MSRB REPORTS

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Advertisements of Products and Services

The Board does not grant approvals to any company with reference to a particular product or service being offered.

It has come to the Board's attention that statements have been made in certain promotional and advertising literature which indicate that the Board has granted approval to products or services. In particular, the Board is aware that a certain company offering a computerized trading and recordkeeping system noted in advertisements that this system had been "approved" by the Board.

The Board has the authority to adopt rules concerning transactions in municipal securities effected by brokers, dealers and municipal securities dealers. The Board does not grant approvals to any company with reference to a particular product or service being offered.

Calendar

June 1, 1992	— Comments due on draft amendments to rule G-36
	— Comments due on an implementation schedule for amendments to rules G-12 and G-15
	— Comments due on open interdealer transactions
July 1, 1992	— Effective date of amendments to rule A-13 and revisions to Forms G-36
Pending	— Amendments to rule G-3, on professional qualifications

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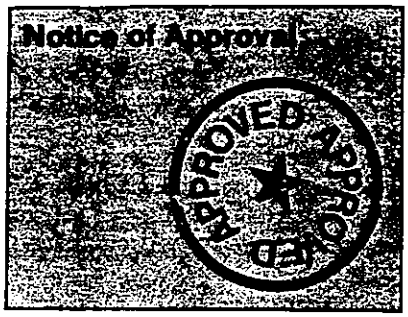

Route to:

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

Continuing Disclosure Information Pilot System

Amendment to Facility Approved

The amendment will allow the CDI system, on a pilot basis, to accept and disseminate CDI submitted by mail and by facsimile transmission, as well as by electronic submission.

On April 6, 1992, the Securities and Exchange Commission approved an amendment to the Board's filing regarding a proposed Board facility to accept and disseminate continuing disclosure information (CDI) about municipal securities issues.[1] The filing is a facility plan for the Board to operate a system to accept voluntarily submitted CDI regarding municipal securities issues and to disseminate that information. The Board revised the filing to allow the proposed system, on a pilot basis, to accept and disseminate CDI submitted by mail and by facsimile transmission, as well as the electronic submissions originally contemplated by the system. The Board anticipates that the system will become operational within six months.

Background

The system would become part of the Board's Municipal Securities Information Library™ (MSIL™) system.[2] The Board initially filed the facility on June 22, 1990.[3] On June 6, 1991, the Commission held an Open Meeting at which it discussed the CDI filing and approved two other filings relating to the MSIL system.[4] At that meeting, the Commission tabled further consideration of the system for accepting and disseminating CDI.

As initially filed with the Commission, the proposed CDI system would have accepted CDI voluntarily submitted by trustees, issuers or persons designated by issuers and would have begun operations by accepting CDI in the form of short, textual disclosure notices.[5] The proposed system would have accepted this CDI only if submitted electronically via computer modem. The system accordingly was called the "Continuing Disclosure Information/Electronic Submission" or "CDI/ES" system. Upon receipt of a disclosure document in electronic form, the CDI/ES system would have retransmitted the document electronically, via computer modem, to all CDI/ES system subscribers simultaneously.

At the June 6 Open Meeting, the Commission stated its concern that the proposed CDI/ES system would not allow issuers and trustees of municipal securities to submit their CDI in paper form or by facsimile transmissions. The Commission suggested that voluntary submission of CDI would be facilitated if the proposed system accepted paper and/or facsimile transmissions of documents. In response to these comments, the Board has revised the filing to allow the proposed system to accept and disseminate CDI submitted by mail and by facsimile transmission as well as the electronic submissions originally contemplated by the CDI/ES system.

Program Would be Operated on a Pilot Basis

The revised system, called the CDI Pilot System (or "Pilot System") would be operated on a pilot basis for a period of 18 months. At the end of the pilot period, the Board would evaluate system operations and decide whether to continue, substantially modify or discontinue the system. In addition, the Pilot System would be implemented in phases. At the end of each phase, the Board would evaluate and address any technical, policy and cost issues which arose during that phase, prior to committing the system to a greater capacity.

During the first six months of pilot operations, the Pilot System would accept CDI only from trustees. After this phase, CDI

Questions about the amendment may be directed to Harold L. Johnson, Deputy General Counsel.

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[1] SEC Release No. 34-30556.

[2] Municipal Securities Information Library and MSIL are trademarks of the Board.

[3] On June 22, 1990, the Board also filed two other filings relating to the MSIL system. One of the filings (SR-MSRB-90-3) was an amendment to rule G-36 requiring underwriters to provide certain advance refunding documents to the Board. The other filing (SR-MSRB-90-2) was a plan for a facility to accept and disseminate copies of official statements and advance refunding documents sent to the Board under rule G-36 (the "OS/ARD" System) and included the overall plan for the MSIL system.

[4] SR-MSRB-90-3 was approved in Securities Exchange Act Release No. 29299 (June 13, 1991) published in 56 *Federal Register* 28204 and SR-MSRB-90-2 was approved in Securities Exchange Act Release No. 29298 (June 13, 1991) published in 56 *Federal Register* 28194.

[5] *See* Continuing Disclosure Information/Electronic Submission System, *MSRB Reports*, Vol. 10, No. 3 (July 1990) at 3-6.

would be accepted from issuers as well as trustees. Limiting the system initially to trustees would allow the Board to gain experience with a relatively limited universe of potential submitters (approximately 1,800 trustees), prior to expanding the system to a much larger and more diverse universe of potential submitters (approximately 80,000 issuers).

The Board also anticipates that, during the pilot period, the CDI Pilot System would be limited to short disclosure documents (*e.g.*, one to three pages in length or the equivalent in electronic form, if provided electronically by modem). This is consistent with the original CDI/ES system plan, which was to begin operations with these types of documents. The Board notes that many of the time-critical disclosure documents that can have an immediate effect on market prices fall within this category (*e.g.*, "technical default" or "pre-default notices" by trustees). The Board believes that the CDI Pilot System, by facilitating the dissemination of such notices, would address one of the most important problems with respect to CDI in the municipal securities market and would be capable of operating immediately in a successful and cost-effective manner. After gaining experience with short disclosure notices, the Board would evaluate how to expand the system to accommodate longer CDI.[6]

Acceptance of Paper and Facsimile Transmissions

With respect to the addition of paper and facsimile submission capabilities, the Board agrees with the point made at the Commission's June 6 Open Meeting, that, by allowing paper documents and facsimile transmissions to be sent to the system, voluntary submissions of documents by issuers and trustees can be encouraged and facilitated. The Board had considered adding the capability for the MSIL system to accept paper copies of CDI even prior to the Commission's June 6 meeting and was aware that certain commentators on the proposed CDI/ES system had recommended this capability for the CDI/ES system. The Board's initial filing, which limited the proposed system to electronic submissions, was based on the Board's intention to construct a system that: (i) could be implemented quickly to address certain types of CDI that are time-critical and important to the market; (ii) ensured that CDI submitted to the system would be disseminated quickly and would be made available simultaneously to all system subscribers; and (iii) would be capable of operating relatively inexpensively and being supported primarily by user fees.

