

MSRB REPORTS

Volume 8, Number 2

Municipal Securities Rulemaking Board

March 1988

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January 15	— Effective date of A-3 on nomination and election of new Board members
March 9	— Effective date of G-32 on sole underwriting period
March 15	— Effective date of A-3 and A-5 on Board member per diem and election of officers
September 18	— Effective date of G-12 and G-15 on delivery of interchangeable securities

Notice of Approval



Route to:

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
- Training
- Other _____

Delivery of Interchangeable Securities: Rules G-12 and G-15

Amendments Approved

Effective September 18, 1988, the amendments—

- permit interchangeable securities to be delivered in either bearer or registered form, unless the parties agree to a specific form of delivery;
- eliminate the one-day reclamation provision for interchangeable securities delivered in registered form; and
- eliminate the requirement to designate a security as being in registered form on inter-dealer and customer confirmations.

On March 18, 1988, the Securities and Exchange Commission approved amendments to rule G-12 on uniform practice and rule G-15 on confirmation, clearance and settlement of transactions with customers.¹ The amendments will permit deliveries of securities issuable in either bearer or registered form (interchangeable securities) to be in either form, unless the parties agree to a specific form of delivery. The amendments also will eliminate the one-day reclamation provision in rule G-12(g)(iii)(A)(4) for securities delivered in registered form, and the requirement in rules G-12(c)(vi)(B) and G-15(a)(iii)(B) to designate a security as being in registered form on confirmations. The amendments will become effective on September 18, 1988, to provide industry personnel with sufficient time to prepare for the changes.

Background

Many issues of municipal securities issued prior to the effective date of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) permit holders to choose registered or bearer certificates. At that time, the municipal securities market primarily was composed of bearer issues, and the Board's good delivery rule,

rule G-12(e), reflected the expectation that inter-dealer deliveries of municipal securities would be in bearer form. Rule G-12(e)(vi)(A), on inter-dealer deliveries, provided that delivery of securities which are issuable in both bearer and registered form shall be in bearer form unless otherwise agreed by the parties. Rule G-15(c)(iv)(A) made a similar requirement for customer deliveries.² In addition, rule G-12(g)(iii)(A)(4), on reclamation, permitted a dealer to reclaim interchangeable securities within one business day of their delivery if they are delivered in registered form and were not identified as such at the time of trade.

Summary of Amendments

The amendments will eliminate the presumption in favor of bearer securities in rules G-12(e)(vi)(A) and G-15(c)(iv)(A) and will permit deliveries of interchangeable securities to be in either bearer or registered form, unless there is an agreement between the parties on a specific form of delivery. The amendments also will eliminate the one-day reclamation provision in rule G-12(g)(iii)(A)(4) for interchangeable securities delivered in registered form. Finally, since deliveries of interchangeable securities may be made in either registered or bearer form and since a dealer may not know the form of the security prior to delivery, the amendments will eliminate the requirement in rules G-12(c)(vi)(B) and G-15(A)(iii)(B) to designate a security as being in registered form on confirmations.

The Board believes that the former presumption in favor of bearer certificates in the Board's rules, which was adopted prior to the TEFRA requirement for registered securities, is inconsistent with today's registered environment and the use of automated clearance and settlement systems. The amendments will allow depositories to convert interchangeable securities on deposit from bearer to registered form and thereby minimize the costs and risks of housing certificates, clipping coupons, monitoring calls and other details of processing bearer certificates. The Board also believes that the amendments will reduce failed transactions and permit additional transactions to be

Questions about this notice may be directed to
Harold L. Johnson, Assistant General Counsel.

¹ SEC Release No. 34-25489.

² Both rule G-12(e)(vi)(A) and rule G-15(c)(iv)(A) state that "delivery of securities which are required to be in registered form in order for interest thereon to be exempt from Federal income taxation shall be in registered form."

settled by book-entry rather than by more expensive physical deliveries.

In general, the Board believes that customers will benefit from the amendments because of the better call notification, prompt interest payments and the relative safety from theft or loss offered by registered certificates. The Board is aware that some customers continue to request delivery of bearer certificates and that the amendments may make it more difficult to provide bearer certificates to these customers. The Board believes, however, that investors generally have become more comfortable with registered securities as nearly all new issue activity since July 1, 1983, TEFRA's effective date, has been in registered form. The Board urges dealers to educate their customers about the benefits of registration over the next six months to minimize any problems that may arise as depositories begin to convert interchangeable securities into registered form.

