company, only the company's name should be reported and not an individual's name.

The identification of a dealer's consultants has become even more significant with the recent amendments to Rules G-38, G-8, and G-37 that became effective on April 1, 2000.<sup>8</sup> Pursuant to those amendments, if an individual is a consultant, the

<sup>5</sup> The Instructions for Completing and Filing Form G-37/G-38 are printed in the *MSRB Rule Book* (January 1, 2000) at 201-203 and the Instructions are posted on the Board's web site ([www.msrb.org](http://www.msrb.org)) under the links for Rules G-37 and G-38.

<sup>6</sup> Rule G-38(b) currently requires each dealer that uses a consultant to evidence the consulting arrangement by writing (the "Consultant Agreement") that sets forth, at a minimum, the name, company, role and compensation arrangement of each such consultant.

<sup>7</sup> See Question and Answer Notice: Rule G-38 dated May 20, 1998, *MSRB Rule Book* (January 1, 2000) at 210. In this notice, concerning bank affiliates and the definition of payment, the Board stated that "each dealer (bank or securities firm) should determine whether the affiliate or individual employee(s) of the affiliate is its consultant(s), and must then ensure compliance with Rule G-38, including the contractual arrangements and disclosures required by the rule."

<sup>8</sup> See Securities Exchange Act Release No. 42205 (December 7, 1999), 64 FR 69808 (December 14, 1999).

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

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

<sup>3</sup> The Board submitted a new Form 19b-4, which replaces the original filing ("Amendment No. 1"). Specifically, Amendment No. 1 amends MSRB Rules G-38 and G-8 to clarify that the name of the consultant is obtained from the consultant agreement. Amendment No. 1 also revises the filing to include the statutory basis for the proposed rule change.

<sup>4</sup> Rule G-38(d) states that each dealer shall send to the Board reports on Form G-37/G-38 of all consultants used by the dealer during each calendar quarter. These reports currently must include, among other things, for each consultant, the consultant's name, company, role and compensation arrangement.

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

individual will relay to the dealer his or her reportable political contributions, reportable political party payments, and the reportable contributions and reportable payments of any political action committee ("PAC") controlled by the individual. If the consultant is a company, the company will relay its reportable contributions and reportable payments to the dealer, as well as those made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal business on behalf of the dealer, and any PAC controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer. Dealers will report this contribution and payment information to the Board on Form G-37/G-38 by contributor category (*i.e.*, company, individual, company controlled PAC, or individual controlled PAC).<sup>9</sup>

The current language of Rules G-38 and G-8 and the formats of Forms G-37/G-38, the attachment page, and the Instructions, are not as clear as they could be about the information required for identifying a consultant. The proposed rule change would amend Rule G-38 to remove the separate references to the consultant's company name from the requirements regarding the Consultant Agreement, the disclosure to issuers, and the disclosure to the Board. In addition, the proposed rule change would remove the requirement in Rule G-8 for dealers to maintain a separate record of the company name. The proposed rule change would also amend Rules G-8(a)(xviii)(A) and G-38(d) and (e) to add the phrase "pursuant to the Consultant Agreement" after the consultant's name.<sup>10</sup> The proposed rule change would also revise the formats of Section IV of Form G-37/G-38 and the attachment page to state "Name of Consultant (pursuant to Consultant Agreement)" and delete the reference to the "Consultant Company Name." Thus, a dealer would provide the name of an individual, if the consultant is an individual, or of a company, if the consultant is a company, depending upon whether the dealer has entered into a Consultant Agreement with an

individual or a company. These revisions will eliminate existing ambiguities under the rules resulting from the requirements that information regarding both an individual and a company be provided. This also will make it clear to dealers and the public who is responsible for relaying information about reportable contributions and payments to the dealers.

Another area addressed by the proposed rule change concerns the role of the consultant. Pursuant to Rule G-38, a dealer is required to include within the Consultant Agreement the role of the consultant, to disclose this rule to the issuer and to the Board and, pursuant to Rule G-8, to maintain a record of the role. The Instructions for Completing and Filing Form G-37/G-38 state that, in describing a consultant's role, a dealer should include the state or geographic area in which the consultant is working on behalf of the dealer. In addition, the Board issued a Question and Answer notice on Rule G-38 in which it stated that 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.<sup>11</sup>

From a review of the Forms G-37/G-38 submitted by dealers, there are a number of instances in which dealers have not reported the state or geographic area in which their consultants are working. The proposed rule change will revise Rules G-38 and G-8 to explicitly require the reporting of the state or geographic area in which a consultant is working on behalf of a dealer in the description of the consultant's role. The proposed rule change will also revise the attachment page to Form G-37/G-38 to include a parenthetical phrase in the section for reporting the role to be performed by the consultant to note that dealers should report the state or geographic area in which the consultant is working on behalf of the dealer.