As discussed further below, the Board believes that the CDI Pilot System generally can meet these objectives, albeit at a potentially greater cost. The Board agrees with the conclusion of the Commission, expressed in its order approving the OS/ARD system, that "there exists a lack of adequate information regarding municipal issuers and the terms of municipal securities in the market, and that increased availability of offering statements *and other disclosure items already voluntarily prepared by municipal issuers* would increase efficiency and fairness in the marketplace and provide needed protection to investors from sales practice fraud and manipulation" (emphasis added). The Board believes that, by revising its proposed system for CDI to accept paper and facsimile transmissions, it would encourage and facilitate submission of voluntarily prepared disclosure documents for dissemination to the market. Thus, the Board believes that the CDI Pilot System enhances the ability of the proposed system to serve the need outlined by the Commission.

Procedures for Accepting and Disseminating Paper and Facsimile Documents

For documents submitted by mail or by facsimile transmission, the CDI Pilot System would utilize procedures, similar to those contemplated by the original CDI/ES system, which: (i) collect information from the document submitter identifying who is submitting the document, the issuer of the securities to which the document relates and the document being submitted; and (ii) attempt to verify the origin of the document to help ensure the authenticity of the document prior to dissemination by the system. To accomplish this latter function, the CDI Pilot System would require each issuer or trustee wishing to submit CDI for dissemination to first contact the Board and provide information such as the submitter's telephone number and the name(s) of the person(s) who will be responsible for information provided by the submitter.

The CDI Pilot System would provide two methods of dissemination. The primary means of dissemination would be a subscription service transmitting each document accepted by the Pilot System as soon as possible after the document is accepted ("subscription service"). As contemplated in the original CDI/ES system, CDI sent to the CDI Pilot System by modem would be sent to subscribers by modem. CDI sent to the CDI Pilot System in paper form or by facsimile transmission would be sent to subscribers by facsimile transmission. The Board believes that using facsimile and modem transmission for dissemination provides the quickest dissemination possible for CDI received in paper and facsimile form, while providing all subscribers with access to the CDI on an equal and simultaneous basis. As a secondary means of dissemination, documents provided to subscribers also would be available for review and copying at the Board's Public Access Facility (PAF), located at the Board's offices. As was the case for the proposed CDI/ES system, the Board would encourage redistribution of CDI obtained from the CDI Pilot System and would place no restrictions on redistribution.

The Board would operate the CDI Pilot System with the goal of disseminating CDI as quickly as possible after the documents are received by the system. However, because of the manual processing necessary for paper and facsimile documents, the time period between receipt of a paper or facsimile document and its dissemination would be somewhat longer than the several minutes planned for dissemination of elec-

[6] Many different types and styles of longer documents are considered "disclosure documents" or CDI by issuers, trustees and other market participants. These documents, which are produced in diverse formats, sizes and styles, often contain a preponderance of information that is of little or marginal interest to securities investors and present considerable challenges to any document collection and dissemination system which seeks to provide CDI to the market in a useful and cost-effective manner. As noted by the Commission in its order approving the OS/ARD system, Section 15B(d)(2) of the Exchange Act prevents the Board from setting form and content standards for issuer documents. Securities Exchange Act Release No. 29298 (June 13, 1991) at 46.

tronic submissions in the CDI/ES system.

The actual time for dissemination of an incoming paper or facsimile document would depend upon a number of factors, such as the volume of incoming CDI, which cannot be predicted at this time. The Board is planning the CDI Pilot System so that it can accommodate up to 100 incoming documents per day during the pilot period. The Board also plans for the system to meet the following minimum goals in the event of such a high volume of input. CDI submitted by computer modem would continue to be disseminated within minutes of the final authorization given by the submitter. This is possible because these documents can be processed for acceptance and dissemination with automated techniques. CDI submitted by facsimile transmission and mail would be transmitted to subscribers no later than the day that it is received by the Board. The Board anticipates that normal time between receipt and dissemination of a document would be much faster than this. As between mail and facsimile transmissions, the Board believes that a submitter likely would use facsimile transmission if he believed that the CDI contained time-critical information of immediate importance to the market. Therefore, the Board would give priority in system processing queues to incoming facsimile transmissions over mailed documents.

Hours of Operation

As was planned for the proposed CDI/ES system, the CDI Pilot System would operate on business days on which the Board is open (most business days except for federal holidays). The Pilot System would receive documents submitted by trustees and issuers by mail, facsimile transmission and computer modem from 9:00 a.m. to 4:00 p.m. Eastern Time. These hours for receipt of documents have been shifted one-half hour earlier than in the plan for the proposed CDI/ES system to accommodate the manual, end-of-day processing that would be necessitated by incoming paper and facsimile transmissions.

Subscribers would begin receiving transmissions from the system at 9:00 a.m. Eastern Time and transmissions would continue throughout the business day until all documents accepted by the system on that day are transmitted. During PAF business hours (9:00 a.m. to 4:30 p.m. Eastern Time), PAF users would have access to all documents that have been disseminated to subscribers.

System Costs and Fees

The manual processing and dissemination that would be necessary for incoming paper and facsimile transmissions of CDI increase the potential cost of the proposed system from the $100,000 yearly operational cost estimated for the proposed CDI/ES system. The operational cost of the CDI Pilot System would be dependent on a number of factors that can not be predicted in advance, including: (i) the number of submitters that will seek access to the system; (ii) the volume of incoming documents; (iii) the percentages of incoming documents that are mailed, transmitted by facsimile, and transmitted by modem; (iv) the intra-day pattern of submissions; (v) the number of subscribers; and (vi) the number of PAF users seeking CDI and the volume of their document requests. Based on an assumption of 50 incoming documents per day by mail or facsimile transmission, 20 subscribers, and relatively limited PAF use, the Board anticipates that yearly operational costs would fall within a range of $300,000 to $500,000. Cost estimates could move outside this range depending on volume of incoming paper or facsimile documents and the number of subscribers and PAF users.

Although Board funds would be expended to initiate the project and most likely would be necessary to support the Pilot System, the Board intends that, over time, the operational costs of any Board-operated CDI system would be borne primarily by fees paid by system subscribers and PAF users. Submitters would not be charged a fee to establish submitter files or to submit documents to the system.

Since operational costs and the number of subscribers and PAF users cannot be predicted at this time, fee estimates for the CDI Pilot System necessarily are preliminary and subject to change. At a maximum, total subscriber and PAF fees received by the Board would not exceed the operational cost of the system. At a minimum, fees would cover costs of dissemination of the documents. Subscribers would pay a one time "set-up" fee to cover the cost of equipment and telephone installation necessary to service that subscriber (estimated at $2,000). In addition, a subscriber would pay a flat fee to receive all documents accepted by the system and would pay for the telephone charges actually incurred by the Board to transmit documents to that subscriber. At this time, the Board estimates that first year costs for the subscription service (excluding the set-up fee) would be approximately $10,000 to $15,000, plus the cost of telephone service to that subscriber. PAF users would be able to review documents free of charge. Paper copies of documents could be obtained at the PAF at a cost of approximately 20¢ per page.