March 18, 1988

Text of Amendments*

Rule G-12. Uniform Practice

- (a) through (b) No change.
- (c) *Dealer Confirmations.*
 - (i) through (v) No change.
 - (vi) In addition to the information required by paragraph (v) above, each confirmation shall contain the following information, if applicable:
 - (A) No change.
 - (B) if the securities are ~~"fully registered,"~~ "registered as to principal only," or available only in book-entry form, a designation to such effect;
 - (C) through (I) No change.
- (d) No change.
- (e) *Delivery of Securities.* The following provisions shall, unless otherwise agreed by the parties, govern the delivery of securities:
 - (i) through (v) No change.
 - (vi) *Form of Securities.*
 - (A) *Bearer and Registered Form.* Delivery of securities which are issuable in both bearer and registered form shall may be in bearer form unless otherwise agreed by the parties; *provided, however,* that delivery of securities which are required to be in registered form in order for interest thereon to be exempt from Federal income taxation shall be in registered form.
 - (B) No change.
 - (vii) through (xvi) No change.
- (f) No change.

(g) *Rejections and Reclamations.*

- (i) through (ii) No change.
- (iii) *Basis for Reclamation and Time Limits.* A reclamation may be made by the receiving party or a demand for reclamation may be made by the delivering party if, subsequent to delivery, information is discovered which, if known at the time of the delivery, would have caused the delivery not to constitute good delivery, provided such reclamation or demand for reclamation is made within the following time limits:
 - (A) Reclamation or demand for reclamation by reason of the following shall be made within one business day following the date of delivery:
 - (1) through (3) No change.
 - ~~(4) not good delivery because securities (which are issuable in both bearer and registered form) were delivered in registered form and were not identified as such at the time of trade.~~
 - (B) through (D) No change.
 - (iv) through (vi) No change.
 - (h) through (I) No change.

Rule G-15. Confirmation, Clearance and Settlement of Transactions with Customers

- (a) *Customer Confirmations.*
 - (i) through (ii) No change.
 - (iii) In addition to the information required by paragraphs (i) and (ii) above, each confirmation to a customer shall contain the following information, if applicable:
 - (A) No change.
 - (B) if the securities are ~~"fully registered,"~~ "registered as to principal only," or available only in book-entry form, a designation to such effect;
 - (C) through (J) No change.
 - (iv) through (ix) No change.
- (b) No change.
- (c) *Deliveries to Customers.* Except as provided in section (d) below, a delivery of securities by a broker, dealer, or municipal securities dealer to a customer or to another person acting as agent for the customer shall, unless otherwise agreed by the parties or otherwise specified by the customer, be made in accordance with the following provisions:
 - (i) through (iii) No change.
 - (iv) *Form of Securities.*
 - (A) *Bearer and Registered Form.* Delivery of securities which are issuable in both bearer and registered form shall may be in bearer form unless otherwise agreed by the parties; *provided, however,* that delivery of securities which are required to be in registered form in order for interest thereon to be exempt from Federal income taxation shall be in registered form.
 - (B) No change.
 - (v) through (xii) No change.
- (d) through (e) No change.

* Underlining indicates new language; strike-through indicates deletions.



Route to:

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
- Training
- Other _____

Sole Underwriting Period: Rule G-32

Amendment Approved

The amendment defines the underwriting period for sole underwriters.

On March 9, 1988, the Securities and Exchange Commission approved an amendment to rule G-32 on disclosures in connection with new issues.¹ The amendment defines the "underwriting period" in new issue distributions made by sole underwriters (sole underwritings) and thus identifies the transactions that are subject to the requirements of rule G-32. The amendment became effective upon approval by the Commission.

Background

Rule G-32 requires all dealers selling new issue municipal securities during the underwriting period to deliver a copy of the official statement for the issue, if one will be prepared, to each customer no later than settlement with the customer.² The underwriting period is defined to begin with the first submission to a syndicate of an order for the purchase of the securities or the purchase of such securities from the issuer, whichever first occurs. The underwriting period ends when the issuer delivers the securities to the syndicate or the syndicate no longer retains an unsold balance of the securities, whichever last occurs. This definition is designed to ensure that a sufficient number of investors receive new issue disclosures.³

The Board has interpreted rule G-32 to apply to sole underwritings notwithstanding the use of the term "syndicate" in the definition of underwriting period and has stated that the number of underwriters is irrelevant to the purposes of the rule.⁴

The Board concluded, however, that the definition of underwriting period for syndicated underwritings is not appropriate for sole underwritings because a sole underwriter may retain portions of an issue in its inventory long after the delivery of the issue by the issuer and completion of the initial reoffering.

