

Companies will distribute such duplicate Letters with election signature forms along with the Letter. If the Letter is more than two pages in length, the Companies will use a separate document to obtain the Policy owner's elections of the renewal credit, which document will prominently disclose in concise plain English the statements required in condition 1 above.

c. *Records.* The Companies will maintain the following separately identifiable records in an easily accessible place for review by the Commission staff: (a) copies of any form of the Letter and any other written materials or scripts for presentations by representatives regarding the renewal credit, including the dates used, (b) records showing the number and percentage (on a calendar quarter basis) of eligible Policy owners that elect the renewal credit, (c) records showing the name and Policy number of each Policy owner who elects a renewal credit, the amount of the Policy owner's accumulation value at the time the renewal credit is elected, the amount of the renewal credit, the Policy owner's name, address, telephone number and date of birth, the date the Policy owner signed the Letter or election form, the signed Letters or separate documents that reflect the Policy owner's election of the renewal credit, and where a commission (or other compensation) is paid to a registered representative on or after the date of the election of the renewal credit, the amount of the commission (or other compensation), and the name of any sales representative involved with the solicitation of the election of the renewal credit or who receives any compensation in connection with the Policy after the date of the election of the renewal credit and her or his CRD number, firm affiliation, telephone number, and branch office address, (d) records of persistency information for Policies whose Policy owners have elected the renewal credit, including the date(s) of any subsequent surrender or withdrawal of accumulation value and the amount of any withdrawal charge, and (e) logs recording any Policy owner complaints about the renewal credit, state insurance department inquiries about the same, or litigation, arbitration or other proceedings regarding the renewal credit. The logs will include the date of the complaint (or of commencement of any proceeding), the name and address of the person making the complaint or commencing the proceeding, the nature of the complaint or proceeding and the persons involved in the complaint or proceeding. The forgoing records will be

retained for the longer of: (1) six years after the later of their creation or their last use, or (2) two years after the end of the relevant renewal credit period.

15. Applicants request an order pursuant to Section 6(c) for an exemption from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent deemed necessary to permit the Companies to recapture Enhanced Credits as described herein. Applicants represent that the Enhanced Credit will be attractive to and in the interest of investors because it will permit Policy owners to put from 104% to 101% of each of their purchase payments in the first seven years of the Policy to work for them in the selected investment options. In addition, the Policy owners will retain any earnings attributable to the Enhanced Credit, as well as the principal amount of the Enhanced Credit once vested.

16. Applicants further submit that the recapture of any Enhanced Credit only applies in relation to the risk of anti-selection against the Companies. Anti-selection can generally be described as a risk that Policy owners obtain an undue advantage. This undue advantage is based on elements of fairness to the Companies and the actuarial and other factors taken into account in designing the Policies and Future Policies. The Companies provide the Enhanced Credit from their general account assets on a guaranteed basis. Thus, they undertake a financial obligation that contemplates the retention of the Policies and Future Policies by their owners over an extended period, consistent with the long-term nature of retirement planning. The Companies generally expect to recover their costs, including Enhanced Credits, over an anticipated duration while a Policy or Future Policy is in force. The right to recapture Enhanced Credits applied to purchase payments made within the first seven Policy years protects the Companies against the risk that a Policy owner will purchase a Policy or Future Policy or make larger or additional payments with the intent to hold the Policy or Future Policy for speculative purposes or for a short period of time.

17. With respect to refunds paid upon the return of a Policy or Future Policy within the free look period, Applicants assert that the amount payable by the Companies must be reduced by the amount of the Enhanced Credit. Otherwise, investors, purchase a Policy or Future Policy for the sole purpose of exercising the free look provision and making a quick profit equal to 4% of their investment.

18. Applicants submit that their request for an order that applies to the

Accounts and any Other Accounts established by the Companies, in connection with the issuance of the Policies and Future Policies, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this application. Having Applicants file additional applications would impair Applicants' ability to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby.

19. Applicants undertake that Future Policies funded by the Accounts or by Other Accounts, which seek to rely on the order issued pursuant to this application, will be substantially similar to the Policies in all material respects.

Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44735; File No. SR-MSRB-2001-06]

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

August 22, 2001.

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 August 17, 2001, 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-2001-06). 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 MSRB has filed with the SEC a proposed rule change to institute an informational service (the "Service") that would provide a Daily Comprehensive Report. The transaction information on the Daily Comprehensive Report would come from reports made to the Board by brokers, dealers and municipal securities dealers ("dealers") under its rule G-14, which governs reports of sales or purchases. This rule currently requires dealers to report essentially all inter-dealer and customer transactions in municipal securities to the Board by midnight of trade date.

The proposed Daily Comprehensive Report ("Report") would provide the details of municipal securities transactions effected during a single day. Each day's report would include the transactions effected two weeks previously. The proposed Report would be available by a subscription service. On each business day, the Report would be available electronically to subscribers by File Transfer Protocol (FTP) via the Internet. The subscription fee would be \$2,000 per year.