April 6, 1992

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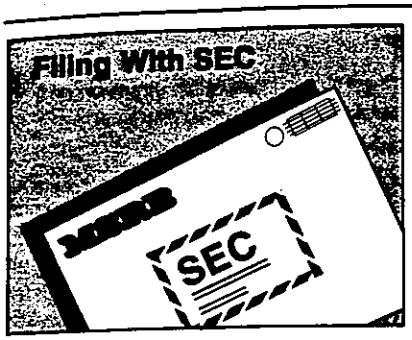

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Underwriting Assessments: Rule A-13

Amendment Filed

The amendment makes changes relating to (i) the Board's method of collecting and accounting for underwriting assessments; (ii) the primary offerings subject to underwriting assessment; and (iii) an assessment rate for offerings of certain short-term and puttable securities.

The amendment will become effective for all primary offerings made on or after *July 1, 1992*. Dealers should wait until receiving an invoice from the Board prior to paying underwriting assessments for offerings made *after* that date.

On March 10, 1992, the Board filed with the Securities and Exchange Commission an amendment to rule A-13, on assessments relating to the underwriting of municipal securities offerings (underwriting assessments).[1] The amendment relates to the Board's method of assessment, the scope of offerings which are assessed and assessment rates. The Board believes that the amendment provides a more equitable method for assessing underwriters for the funds necessary to defray the expenses of operating and administering the Board. The amendment also provides that the Board will invoice underwriters for underwriting assessments, which the Board believes will be a convenience to underwriters and will increase the efficiency of the Board's collection and accounting procedures. The amendment to rule A-13 will become effective on July 1, 1992.

Current Provisions of Rule A-13

Rule A-13 currently requires underwriters to pay to the Board an underwriting assessment of 3¢ per $1,000 par value for each new issue of municipal securities that is $1 million or more in par value and two years or more in maturity. Managing underwriters must submit the required A-13 fee, along with a completed Form A-13 and a copy of the front page of the official statement, if one is prepared by or on behalf of the issuer. The A-13 Form and fee must be received by the Board within 30 days after settlement with the issuer. The Board does not currently invoice underwriters for underwriting assessments.

To help ensure that underwriters are complying with the rule, the Board currently reviews the results of negotiated and competitive sales reported in industry publications. From these lists, the Board identifies issues that are covered by rule A-13 (*i.e.*, all municipal securities issues except those under $1 million in par value or under two years in maturity) and creates receivables for the Board's accounting system. Payments for approximately 8,000 issues were handled in this manner in fiscal year 1991.

Under this rule A-13 fee collection system, the Board frequently receives payment for issues that are not listed in industry publications (*e.g.*, private placements and certain small issues). Moreover, in certain instances, the information obtained from these publications is erroneous (*e.g.*, the par value of an issue is listed incorrectly). As a result, the Board's current accounting procedure must handle numerous entries to make adjustments for problems that are encountered when the lists of reported issues do not match the underwriting assessments received. This occasions numerous letters to and from underwriters relating to additional payments or refunds which are due. Approximately 50-75 dunning letters per month are sent to underwriters that fail to pay underwriting assessments. This process is time-consuming for the Board as well as for underwriters.

New Provisions of Rule A-13

The amendment to rule A-13 makes changes relating to: (i) the Board's method of collecting and accounting for underwriting assessments; (ii) the primary offerings subject to underwriting assessment; and (iii) an assessment rate for offerings of certain short-term and puttable securities..

New Method of Collecting and Accounting for Underwriting Assessments

The Board has determined that, rather than using industry publications to determine its receivables, it will base the receiv-

Questions about the amendment may be directed to Christopher A. Taylor, Executive Director.

[1] SEC File No. SR-MSRB-92-3. Comments filed with the Commission should refer to the file number.

ables for underwriting assessments on official statements sent to the Board under rule G-36. Rule G-36 requires managing underwriters to submit to the Board official statements for most primary offerings of municipal securities. Using these official statements and the associated Forms G-36(OS) submitted by managing underwriters, the Board will be able to create more accurate receivables and will be able to invoice managing underwriters for the underwriting assessments that are due.[2] The Board believes that the new invoicing procedure will be a convenience to dealers, since it will provide each dealer with a monthly listing that identifies the offerings on which the dealer has served as managing underwriter and the amount of underwriting assessment that is due on each offering. Payments on these invoices must be made to the Board within 30 days after the date that the invoices are sent.

For all offerings sold on or after the July 1, 1992, implementation date of the amendment, underwriters should wait for an invoice from the Board rather than automatically sending in an underwriting assessment for their offerings. The use of Form A-13 will be discontinued at that time since the information needed by the Board for invoicing will be obtained from the official statements and forms sent to the Board under rule G-36.

New Scope of Rule A-13 and Lower Assessment Rate for Certain Short-Term and Puttable Offerings

Under the amendment, all primary offerings of municipal securities will be subject to underwriting assessment except for those primary offerings that:

(i) have an aggregate par value less than $1,000,000;
(ii) have a maturity of nine months or less;
(iii) at the option of the holder thereof, may be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent; or
(iv) have authorized denominations of $100,000 or more and are sold to no more than thirty-five persons each of whom the broker, dealer or municipal securities dealer reasonably believes: (A) has the knowledge and experience necessary to evaluate the merits and risks of the investment; and (B) is not purchasing for more than one account, with a view toward distributing the securities.

For those primary offerings subject to underwriting assessment under the above criteria, the assessment rates under the proposed rule change will be:

(i) for primary offerings in which all securities offered have a stated maturity date less than two years (but greater than nine months), .001% (1¢ per $1,000) of the par value;
(ii) for primary offerings in which all securities offered, at the option of the holder thereof, may be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every two years (but not as frequently as every nine months) until maturity, earlier redemption, or purchase by an issuer or its designated agent, .001% (1¢ per $1,000) of the par value; and
(iii) for all other primary offerings subject to assessment, .003% (3¢ per $1,000) of the par value.

Discussion of Changes in Rule A-13 Requirements

The primary offerings subject to underwriting assessment and the assessment rates under rule A-13 have been changed in some respects by the amendment. Because of the new procedure for collecting and accounting for underwriting assessments, the scope of primary offerings subject to underwriting assessment has been adjusted to be more consistent with the scope of primary offerings covered by rule G-36. The proposed rule change does this in a manner that the Board believes provides for an equitable assessment of primary offerings. The specific revisions in the scope of rule A-13 and the assessment rates are discussed below.

Application of Rule A-13 to "Primary Offerings," Including Some Remarketings

The amendment will revise rule A-13 to apply to all "primary offerings"[3] that are not specifically exempted by the rule. The effect of this modification is to include within the scope of rule A-13 certain remarketings of municipal securities by brokers, dealers and municipal securities dealers when the remarketings are effected, directly or indirectly, by or on behalf of the issuer of the securities. This change will make the scope of offerings subject to underwriting assessments more consistent with the scope of offerings subject to the official statement delivery requirement set forth in rule G-36.

The remarketings that will be subject to assessment under the proposed rule change include only those remarketings that are required to have an official statement under Securities Exchange Act Rule 15c2-12 and for which the Board will receive an official statement under rule G-36. However, any remarketing (as well as any other primary offering) meeting one or more of the criteria for exemption will not be subject to underwriting assessment, regardless of whether it is subject to Rule 15c2-12 or rule G-36.