Summary of Amendment

The amendment defines the underwriting period for sole underwritings to begin upon the first submission of an order for the issue or the purchase of the issue from the issuer by the underwriter, whichever first occurs. It defines the underwriting period to end when both of the following two conditions are met: (1) the issuer delivers the securities to the underwriter; and (2) the underwriter no longer retains an unsold balance of the securities or 21 calendar days elapse after the first submission of an order to the underwriter, whichever first occurs.

March 9, 1988

Text of Amendment*

Rule G-32. Disclosure in Connection with New Issues

(a) through (b) No change.

(c) *Definition of New Issue Municipal Securities and Official Statement.*

For purposes of this rule, the following terms have the following meanings:

(i) the term "new issue municipal securities" shall mean securities of an issue that are sold by a broker, dealer, or municipal securities dealer during the underwriting period,

Questions about this notice may be directed to
Harold L. Johnson, Assistant General Counsel.

¹SEC Release No. 34-25438.

²For negotiated issues, certain underwriting information also must be provided in writing. If an official statement in final form is not prepared by or on behalf of the issuer, an official statement in preliminary form, if any, must be sent to the customer with a notice that no final official statement is being prepared. The rule also makes certain disclosure delivery requirements for inter-dealer transactions to facilitate the availability of official statements on new issues.

³All dealers selling new issue securities during the underwriting period, including those dealers that are not underwriters for the issue, are subject to the requirement of rule G-32 to deliver new issue disclosures to customers.

⁴MSRB Interpretation of April 18, 1979, by Mark K. Sisitsky, *MSRB Manual* (CCH) para. 3656.15 at 5253.

* Underlining indicates new language; strike-through indicates deletions.

defined in rule G-11 of the Board, but shall not include issues of tax-exempt commercial paper. ~~and~~

(ii) The term "underwriting period" shall mean:

(A) for securities purchased from an issuer by a syndicate, the period defined in paragraph (a)(ix) of rule G-11, on sales of new issue municipal securities during the underwriting period; and

(B) for securities purchased from an issuer by one broker, dealer or municipal securities dealer, the period commencing with the first submission to the broker, dealer or

municipal securities dealer of an order for the purchase of the securities or the purchase of such securities from the issuer, whichever first occurs, and ending at such time as the following two conditions both are met: (1) the issuer delivers the securities to the broker, dealer or municipal securities dealer, and (2) the broker, dealer or municipal securities dealer no longer retains an unsold balance of the securities purchased from the issuer or 21 calendar days elapse after the date of the first submission of an order for the securities, whichever first occurs.

~~(ii)~~ renumbered (iii) No change.

**Route to:**

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Confirmation Disclosure of Book-Entry-Only Securities: Rules G-12 and G-15

Amendments Withdrawn

The Board withdraws draft amendments that would have deleted the requirements that dealers designate on confirmations securities that are available only in book-entry form.

The Board is withdrawing draft amendments to rules G-12(c) and G-15(a) that would have deleted the requirement to designate on confirmations securities that are available only in book-entry form.

Summary of Draft Amendments

Rule G-12(c)(vi)(B) requires that confirmations of inter-dealer transactions in securities that are available only in book-entry form include a designation to this effect. G-15(a)(iii)(B) makes a similar requirement for customer confirmations. In November 1987, the Board published for comment draft amendments that would have deleted these requirements to designate securities as book-entry-only on confirmations.¹

In the notice requesting comment on the draft amendments, the Board observed that book-entry-only issues are becoming increasingly more common in the municipal securities industry.² The Board asked for comments whether confirmation dis-

closure of the book-entry-only feature continues to be necessary for customer and inter-dealer transactions.

Summary of Comments

The Board received 14 comment letters. All commentators opposed deleting the confirmation requirement for customer transactions, and all but one opposed deleting the requirement for inter-dealer transactions.³ The commentators supporting confirmation disclosure for customers noted that book-entry-only securities still are a relatively new concept to many investors and that some investors do not wish to purchase this type of security. A number of commentators also stated that dealers must know whether specific issues are book-entry-only to service their customers and suggested that inter-dealer confirmation disclosure assists in this purpose. Several commentators suggested that, as the industry becomes more familiar with book-entry-only securities, the need for confirmation disclosure of this feature will be diminished.