## 2. Statutory Basis

The Board believes the proposed rule change is consistent with section 15B(b)(2)(C)<sup>12</sup> of the Act, which requires that the Board's rules 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.

## 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Board did not solicit or receive written comments on the proposed rule change.

## 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 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 Board consents, the Commission will:

(A) By order approved such 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 in the Commission's Public Reference

<sup>9</sup> Pursuant to Rule G-37, on political contributions and prohibitions on municipal securities business, dealers are also required to report their contributions and payments in Sections I and II of Form G-37/G-38 by contributor category (*i.e.*, dealer, dealer controlled PAC, municipal finance professional controlled PAC, municipal finance professionals, and executive officers)

<sup>10</sup> See Amendment No. 1, *supra* note 3.

<sup>11</sup> See Rule G-38 Question and Answer number 1 dated November 18, 1996, *MSRB Rule Book* (January 1, 2000) at 210. The Rule G-38 Questions and Answers are also posted on the Board's web site at [www.msrb.org](http://www.msrb.org).

<sup>12</sup> 15 U.S.C. 78o-4(b)(2)(C).

Room. Copies of such filing will also be available for inspection and copying at the principal office of the MSRB. All submissions should refer to the File No. SR-MSRB-00-02 and should be submitted by December 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 00-29888 Filed 11-21-00; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3305]

#### State of Arizona

As a result of the President's major disaster declaration on October 27, 2000, I find that La Paz and Maricopa Counties in the State of Arizona constitute a disaster area due to damages caused by severe storms and flooding beginning on October 21, 2000 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 26, 2000, and for loans for economic injury until the close of business on July 27, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853-4795.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Gila, Mohave, Pima, Pinal, Yavapai, and Yuma Counties in Arizona, and Imperial, Riverside, and San Bernardino Counties in California.

The interest rates are:

	Percent
<b>For Physical Damage:</b>	
Homeowners with credit available elsewhere .....	7.375
Homeowners without credit available elsewhere .....	3.687
Businesses with credit available elsewhere .....	8.000
Businesses and non-profit organizations without credit available elsewhere .....	4.000
Others (including non-profit organizations) with credit available elsewhere .....	6.750
<b>For Economic Injury:</b>	
Businesses and small agricultural cooperatives without credit available elsewhere .....	4.000

The number assigned to this disaster for physical damage is 330506. For economic injury the numbers are 9J4400 for Arizona and 9J4500 for California.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 2, 2000.

**Allan I. Hoberman,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 00-29763 Filed 11-21-00; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3307]

#### State of Hawaii

As a result of the President's major disaster declaration on November 9, 2000, I find that the County and Island of Hawaii constitute a disaster area due to damages caused by severe storms and flooding beginning on October 28, 2000 and continuing through November 2, 2000. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 8, 2001, and for loans for economic injury until the close of business on August 9, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853-4795.

The interest rates are:

	Percent
<b>For Physical Damage:</b>	
Homeowners with credit available elsewhere .....	7.375
Homeowners without credit available elsewhere .....	3.687
Businesses with credit available elsewhere .....	8.000
Businesses and non-profit organizations without credit available elsewhere .....	4.000
Others (including non-profit organizations) with credit available elsewhere .....	6.750
<b>For Economic Injury:</b>	
Businesses and small agricultural cooperatives without credit available elsewhere .....	4.000

The number assigned to this disaster for physical damage is 330706 and for economic injury the number is 9J4700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 16, 2000.

**Herbert L. Mitchell,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 00-29901 Filed 11-21-00; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3308]

#### Commonwealth of Massachusetts

Suffolk County and the contiguous Counties of Essex, Middlesex, and Norfolk in Massachusetts constitute a disaster area as a result of damages caused by a fire that occurred on October 29, 2000 in the City of Boston. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on January 16, 2001 and for economic injury until the close of business on August 14, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
<b>For Physical Damage:</b>	
Homeowners with credit available elsewhere .....	7.375
Homeowners without credit available elsewhere .....	3.687
Businesses with credit available elsewhere .....	8.000
Businesses and non-profit organizations without credit available elsewhere .....	4.000
Others (including non-profit organizations) with credit available elsewhere .....	6.750
<b>For Economic Injury:</b>	
Businesses and small agricultural cooperatives without credit available elsewhere .....	4.000

The numbers assigned to this disaster are 330805 for physical damage and 9J4800 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 14, 2000.

**Aida Alvarez,**

*Administrator.*

[FR Doc. 00-29900 Filed 11-21-00; 8:45 am]

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<sup>13</sup> 17 CFR 200.30-3(a)(12).