Exemption for Certain Categories of Offerings for Which the Board May Not Receive Official Statements

Certain primary offerings are not subject to the requirements of rule G-36. For these primary offerings, it is impossible for the Board to ensure that it will receive all official statements neces-

[2] Prior to July 1, 1992, when the new procedure for collecting underwriting assessments will be implemented, the Board will revise Form G-36(OS) to request certain additional information from managing underwriters. This will facilitate the processing of the forms for rule A-13 purposes.
[3] The term "primary offering" is defined in the amendment as an offering of municipal securities directly or indirectly by or on behalf of the issuer of such securities, including any remarketing of such securities directly by or on behalf of the issuer of such securities. This definition is taken from Securities Exchange Act Rule 15c2-12 and is also used in defining the scope of Board rule G-36, on delivery of official statements to the Board.

sary to invoice underwriters and generate receivables accurately. To address this potential problem, the amendment exempts from underwriting assessment: (i) offerings of securities with maturities of nine months or under; (ii) offerings of securities with put provisions that, at the option of the holder thereof, may be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent;[4] and (iii) "limited placements," *i.e.*, offerings of securities that have authorized denominations of $100,000 or more and that are sold to no more than thirty-five persons each of whom the broker, dealer or municipal securities dealer reasonably believes: (A) has the knowledge and experience necessary to evaluate the merits and risks of the investment; and (B) is not purchasing for more than one account, with a view toward distributing the securities.

The new exemptions from underwriting assessments created by the amendment will result in some primary offerings, which currently are assessed under rule A-13, being excluded from assessment. Specifically, certain "limited placements" and new issue offerings of securities having put provisions nine months or under in duration no longer will be assessed under the proposed rule change.

Inclusion of Primary Offerings of Securities Under Two Years, But Over Nine Months, in Maturity

The scope of rule A-13 currently excludes from assessment new issues having final maturities less than two years. As revised by the amendment, rule A-13 will exempt a primary offering if the maturity is nine months or less or if the securities are marketed with a put period of nine months or less. Thus, the amendment will add to the scope of rule A-13 certain primary offerings with maturities under two years but over nine months in length. Because these offerings are a significant part of the municipal securities market regulated by the Board, the Board believes that it is appropriate for such offerings to be assessed to help fund the Board's operations, albeit at a lower assessment rate.

New Assessment Rate for Certain Offerings

The amendment does not alter the assessment rate for most primary offerings, which will remain at the current level of 3¢ per $1,000 par value. However, for those offerings that have final stated maturities under two years, but over nine months in length, the Board believes that the short-term nature of the securities makes a lower rate appropriate. The Board has set the lower rate at 1¢ per $1,000 par value. In addition, the amendment treats primary offerings of securities with short-term put provisions in a manner similar to offerings of securities with short-term maturities. Thus, for primary offerings of puttable securities with put periods greater than nine months, but less than two years, the offerings will be assessed at the lower, short-term rate. For example, the assessment rate for a primary offering of securities with a one-year put period will be 1¢ per $1,000, which is the same assessment rate for a new issue offering with a final stated maturity of one year.

Impact of Proposed Rule Change on Board Revenues

The revenue effect of the amendment to the Board probably will be neutral to moderately positive. The Board will lose assessments on new issues that have put periods of nine months or less and on "limited placements." The Board will gain fees on short-term securities with maturities greater than nine months but less than two years and on certain remarketings of securities with put provisions over nine months in duration. All offerings on which fees will be lost are now assessed at the rate of 3¢ per $1,000. Most offerings on which fees will be gained will be assessed at the rate of 1¢ per $1,000.

Scope of Rule A-13 Compared to Rule G-36

Although a primary intent of the proposed rule change is to make the scope of rule A-13 more consistent with rule G-36, there will remain some differences in the scope of the two rules. For example, primary offerings under $1 million in par value currently remain exempt from the scope of rule A-13, although rule G-36 requires that official statements for such offerings, if prepared, be sent to the Board. The Board has concluded to maintain the A-13 exemption for offerings under $1 million at this time even though this represents one area in which rule A-13 is not consistent with rule G-36.

The Board intends, in the future, to examine whether additional modifications are necessary in rules A-13 and/or G-36 and whether it will be possible to make the scope of the two rules more coextensive. The Board believes that this would provide an equitable allocation of underwriting assessments and would allow rule A-13 fees to be invoiced and receivables to be created in the Board's accounting system in the most efficient and accurate manner possible.

The amendments to rule A-13 will become effective for all primary offerings made on or after July 1, 1992. Therefore, dealers should wait until receiving an invoice from the Board prior to paying underwriting assessments for offerings made after that date.

March 10, 1992

Text of Proposed Amendment*

Rule A-13. Underwriting Assessment for Brokers, Dealers and Municipal Securities Dealers

(a) Each broker, dealer and municipal securities dealer shall pay to the Board an underwriting fee as set forth in paragraph (b) for all municipal securities purchased from an issuer by or through such broker, dealer or municipal securities dealer, whether acting as principal or agent, as part of a ~~new issue which has an aggregate par value of $100,000 or more and~~

[4] The exemptions for offerings of securities with maturities of nine months or under and for securities with put provisions of nine months or less in duration are somewhat broader than the exemptions for similar offerings under rule G-36. This is because the rule A-13 exemptions do not require that the securities have minimum denominations of $100,000.

~~which has a final stated maturity of not less than two years from the date of the securities.~~ primary offering, provided that, this rule shall not apply to a primary offering of securities if all such securities in the primary offering:

(i) have an aggregate par value less than $1,000,000;

(ii) have a final stated maturity of nine months or less;

(iii) at the option of the holder thereof, may be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent; or

(iv) have authorized denominations of $100,000 or more and are sold to no more than thirty-five persons each of whom the broker, dealer or municipal securities dealer reasonably believes: (A) has the knowledge and experience necessary to evaluate the merits and risks of the investment; and (B) is not purchasing for more than one account, with a view toward distributing the securities.

If a syndicate or similar account has been formed for the purchase of the securities, the fee shall be paid by the managing underwriter on behalf of each participant in the syndicate or similar account.

(b) For those primary offerings subject to assessment under section (a) above, ~~T~~the amount of the underwriting fee is: ~~.003% ($.03 per $1,000) of the par value for issues sold on or after August 1, 1991, and .002 ($.02 per $1,000) of the par value for issues sold before August 1, 1991.~~

(i) for primary offerings in which all securities offered have a final stated maturity less than two years, .001% ($.01 per $1,000) of the par value;

(ii) for primary offerings in which all securities offered, at the option of the holder thereof, may be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every two years until maturity earlier redemption, or purchase by an issuer or its designated agent, .001% ($.01 per $1,000) of the par value; and

(iii) for all other primary offerings subject to this rule, .003% ($.03 per $1,000) of the par value.

~~(c) The underwriting fee must be received at the office of the Board in Washington, D.C. not later than 30 calendar days following the date of the settlement with the issuer.~~

~~(d) Payment of the underwriting fee must be accompanied by one completed copy of Form A-13 prescribed by the Board and a copy of the front page of the official statement in final form prepared by or on behalf of the issuer, a copy of the front page of an official statement in preliminary form, if any, shall accompany the payment of the fee.~~

(c) The Board periodically will invoice brokers, dealers and municipal securities dealers for payment of underwriting fees. The underwriting fee must be paid within 30 days of the sending of the invoice by the Board.