Based on the comments received, the Board has determined to withdraw the draft amendments. As the industry becomes more familiar with book-entry-only issues, the Board will review whether it continues to be appropriate to require confirmation disclosure of book-entry-only securities. The Board, thus, may reconsider the draft amendments in the future.

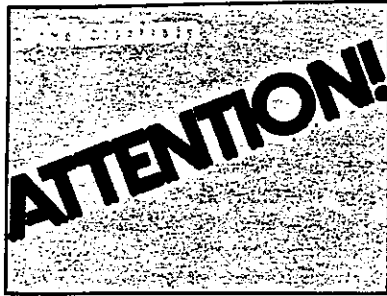
February 23, 1988

Questions about this notice may be directed to
Harold L. Johnson, Assistant General Counsel.

¹ *MSRB Reports*, Vol. 7, No. 5 at 7-8.

² Depository-eligible book-entry-only issues have accounted for this increase. In these issues, the issuer deposits one "global" certificate for each maturity of the issue at a securities depository registered with the Securities and Exchange Commission. Physical certificates are not available to investors. Ownership positions and transactions in the issue among the depository's members are recorded in the depository's records. Investors that are not depository participants maintain ownership positions through securities firms, banks or clearing agents that are depository members.

³ Copies of the comment letters are available for inspection at the Board's offices.



Route to:

- Manager, Muni Dept.
- Underwriting
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Suitability of Recommendations and Transactions: Rule G-19

All compliance and sales personnel should review the requirements of Board rules on the suitability of recommendations and transactions with customers.

This notice reviews the requirements of one of the Board's most important rules, rule G-19 on suitability. Rule G-19 has been in effect since 1978 and requires that, before a dealer recommends a municipal securities transaction to a customer, the dealer make certain suitability determinations with respect to the security involved and the particular customer. The rule also specifies certain standards for effecting transactions in municipal securities for a discretionary account and prohibits churning of customer accounts. A dealer's failure to comply with its suitability obligations to customers also may result in violation of the antifraud provisions of the federal securities laws.

The Board wishes to emphasize that it is the responsibility of securities firms and bank dealers to ensure that their associated persons comply with the requirements of rule G-19 when effecting municipal securities transactions. Failure to do so may result in violation of Board rule G-27 on supervision. The Board urges municipal securities principals and compliance personnel to distribute this notice to sales and supervisory staff and to discuss it with them.

RECOMMENDATIONS

1. Q: What suitability determinations must be made by a dealer before it may recommend a transaction in municipal securities to a customer?

A: Under rule G-19(c), a dealer may make a recommendation only if the dealer has reasonable grounds, based upon information available from the issuer of the security or otherwise, for recommending the security and, in addition, the dealer believes that the recommendation is suitable for the particular customer in light of the customer's financial background, tax status, and in-

vestment objectives and any other similar information concerning the customer known by the dealer.

2. Q: What kind of information about a municipal security must a dealer obtain in order to recommend the purchase of the security?

A: A dealer should obtain information concerning the security and the issuer which is available from the issuer or other sources. A dealer must be able to determine, among other things, the credit quality of the security and the particular features of the issue.

3. Q: What kind of information about the customer must a dealer obtain in order to recommend the purchase of a municipal security?

A: Rule G-19(b) requires dealers, before recommending the purchase, sale or exchange of a municipal security to a customer, to have knowledge or to inquire about the customer's financial background, tax status, and investment objectives and any other similar information. In addition, this information must be recorded as described below.

4. Q: Does the term "financial background" refer to a customer's financial resources or financial knowledge?

A: The phrase refers to a customer's financial resources and any other factors of a financial nature that may bear upon a determination of suitability. A customer's investment or financial experience may have a bearing on the suitability of a particular recommendation and, in circumstances in which it is apparent that this factor would be of importance to such a decision, a dealer should seek to obtain it.

5. Q: How would a dealer obtain this personal financial information?

A: Rule 19(b) imposes an affirmative duty of inquiry on the dealer.

6. Q: What should a dealer do if the customer refuses to provide financial information?

A: Under rule G-19(c), if a customer declines to provide the information requested and it is not otherwise known to the dealer, a dealer is permitted to make a recommendation to a customer only if the dealer has reasonable grounds, based on information available from the issuer of the security or otherwise, for recommending the security and there are no reasonable grounds to believe and the dealer does not believe that the recommended transaction is unsuitable for the customer.