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 Board has prepared summaries, set forth in Section 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 a long-standing policy to increase price transparency in the municipal securities market, with the ultimate goal of disseminating comprehensive and contemporaneous pricing data. Since 1995, the Board has expanded the scope of the public transparency reports in several steps. Each step has provided industry participants and the public successfully more information about the market.³

In May, 2001, the Board announced its plan to begin reporting trades in "real time" by mid-2003.⁴ The implementation of real-time trade reporting is being coordinated with the industry's schedule for migration to an environment of same-day settlement of securities transactions. To attain real-time reporting the Board intends in the future to file an amendment to rule G-14 to require dealers to report their trades within 15 minutes of the time they are effected.

As its next step to increase transparency, the Board is now proposing to disseminate a Daily Comprehensive Report. The proposed Report, to be made available each day, would contain details of all municipal securities transactions that were effected during the day two weeks earlier. Data about each trade on the proposed Report would be similar to that on the current monthly Comprehensive Transaction Report. For each trade, the proposed Report would show the trade date, the CUSIP number of the issue traded, a short issue description, the par value traded, the time of trade reported by the dealer, the price of the transaction, and the dealer-reported yield of the transaction, if any. Each transaction would be categorized as: a sale by a dealer to a customer, a purchase from a customer, or an inter-dealer trade.

Description of Proposed Service

The proposed Service would make the Daily Comprehensive Report available

³ The MSRB's Report summarizing prices for issues that are frequently traded on the inter-dealer market began operation in 1995; in 1998, dealer-customer prices were added in a second summary report; in January 2000, a report with details of trades in frequently traded issues was added; and in October 2000, a comprehensive report, covering all transactions effected during the previous month, began operation. See Securities Exchange Act Release No. 43426 (October 10, 2000), 65 FR 61367 (October 27, 2000).

⁴ See "Real-Time Reporting of Municipal Securities Transactions," *MSRB Reports*, Vol. 21, No. 2 (July 2001) at 31-36.

each day to subscribers. Subscribers would access the Report via the Internet and would download copies from the Board's computer using a password-protected FTP account. The Board plans to make a single day's data available to prospective users without charge, so that they may determine whether they wish to subscribe.

The Board is establishing a fee for an annual subscription to the Service of \$2,000. The proposed annual fee is structured approximately to defray the Board's costs for production of daily data sets, operation of telecommunications lines, and subscription maintenance.⁵

2. Basis

The Board believes the proposed rule change is consistent with section 15B(b)(2)(C) of the Act, which provides that the Board's rules 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. * * *

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 applies equally to all dealers in municipal securities.

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 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 MSRB consents, the Commission will:

⁵ The subscription fee for the current monthly report is also \$2,000 annually. Subscribers to the monthly report who prefer the fresher data of the proposed Daily Comprehensive Report will have the option to switch subscriptions to the latter.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(A) by order approve 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 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. 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 principal offices. All submissions should refer to File No. SR-MSRB-2001-06 and should be submitted by September 21, 2001.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-22016 Filed 8-30-01; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3361]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on August 16, 2001, I find that Floyd, Knott, Letcher, Perry and Pike Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe storms and flooding that occurred on July 27, 2001 and continued through August 21, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 15, 2001 and for economic injury until the close of business on May 16, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration,

Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Kentucky may be filed until the specified date at the above location: Breathitt, Clay, Harlan, Johnson, Leslie, Magoffin, Martin and Owsley; Buchanan, Dickenson and Wise counties in the Commonwealth of Virginia; and Mingo county in the State of West Virginia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
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	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336111. For economic injury the number is 9M4000 for Kentucky; 9M4100 for Virginia; and 9M4200 for West Virginia.

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

Dated: August 24, 2001.

S. George Camp,

Acting Associate Administrator For Disaster Assistance.

[FR Doc. 01-21991 Filed 8-30-01; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3348]

State of Louisiana; Amendment #5

In accordance with a notice received from the Federal Emergency Management Agency, dated August 24, 2001, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to September 21, 2001.

All other information remains the same, *i.e.*, the deadline for filing applications for loans for economic injury is March 11, 2002.

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

Dated: August 27, 2001.

Herbert L. Mitchell,

Associate Administrator For Disaster Assistance.

[FR Doc. 01-21990 Filed 8-30-01; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3362]

State of Tennessee

As a result of the President's major disaster declaration on August 16, 2001, I find that Carter, Cocke, Greene, Johnson, Unicoi and Washington Counties in the State of Tennessee constitute a disaster area due to damages caused by severe storms and flooding that occurred on July 27, 2001 and continued through August 22, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 15, 2001 and for economic injury until the close of business on May 16, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Tennessee may be filed until the specified date at the above location: Hamblen, Hawkins, Jefferson, Sevier and Sullivan; Ashe, Avery, Haywood, Madison, Mitchell, Swain, Watauga and Yancey counties in the State of North Carolina; Grayson and Washington counties in the Commonwealth of Virginia.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
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	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336211. For economic injury the number is 9M4300

⁶ 17 CFR 200.30-3(a)(12).