(d) For purposes of this rule, the term "primary offering" shall mean an offering of municipal securities directly or indirectly by or on behalf of the issuer of such securities, including any remarketing of such securities directly by or on behalf of the issuer of such securities.

* Underlining indicates new language; strikethrough indicates deletions.

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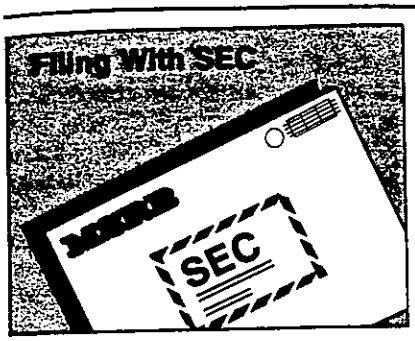

Route to:

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

Forms G-36(OS) and G-36(ARD)

Amendments Filed

The amendments revise Forms G-36(OS) and G-36(ARD) to collect information necessary for invoicing underwriting assessments as well as other technical changes.

On March 30, 1992, the Board filed with the Securities and Exchange Commission amendments to Form G-36(OS) and Form G-36(ARD).[1] In addition to other technical changes, the amendments revise Form G-36(OS) and Form G-36(ARD) to collect certain information necessary for accurate invoicing of underwriting assessments by the Board. The amendments became effective upon filing. The Board has set the implementation date for the revised forms for July 1, 1992, the date that the recent amendments to rule A-13 will become effective.[2] Dealers may begin using the forms at this time; however, prior to July 1, 1992, dealers still must submit their underwriting assessments pursuant to rule A-13 along with a completed Form A-13.

Background

The Board has determined that, to improve its accounting system, it will base its receivables for underwriting assessments on the official statements received by the Board pursuant to rule G-36.[3] By using official statements, and the associated Forms G-36(OS) that must be submitted with the official statements, the Board will be able to invoice underwriters directly for underwriting assessments and will be able to maintain a more accurate accounting of underwriting assessments that are due to the Board. Because of the new procedure for collecting and accounting for underwriting assessments, on March 10, 1992, the Board filed an amendment to rule A-13 which adjusts the scope of primary offerings subject to that rule so that it will be more consistent with the scope of primary offerings under rule G-36.

Revisions to Form G-36(OS)

The amendments revise Form G-36(OS) to collect certain additional information necessary for accurate invoicing of underwriting assessments. The revised Form G-36(OS) requires underwriters to indicate: (i) the existence of a put option within nine months of the offering; (ii) the existence of a put option within two years of the offering; and (iii) that the offering is a "limited placement" under SEC Rule 15c2-12. This information is keyed to the requirements of rule A-13, as recently amended, and will help to ensure that the underwriter is sent an invoice that accurately reflects the underwriting assessment (if any) that is due.

Other technical changes also were made to Form G-36(OS) based on the Board's experience in processing documents received under rule G-36. These include numbering all lines to permit more efficient assistance to those who call the Board with questions about the form, revising the description of issue(s) line (line 2) and the dated date(s) line (line 4) to permit more than one entry, and adding line 8, on par amount underwritten, for those instances (*e.g.*, short term notes) in which an underwriter buys part of the offering without knowledge of who or how many underwriters bought the remainder.[4] The Board deleted the reference to the number of series in the official statement from Form G-36(OS) because this information was not found to be

Questions about the amendments may be directed to Thomas A. Hutton, Director of MSIL.

[1] SEC File No. SR-MSRB-92-4. Comments filed with the Commission should refer to the file number.

[2] *See*, Notice on Underwriting Assessments on pages 7 through 10 of this issue.

[3] In addition to other requirements, rule G-36 requires underwriters to send to the Board official statements and other information on most new municip securities issues.

[4] This line is needed for billing purposes and to track those who fulfilled the requirements of rule G-36. Each underwriter in such a case should submit an official statement.

useful. Line 13 also has been added to require a responsible party to state affirmatively that the document sent is a final official statement relating to a primary offering of municipal securities. This will help ensure that the Board receives the correct document. Finally, line 17 has been added to ensure that the CUSIP numbers required by rule G-36 are included on the form and to ensure that underwriters are aware that rule G-34 requires that CUSIP numbers be assigned to all issues which are eligible for CUSIP number assignment. CUSIP numbers are used whenever possible in indexing official statements received under rule G-36 and, currently, if CUSIP numbers are not included, the forms and official statements are returned to the underwriter for clarification. Line 17 may eliminate the need for some of this correspondence.

Revisions to Form G-36(ARD)

The amendments also include technical changes to Form G-36(ARD). This form must be sent to the Board under rule G-36 when an advance refunding document (*i.e.*, escrow agreement) is provided. All lines on Form G-36(ARD) have been numbered to permit more efficient assistance to those who call the Board with questions about the form. On line 4, the submitter is to indicate whether the issue is partially or entirely refunded. This information is important to users of the Municipal Securities Information Library,™ or MSIL,™ system[5] because outstanding issues that are partially refunded often receive new CUSIP numbers, while entire refunded issues generally do not. Line 8, regarding refunding issue(s), has been expanded to permit more than one refunding issue per document and language has been added explaining that submission of advance refunding documents for current refundings is not required. Finally, information concerning CUSIP numbers is more specific. The current Form G-36(ARD) asks for old and new CUSIP numbers, whereas the new form asks for the original CUSIP numbers assigned to the issue being refunded, the new CUSIP numbers for the refunded issue (the partially refunded portion of the issue, if applicable) and CUSIP numbers for the refunding issue(s).

March 30, 1992

Revised Forms G-36(OS) and G-36(ARD) begin on the next page.

[5] Municipal Securities Information Library and MSIL are trademarks of the Board.

MSRB

DO NOT STAPLE THIS FORM

FORM G-36(OS) — FOR OFFICIAL STATEMENTS

1. NAME OF ISSUER(S): (1) _____

   (2) _____

2. DESCRIPTION OF ISSUE(S): (1) _____

   (2) _____

3. STATE(S) _____

4. DATED DATE(S): (1) _____ (2) _____

5. DATE OF FINAL MATURITY OF OFFERING _____ 6. DATE OF SALE _____

7. PAR VALUE OF OFFERING $ _____

8. PAR AMOUNT UNDERWRITTEN (if there is no underwriting syndicate) $ _____

9. IS THIS AN AMENDED OR STICKERED OFFICIAL STATEMENT? ☐ Yes ☐ No

10. CHECK ALL THAT APPLY:

   a. ☐ At the option of the holder thereof, all securities in this offering may be tendered to the issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by the issuer or its designated agent.

   b. ☐ At the option of the holder thereof, all securities in this offering may be tendered to the issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every two years until maturity, earlier redemption, or purchase by the issuer or its designated agent.

   c. ☐ This offering is exempt from SEC rule 15c2-12 under section (c)(1) of that rule. Section (c)(1) of SEC rule 15c2-12 states that an offering is exempt from the requirements of the rule if the securities offered have authorized denominations of $100,000 or more and are sold to no more than 35 persons each of whom the participating underwriter believes: (1) has the knowledge and expertise necessary to evaluate the merits and risks of the investment; and (2) is not purchasing for more than one account, with a view toward distributing the securities

11. MANAGING UNDERWRITER _____

12. NAME _____ PHONE _____
    (Must be an employee or officer of the underwriter named on line 11.)

13. **The undersigned hereby states that the above-described document is a final official statement relating to a primary offering of municipal securities.**
    Signed: _____

14. NAME _____ PHONE _____
    (Name of signer on line 13. Need not be repeated if same as on line 12.)

15. ORGANIZATION _____
    (Organization of signer on line 13. Need not be repeated if same as on line 11.)

The information provided on this form will be used by the Board to compute any rule A-13 underwriting assessment that may be due on this offering. The managing underwriter listed on line 11 will be sent an invoice if a rule A-13 assessment is due on the offering.