7. Q: What should a dealer do if a customer wishes to buy certain municipal securities which a dealer knows would not be suitable?

A: Under rule G-19(c), the dealer should inform the customer that it does not believe the transaction would be suitable. Thereafter, the dealer may respond to the customer's requests for investment advice concerning municipal securities generally or such specific securities and may execute transactions at the direction of the customer.

8. Q: Are the Board's suitability requirements different for discretionary accounts?

A: No, a dealer effecting a transaction for a discretionary account still must determine that the transaction is suitable for the customer. In addition, under rule G-19(d), a dealer may effect a transaction in municipal securities for a discretionary account only to the extent clearly permitted by the prior written authorization of the customer or if the transaction specifically is authorized by the customer.

9. Q: What are the suitability obligations of a dealer to customers who participate in investment seminars?

A: A dealer recommending a transaction in a particular security during an investment seminar must have reasonable grounds for the recommendation in light of information about the security available from the issuer or otherwise. This duty applies to recommendations made generally to all participants in the seminar as well as to recommendations made to individual customers.

In addition, a dealer who makes a recommendation to a particular customer during the course of the seminar or in response to an inquiry from the customer resulting from the customer's attendance at the seminar, must have reasonable grounds to believe and must believe that the recommendation is suitable for the customer in light of the customer's financial background, tax status, and investment objectives and other similar information about the customer relevant to making a determination of suitability. If, after an inquiry by the dealer, this information is not provided by the customer or otherwise known by the dealer, the dealer may make the recommendation only if he has no grounds to believe

and does not believe that the recommendation is unsuitable for the particular customer.

10. Q: What are the suitability obligations of a dealer toward a customer who contacts the dealer in response to an advertisement for municipal securities?

A: Rule G-19 applies to recommendations made to customers who contact a dealer in response to an advertisement for municipal securities in the same way it applies to all other recommendations made to customers. If an individual contacts a dealer for additional information concerning municipal securities that were the subject of an advertisement, a dealer is permitted to recommend a particular transaction to the individual only if he has reasonable grounds for recommending the security in light of information about the security available from the issuer or otherwise. Moreover, the dealer may make the recommendation to the customer only if, after making a reasonable inquiry, he has reasonable grounds to believe and does believe that the recommendation is suitable for the customer on the basis of the financial and other information provided by the customer or obtained from other reliable sources.

RECORDKEEPING

11. Q: What kind of information regarding a municipal securities customer must be obtained?

A: Under rule G-19(a), a dealer must obtain the customer account information required by rule G-8(a)(xi). This information includes the customer's name, residence or business address, tax identification or social security number, name and address of employer and suitability information.

12. Q: What kind of suitability information is required to be recorded?

A: Under rule G-8(a)(xi)(F), a dealer must keep written information including the customer's financial background, tax status and investment objectives, as well as any other information used or considered to be reasonable and necessary by dealers in making recommendations to customers.

13. Q: How must this information be recorded?

A: The Board has not mandated any particular method of recording suitability information. The Board has noted, however, that the information could be recorded on the customer's account card via a checklist.

14. Q: Must this information be updated?

A: Yes. While the rule does not specify the frequency with

which suitability information must be updated, rule G-19 requires a dealer to make a suitability determination each time it recommends a transaction to a customer and rule G-8, on books and records, requires that written records be kept current. Thus, a dealer is required to determine whether more current information than is in its possession is necessary to make a determination concerning suitability and must document any material change in the information recorded. If the investor should refuse to provide the requested information, a notation to that effect could be recorded.

15. Q: What about churning?

A: Rule G-19(e) prohibits a dealer from churning customer accounts. Churning is defined as recommending municipal securities transactions, or effecting transactions in a discretionary account, that are excessive in size or frequency in view of information known to the dealer concerning the customer's financial background, tax status, and investment objectives.

**Route to:**

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
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Letter of Interpretation

Rule G-21. Advertising of Securities Subject to Alternative Minimum Tax

This is in response to your letter concerning the application of rule G-21, on advertising, to advertisements for municipal securities subject to the alternative minimum tax (AMT). You state that advertisements for municipal securities usually note that the securities are "free from federal and state taxes." You ask whether an advertisement for municipal securities subject to AMT should note the applicability of AMT if such advertisements describe the securities as "tax exempt." The Board has considered the issue and authorized this reply.