CONTINUED ON OTHER SIDE

16. MATURITY DATE	CUSIP NUMBER	MATURITY DATE	CUSIP NUMBER

17. MSRB rule G-34 requires that CUSIP numbers be assigned to each new issue of municipal securities unless the issue is ineligible for CUSIP number assignment under the eligibility criteria of the CUSIP Service Bureau.

☐ Check here if the issue is ineligible for CUSIP number assignment.

State the reason why the issue is ineligible for CUSIP number assignment: _____

_____

18. **Submit two copies of the completed form along with two copies of the official statement to Municipal Securities Rulemaking Board, 1818 N Street, NW, Suite 800, Washington, DC 20036-2491. Incomplete submissions will be returned for correction.**

MSRB

DO NOT STAPLE THIS FORM

FORM G-36(ARD) — FOR ADVANCE REFUNDING DOCUMENTS

1. DESCRIPTION ESCROW AGREEMENT

2. DATE OF ESCROW AGREEMENT _____

3. NUMBER OF ISSUES REFUNDED _____
(Fill out one form for each issue)

4. REFUNDED ISSUE—The issue is (check one): ☐ partially ☐ entirely refunded.

5. NAME OF ISSUER _____

_____

6. DESCRIPTION OF ISSUE _____

_____

7. DATED DATE _____

8. REFUNDING ISSUE(S)—Submission is not required if there is no refunding issue or the refunding issue is a current refunding (*i.e.*, the issue(s) refunded mature(s) in 90 days or less from the date of issuance of the refunding issue).

9. NAME OF ISSUER(S):

(1) _____

(2) _____

10. DESCRIPTION OF ISSUE(S):

(1) _____

(2) _____

11. DATED DATE(S): (1) _____ (2) _____

12. MANAGING UNDERWRITER _____

13. NAME _____ PHONE _____

14. PREPARED BY _____ PHONE _____
(If same as on line 13, this line may be left blank)

15. ORGANIZATION _____
(If same as on line 12, this line may be left blank)

CONTINUED ON OTHER SIDE

16. ORIGINAL INFORMATION FOR REFUNDED (OUTSTANDING) ISSUE

MATURITY DATE	CUSIP NUMBER	MATURITY DATE	CUSIP NUMBER

17. NEW INFORMATION FOR REFUNDED (OUTSTANDING) ISSUE
(partially refunded)

MATURITY DATE	NEW CUSIP NUMBER	MATURITY DATE	NEW CUSIP NUMBER

18. INFORMATION FOR REFUNDING (NEW) ISSUE

MATURITY DATE	CUSIP NUMBER	MATURITY DATE	CUSIP NUMBER

19. Submit two completed copies of the form(s), along with two copies of the escrow agreement or its equivalent to Municipal Securities Rulemaking Board, 1818 N Street, NW, Washington, DC 20036-2491. Incomplete forms will be returned for correction.

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- ☐ Training
- ☐ Other

Delivery of Official Statements to the Board: Rule G-36

Comments Requested

The Board requests comments on draft amendments which would result in the Board receiving copies of all official statements that are prepared for primary offerings of municipal securities, with the exception of limited placements.

In addition to other requirements, Board rule G-36 requires underwriters to send to the Board official statements and completed Forms G-36(OS) for certain primary offerings of municipal securities. Rule G-36 currently exempts from this requirement three categories of primary offerings. The Board is proposing to expand the scope of rule G-36 to include all primary offerings for which official statements are prepared, except for those offerings that are "limited placements" meeting the criteria set forth in paragraph (1) of section (c) of Securities Exchange Act Rule 15c2-12.

Current Requirements of Rule G-36

Most primary offerings of municipal securities currently are subject to the requirements of rule G-36. For purposes of rule G-36, a "primary offering" is an offering of municipal securities directly or indirectly by or on behalf of an issuer of such securities, including certain remarketings. For those primary offerings covered by the rule, if a final official statement[1] is prepared by or on behalf of the issuer of the securities, the underwriter must send two copies of the document to the Board, along with two completed Forms G-36(OS).[2] The official statements then are made available to interested parties through the Board's Municipal Securities Information Library™ (MSIL)™ system.[3]

An underwriter's[4] specific obligations under rule G-36 are governed, in part, by whether the offering is subject to Securities Exchange Act Rule 15c2-12–the SEC rule that requires the preparation of a final official statement for most primary offerings of municipal securities. For an offering that is subject to Rule 15c2-12, the underwriter must send copies of the official statement and Forms G-36(OS) within one business day of receiving the official statement from the issuer, but in no event later than 10 business days after the date of the final agreement to purchase, offer or sell the securities.[5]

Certain primary offerings are not subject to Rule 15c2-12 and thus an official statement may not necessarily be prepared. These offerings include those under $1 million in par value and those that are specifically exempted under section (c) of Rule 15c2-12. Rule G-36 currently does not apply to an offering that qualifies for an exemption set forth in section (c) of Rule 15c2-12, regardless of the amount of the offering. For those offerings under $1 million, which are subject to rule G-36, but not Rule 15c2-12, copies of the official statement and completed Forms G-36(OS) must be sent to the Board within one business day of

Comments on the draft amendments should be submitted no later than June 1, 1992, and may be directed to Harold L. Johnson, Deputy General Counsel. Written comments will be available for public inspection.

[1] For purposes of rule G-36, a final official statement is defined as a document or set of documents prepared by an issuer of municipal securities or its representatives setting forth, among other matters, information concerning the issuer(s) of such municipal securities and the proposed issue of securities that is complete as of the date of the delivery of the document or set of documents to the underwriter.

[2] Form G-36(OS) requires certain information necessary for the processing of official statements by the Board.

[3] Municipal Securities Information Library and MSIL are trademarks of the Board.

[4] For purposes of rule G-36, a broker, dealer or municipal securities dealer acts as an underwriter when municipal securities are purchased from the issuer of the securities by or through such broker, dealer or municipal securities dealer (whether the broker, dealer or municipal securities dealer is acting as principal or agent) as part of a primary offering. Thus, rule G-36 applies to a broker, dealer or municipal securities dealer acting as an agent of the issuer in a new issue or remarketing, as well as when taking a principal position in a new issue offering. If a syndicate or similar account is formed for the underwriting of a primary offering of municipal securities, the managing underwriter is responsible to comply with the requirements of rule G-36 (and certain associated recordkeeping requirements in rule G-8) on behalf of the syndicate or similar account.

[5] For those primary offerings covered by Rule 15c2-12, that rule, in effect, requires that the final official statement be prepared and given to the underwriter no later than seven business days after the final agreement to purchase, offer or sell the securities.

settlement or closing of the issue. This differs somewhat from the general requirement of rule G-36 that the documents be sent within 10 business days of the agreement to purchase, offer, or sell the securities.

Current Scope of Rule G-36

As discussed above, all primary offerings of municipal securities currently are subject to rule G-36 except for those exempt under section (c) of Rule 15c2-12. The three categories of primary offerings which fall under this exemption are those offerings of securities, made in authorized denominations of $100,000 or more, which:

(1) Are sold to no more than thirty-five persons, each of whom the underwriter believes (i) has such knowl edge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment and (ii) is not purchasing for more than one account or with a view to distributing the securities (referred to herein as "limited placements"); or

(2) Have a maturity of nine months or less; or

(3) At the option of the holder thereof may be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent.[6]

The Board specifically exempted the above three categories of offerings from the scope of rule G-36 when the rule was adopted in 1989. At that time, the Board noted that Rule 15c2-12 does not require official statements to be produced for these offerings. The Board believed that the official statements voluntarily prepared for such offerings probably would be of little interest to market participants. Accordingly, the Board felt that it was not necessary to require that any official statement prepared for such an offering be sent to the Board for inclusion in the MSIL system.[7]

Proposal for Expanded Coverage of Rule G-36

After several years of collecting official statements under rule G-36 and making those documents available through the Public Access Facility of the MSIL system, the Board now believes that there may be significant interest among market participants for official statements relating to offerings that are currently exempt from rule G-36. At a recent meeting of the Board's MSIL Advisory Committee,[8] several committee members stated that the Board should ensure that its collection of official statements in the MSIL system is as complete as possible. For example, several members noted that disclosure documents for short-term securities, such as those nine months or under in maturity, were an important source of disclosure about municipal issuers.

The Board is requesting comment on a draft amendment to rule G-36 that would extend the scope of the rule to include two of the exempted categories of offerings described above, relating to securities with maturities of nine months or less and securities with put periods of nine months or less. The draft amendment would require that, if an official statement is prepared for such an offering, the underwriter must send two copies of the official statement and two copies of a completed Form G-36(OS) to the Board. The underwriter would be required to send the documents to the Board within one business day of settlement or closing of the issue.

The Board notes that primary offerings of short-term notes and variable rate demand obligations, which are included in the above categories, often are fairly large in par value and may, in some cases, be actively traded in the market. Therefore, the Board believes that the official statements for these securities would have value to market participants and that it may be appropriate to require the documents to be included in the MSIL system.[9] The Board specifically requests comment on this point and on the importance that market participants attach to having access to official statements for these instruments.

Limited Placements

If adopted, the draft amendment would have the effect of requiring underwriters to submit to the Board all official statements that are prepared for primary offerings of municipal securities, with the one exception of those limited placements that are exempt from the official statement requirement of Rule 15c2-12. The Board requests comment on whether official statements for limited placements, to the extent that such documents are prepared, should also be required to be sent to the Board under rule G-36. With respect to this question, the Board notes that the initial disclosure documents for limited placements are prepared for a relatively small group of investors and that the documents often are characterized as "placement memoranda" rather than as "official statements." Some additional questions that commentators may wish to address with respect to limited placements are:

- Are placement memoranda generally considered to be the same as official statements?
- Are placement memoranda generally intended by the issuer to be made public?
- Do securities from limited placements reappear in the market at some time after the initial offering? If so, would the original placement memoranda be useful to market participants in evaluating the securities?

[6] These categories of offerings also are exempt from Rule 15c2-12. Therefore, an official statement is not always prepared for all offerings within these categories.

[7] *MSRB Reports*, Vol. 9, No. 3 (November 1989) at 3-4.

[8] The MSIL Advisory Committee advises the Board on MSIL system operations. It is composed of 26 individuals, representing a cross-section of participants in the municipal securities market. The Committee met on January 15, 1992, in New York, at which time the scope of rule G-36 was discussed.

[9] Some underwriters now send official statements for these offerings to the Board on a voluntary basis. The Board currently enters these voluntary submitted official statements into the MSIL system and makes them publicly available.

- Are there instances in which the essential terms or conditions of the securities in a limited placement are modified subsequent to the initial offering, for example, with the consent of the initial investors? If so, would the placement memorandum for such securities be misleading if it later is used by market participants in evaluating the securities?

Impact of Draft Amendment on Scope of Rule A-13

The Board recently made changes in its procedures for collecting and accounting for underwriting assessments and in the offerings subject to such assessment under rule A-13.[10] The Board believes that the offerings subject to underwriting assessment under rule A-13 essentially should be the same as offerings for which an official statement is received by the Board under rule G-36. Each of the offerings for which the Board receives an official statement is part of the municipal securities market regulated by the Board. The Board therefore believes that it may be appropriate for each such offering to share, in an equitable manner, in the funding of the Boards operations through the underwriting assessment of rule A-13.

As noted above, if the draft amendment to rule G-36 is implemented, it would result in the Board receiving copies of all official statements that are prepared for primary offerings of municipal securities, with the exception of limited placements. The Board, at this time, is not planning to institute underwriting assessments for primary offerings of securities under nine months in maturity or remarketings of securities having put provisions with durations of nine months or less, regardless of whether official statements for such offerings are received by the Board under rule G-36. The Board, however, is considering implementation of underwriting assessments for all other primary offerings for which official statements are received, including offerings of securities less than $1 million in par value and new issue offerings of securities having put periods of nine months or less.

April 7, 1992

Text of Amendments*

Rule G-36 Delivery of Official Statements, Advanced Refunding Documents and Forms G-36(OS) and G-36(ARD) to Board or its Designee

(a) through (b) No change.

(c) *Delivery Requirements for Issues not Subject to Securities Exchange Act Rule 15c2-12.*

(i) No change.

(ii) This section shall not apply to primary offerings of municipal securities, regardless of the amount of the issue, if the issue qualifies for an exemption set forth in paragraph (1) of section (c) of Securities Exchange Act rule 15c2-12(c).

(d) through (e) No change.

[10] See, Notice on Underwriting Assessments on pages 7 through 10 of this issue.

* Underlining indicates new language; strikethrough indicates deletions.

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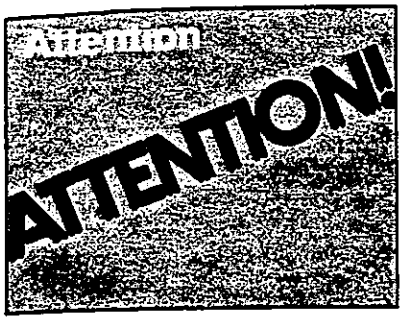

Route to:

- ☒ Manager, Muni Dept.
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Transactions in Municipal Collateralized Mortgage Obligations: Rule G-15

Interpretation

The Board interprets rule G-15 not to require that a yield be stated on confirmations for transactions in municipal collateralized mortgage obligations, and, if a yield is stated, that the method of calculation also be clearly stated on the confirmation.