Rule G-21(c) prohibits a broker, dealer or municipal securities

dealer from publishing any advertisement concerning municipal securities which the broker, dealer or municipal securities dealer knows or has reason to know is materially false or misleading. The Board has stated that the use of the term "tax exempt" in advertisements for municipal securities connotes that the securities are exempt from all federal, state and local income taxes. If this is not true of the security being advertised, the Board has required that the use of the term "tax exempt" in an advertisement must be explained, e.g., by footnote.¹ In regard to municipal securities subject to AMT, the Board has determined that advertisements for such securities that describe the securities as being exempt from federal income tax also must describe the securities as subject to AMT.

MSRB Interpretation of February 23, 1988, by Diane G. Klinke, Deputy General Counsel.

¹ Frequently Asked Questions Concerning Advertising, *MSRB Reports*, Vol. 3, No. 2 (April 1983), at 22.



Route to:

- Manager, Muni Dept.
- Underwriting
- Trading
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- Operations
- Public Finance
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- Other _____

Nomination and Election of New Board Members: Rule A-3

Amendments Approved

The amendments reconstitute the Board's Nominating Committee and grant it more responsibility.

On January 15, 1988, the Securities and Exchange Commission approved amendments to rule A-3 on the nomination and election of new Board members.¹ The amendments reconstitute the Board's Nominating Committee and grant it more responsibility. The amendments also delete the ability of 20 percent of municipal securities dealers to nominate an additional candidate for each industry position to be filled.

Membership of the Nominating Committee

The amendments to rule A-3(c)(ii) provide that the Nominating Committee will consist of six Board members and three persons who are not members of the Board. Of the six Board members, two each will represent securities firms, bank dealers and the public. The six Board members may be chosen from any of the three member classes. Of the three non-Board members, one each will represent securities firms, bank dealers and the public, respectively.

Nominations Procedure

The amendments to rule A-3(c)(iv) provide that the Nominating Committee will submit only one nominee for each available Board position. Under this approach, the Board will communicate with the Nominating Committee the qualifications of individuals the Committee should consider and later may review the list of all possible nominees. When the Committee determines its slate of nominees, it will contact these individuals and ask them if they wish to serve on the Board, subject to the Board's approval. If they agree, their names will be presented to the Board. The Board will accept or reject the slate of nominees. It is anticipated that the Board will vote to accept the nominees. In

the event a nominee is rejected, however, the Nominating Committee must hold a meeting to choose another nominee.

Industry Nomination Process

Subsections (vi), (vii) and (viii) of rule A-3, providing an alternative nomination procedure, have been deleted.

January 15, 1988

Text of Amendments*

Rule A-3. Membership on the Board

(a) through (b) No change.

(c) *Nomination and Election of Members.*

(i) No change.

(ii) ~~Prior to April 15 of each year, the Board will appoint a Nominating Committee composed of eleven~~ nine members. The membership of the Nominating Committee shall consist of ~~the five members of the six Board whose terms expire during such year~~ members and ~~six~~ three persons who are not members of the Board. ~~Of the six Board members, two of whom shall be associated with and representative of bank dealers, two of whom shall be associated with and representative of municipal securities brokers, dealers, and municipal securities dealers other than bank dealers, and two of whom shall not be associated with any broker, dealer, or municipal securities dealer (other than by reason of being under common control with, or indirectly controlling any broker or dealer which is not a municipal securities broker or municipal securities dealer).~~ Of the three non-Board members, one shall be associated with and representative of bank dealers, one shall be associated with and representative of brokers, dealers, and municipal securities dealers other than bank dealers, and one shall not be associ-

Questions about this notice may be directed to Diane G. Klinke, Deputy General

¹ SEC Release No. 34-25269.

* Underlining indicates new language; strike-through indicates deletions.

ated with any broker, dealer, or municipal securities dealer (other than by reason of being under common control with, or indirectly controlling any broker or dealer which is not a municipal securities broker or municipal securities dealer). The chairman of the Nominating Committee shall be designated by the Board. In appointing persons to serve on the Nominating Committee, the Board shall take into consideration such factors to be considered include as the need to achieve broad geographic representation on such Committee, as well as diversity in the size and type of municipal securities brokers, dealers and municipal securities dealers represented on such Committee.

(iii) ~~No later than May 15 of each year,~~ The Nominating Committee shall publish a notice in a financial journal having general national circulation among members of the municipal securities industry soliciting public recommendations for nominations for the positions on the Board to be filled in such year. Such The notice shall require that recommendations be accompanied by a statement of the position for which the person is recommended, the background and qualifications for membership on the Board of the person recommended and information concerning such person's association with any broker, dealer, or municipal securities dealer. The Nominating Committee shall accept recommendations pursuant to such notice for a period of at least 30 days. Any interested member of the public, whether or not associated with a municipal securities broker, dealer, or municipal securities dealer, may submit recommendations to the Nominating Committee. The names of all persons recommended to the Nominating Committee shall be made available to the public upon request.

(iv) ~~Not later than July 15 of each year,~~ The Nominating Committee shall nominate three one persons for each of the Board positions to be filled and shall submit such nominations the nominees to the Board for approval. In making such nominations, the Nominating Committee shall take into consideration such factors as the need to maintain broad geographic representation on the Board, as well as diversity in the size and type of municipal securities brokers, dealers, and municipal securities dealers represented. Each nomination shall be accompanied by a statement indicating the position for which such person is nominated, the nominee's qualifications to serve as a member of the Board, and information concerning the nominee's association with any broker, dealer, or municipal securities dealer. The names of the nominees will be confidential.

(v) The Board shall ~~not later than August 1 of each year, select from accept or reject each slate of three nominees submitted by the Nominating Committee, the name of one candidate for each of~~ In the event that the Board positions to be filled, taking into consideration such factors as the need to maintain broad geographic representation on the Board, as well as diversity in the size and type of municipal securities brokers and municipal securities dealers represented. The Board shall announce the names of the candidates which it has selected. The public representatives so named shall be considered duly elected, subject to the requirements of subparagraph (ix) below rejects a nominee, the Nominating Committee will propose another nominee for Board consideration.

~~(vi) In naming the bank and broker-dealer representative candidates as provided in subparagraph (v) above, the Board shall announce the broad criteria applied to their selection in terms of geographic representation and size and type of municipal securities broker and municipal securities dealer to be represented. An additional candidate for each position of bank representative and broker-dealer representative to be filled may be nominated by 20 percent or more of the municipal securities brokers and municipal securities dealers that have paid the annual fee prescribed by rule A-14 of the Board for the fiscal year in which the election is conducted (hereafter referred to as "registered" municipal securities brokers and municipal securities dealers), if notice in writing signed by the required number of municipal securities brokers and municipal securities dealers is filed with the Board within 30 days of the date of the announcement by the Board of its selection of candidates. Any additional candidate nominated as provided in this subparagraph must meet the criteria of geography, and size and type of municipal securities broker or municipal securities dealer designated by the Board for the position to be filled.~~

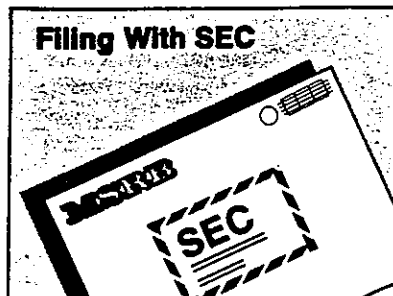
~~(vii) If no additional candidate or candidates are nominated as provided in subparagraph (vi) above for a position to be filled, the candidate selected by the Board for such position shall be considered duly elected.~~

~~(viii) If any additional candidate or candidates are nominated for a position to be filled as provided in subparagraph (vi) above, the Board shall send to each registered municipal securities broker and municipal securities dealer, a ballot setting forth the names of each candidate for the contested position or positions. Such ballot shall indicate the date by which ballots must be returned to the Board, but such date may not be less than 20 nor more than 30 days from the end of the nominating period provided in subparagraph (vi). All ballots shall be opened by such representative of the Board as the chairman of the Board shall designate, and in the presence of a representative of each candidate if such representation is requested in writing by a candidate. The candidate for each contested position receiving the largest number of votes east (each registered municipal securities broker and municipal securities dealer having one vote for each contested position) shall be considered duly elected. In all elections under this subparagraph, voting shall be by confidential mail ballot.~~

~~(ix) (vi) The public representatives on the Board will, prior to their assumption of office, be subject to approval by the Commission to assure that no one of them is associated with any broker, dealer or municipal securities dealer (other than by reason of being under common control with, or indirectly controlling, any broker or dealer which is not a municipal securities broker or municipal securities dealer) and that at least one of the public representatives of the Board is representative of investors in municipal securities and at least one is representative of issuers of municipal securities.~~

~~(x) (vii) Upon completion of the procedures for nomination and election of new Board members as set forth above, the Board will announce the names of the new members not later than October 1 of each year.~~

(d) through (f) No change.



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Board Member Per Diem and Election of Officers: Rules A-3 and A-5

Amendments Filed

The amendments—

- provide for Board members to be paid a per diem for participating in certain designated Board activities; and
- state that Board officers will be elected at a meeting of the Board held prior to October 1 each year.

On March 15, 1988, the Board filed with the Securities and Exchange Commission amendments to Board rules A-3 on compensation and expenses for Board members, and A-5 on the election of officers of the Board. The amendments address the payment of per diem to Board members and the timing of the election of Board officers. The amendments took effect upon filing pursuant to Section 19(b)(3)(A) of the Act as they are concerned solely with the administration of the Board. At any time within 60 days of the filing of the amendments, the Commission may summarily abrogate such amendments. Persons wishing to comment on the amendments should comment directly to the Commission.¹

Rule A-3

Board rule A-3(f) contains provisions for the payment of a per diem and a travel allowance to Board members for those days in which the Board meets, and it contains provisions for the reimbursement for actual and necessary expenses incurred in connection with any other official business of the Board. It is the Board's policy to pay a per diem to Board members when participating in additional designated activities of the Board. These designated activities include attendance at committee meetings not held in conjunction with Board meetings² and attendance at dealer meetings. Board members who partici-

pate in other official Board business are reimbursed for actual and necessary expenses. The proposed rule change codifies this policy.

Rule A-5

Board rule A-5(b) contains procedures for the election of officers of the Board. Under the old rule A-5(b), officers of the Board were elected annually from among the Board members at the penultimate meeting of the Board held prior to October 1 of each year.

In the past, the penultimate meeting of the Board generally has been held in the summer and the last meeting of the Board has been held in September just prior to the expiration of the terms of the outgoing Board members. The Board recently revised its meeting schedule and, as a result, the last Board meeting of the year will be held in the summer. Accordingly, the Board plans to elect new Board members at the last Board meeting of the year and the election of its officers would be held at the same time. The proposed rule change deletes the reference to the penultimate meeting of the Board and states that the officers will be elected at a meeting of the Board held prior to October 1 of each year.

March 15, 1988

Text of Amendments*

Rule A-3. Membership on the Board

(a) through (e) No change.

(f) *Compensation and Expenses.* Members shall be entitled to an allowance for transportation expenses, to the extent provided by resolution of the Board, from their home to the site of a meeting of the Board and from the site of such meeting to their

Questions about the amendments may be directed to Ronald W. Smith, Legal Assistant.

¹ SEC File No. SR-MSRB-88-1. Comments filed with the Commission should refer to the file number.

² It is sometimes necessary for the standing or special committees of the Board to meet apart from the Board meetings. Rule A-5(c) provides for the payment of a per diem for these separate committee meetings.

* Underlining indicates new language; strike-through indicates deletions.

home, together with a per diem to be set by the Board for those days or fraction thereof on which ~~the~~ they attend Board meets meetings or participate in other designated activities. Members of the Board shall also be entitled to reimbursement for actual and necessary expenses incurred by them in connection with any other official business of the Board. Except as provided in paragraph (c) of rule A-6, no member of the Board shall be entitled to receive any other compensation from the Board.

Rule A-5. Officers and Employees of the Board

(a) No change.

(b) *Election of Officers of the Board.* Officers of the Board shall be elected annually from among the members, by secret, written ballot of the members, at ~~the penultimate~~ a meeting of the Board held prior to October 1 of each year according to

procedures adopted by the Board. Officers shall serve for a term commencing on the October 1 next following their election and ending with the succeeding September 30; provided, however, that any officer may resign his office prior to the expiration of his term by filing a written notice of resignation with the Secretary to the Board which shall specify the effective date of such resignation. In no event shall such date be less than 10 days or more than 30 days from the date of filing of such notice. If no date is specified, the resignation shall become effective 10 days from the date of filing. The Board may remove any officer at any time by two-thirds vote of the whole Board. Vacancies in office shall be filled as soon as practicable by vote of the members and any person elected to fill a vacancy shall serve only for the remainder of his predecessor's term.

(c) through (d) No change.

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