The Board has become aware that some municipal issuers recently have issued securities that are structured as collateralized mortgage obligations (CMOs). Like the CMOs issued by non-municipal issuers, these securities represent interests in pools of mortgages and are partitioned into several classes (or tranches), which are serialized as to priority for redemption and payment of principal.

Since these "municipal CMOs" are being issued directly by political subdivisions, agencies or instrumentalities of state or local governments, it appears that they may be "municipal securities," as that term is defined under section 3(a)(29) of the Securities Exchange Act of 1934.[1] Although the interest paid on these instruments may be subject to federal taxation, the Board reminds dealers that transactions in municipal securities are subject to Board rules whether those securities are taxable or tax-exempt. Accordingly, dealers executing transactions in municipal CMOs should ensure that they are in compliance with all applicable Board rules. For example, dealers should ensure that all Board requirements regarding professional qualifications and recordkeeping are observed.[2]

Because the interest and principal payment features of municipal CMOs are very different from those of traditional municipal bonds, dealers should take care to ensure that all Board rules designed for the protection of customers are observed. This includes ensuring that: (i) all material facts about each transaction are disclosed to the customer, in compliance with rule G-17; (ii) each transaction recommended to a customer is suitable for the customer, in compliance with rule G-19; and (iii) the price of each customer transaction is fair and reasonable, in compliance with rule G-30. With respect to the material facts that should be disclosed to customers, dealers should ensure that customers are adequately informed of the likelihood of "prepayment" of principal on the securities and the likelihood of the securities being redeemed substantially prior to the stated maturity date. If the amount of principal that will be delivered to the customer differs from the "face" amount to be delivered, the customer also should be informed of this fact, along with the amount of the principal that will be delivered.

The Board also has reviewed the requirements of rule G-15(a)(i)(I) with respect to confirmation disclosure of "yield to maturity" or "yield to call" on customer confirmations in these securities. Because CMOs typically pay principal to holders prior to maturity and because the actual duration of the securities often varies significantly from the stated maturity, the Board has interpreted rule G-15(a) not to require a statement of yield for transactions in municipal CMOs. A dealer that decides to voluntarily include a statement of "yield" on a confirmation for these securities must also disclose on the confirmation the method by which yield was computed. This will help to avoid the possibility of the customer misunderstanding the yield figure if he should use it to compare the merits of alternative investments.

The Board will be monitoring municipal CMOs and will adopt specific rules for the instruments in the future if this appears to be necessary.

April 8, 1992

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

[1] Of course, whether any instrument is a municipal security is a matter to be determined by the Securities and Exchange Commission.

[2] In addition, as noted above, the interest paid on these instruments may be subject to federal taxation. If the securities are identified by the issuer or sold by the underwriter as subject to federal taxation, rules G-12(c) and G-15(a) require confirmations to contain a designation to that effect.

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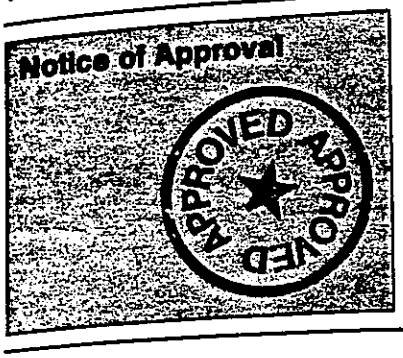

Route to:

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Disclosure of Remuneration to Customers: Rule G-15

Amendments Approved

The amendments allow dealers, as an alternative to confirmation disclosure of the source and amount of remuneration received from a party *other than the customer* in agency transactions, to note on the customer's confirmation whether any such remuneration has been or will be received and that the source and amount of such other remuneration is available upon written request by the customer. The amendments do not affect a dealer's obligation to disclose remuneration (commission) received from the customer.

On January 16, 1992, the Securities and Exchange Commission approved amendments to rule G-15(a)(ii), on disclosure of remuneration in agency transactions. The amendments allow dealers, as an alternative to confirmation disclosure of the source and amount of remuneration received from a party other than the customer in agency transactions, to note on the customer's confirmation whether any such remuneration has been or will be received and that the source and amount of such other remuneration is available upon written request by the customer. The amendments became effective upon approval by the Commission.

Background

Rule G-15(a)(ii) requires a dealer effecting a transaction as agent for the customer or as agent for both the customer and another person to note on the customer's confirmation (i) either the name of the person from whom the securities were purchased or to whom the securities were sold for the customer or a statement that this information will be furnished upon the request of the customer, and (ii) the source and amount of any commission or other remuneration received or to be received by the dealer in connection with the transaction.

The Board understands that for certain remarketing agreements, dealers may not be able to disclose the amount of the remuneration when that amount is not determined at the time of trade. This can occur, for example, when the dealer's remarketing fee, paid by the issuer, is based on a percentage of the issue's outstanding balance instead of on a per transaction basis. The Board believes that it is important for the dealer to disclose the basis of this fee, even if the exact amount is not yet determined. Thus, the Board has interpreted rule G-15(a)(ii) to allow dealers to disclose that there will be a fee and the basis of the fee. For example, the dealer would have to disclose a fee from the issuer of x% of the outstanding balance of the issue, payable quarterly.[2]

Summary of Amendments

The amendments to rule G-15(a)(ii) allow dealers, as an alternative to confirmation disclosure of the source and amount of remuneration received from a party other than the customer in agency transactions, to note on the customer's confirmation whether any such remuneration has been or will be received and that the source and amount of such other remuneration is available upon written request by the customer. This requirement makes the rule consistent with the requirements of SEC Rule 10b-10, the SEC's confirmation disclosure rule. While Rule 10b-10 does not apply to municipal securities transactions, consistency with that Rule, whenever possible, is useful for

Questions about the amendments may be directed to Jill C. Finder, Assistant General Counsel.

[1] SEC Release No. 34-30259.

[2] Situations involving both fixed and variable elements to the fee paid by an issuer would require the dealer to disclose the fixed amount as well as the basis for the variable amount.

dealers. In order to make rule G-15(a)(ii) internally consistent, the amendments also require written requests by customers for information regarding the identity of the person from whom the securities were purchased or to whom the securities were sold.

January 16, 1992

Text of Amendments*

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

(a) *Customer Confirmations*

(i) No change.

(ii) If the broker, dealer or municipal securities dealer is effecting a transaction as agent for the customer or as agent for both the customer and another person, the confirmation shall set forth (A) either the name of the person from whom the securities were purchased or to whom the securities were sold for the customer or a statement that this information will be furnished upon the written request of the customer, ~~and~~ (B) the amount of any remuneration received or to be received by the broker, dealer or municipal securities dealer from the customer in connection with the transaction unless remuneration paid by the customer is determined, pursuant to a written agreement with the customer, other than on a transaction basis, and (C) the source and amount of any ~~commission or~~ other remuneration received or to be received by the broker, dealer or municipal securities dealer in connection with the transaction; provided, however, that the written notification may state whether any such remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of the customer.

(iii) through (ix) No change.

(b) through (e) No change.

* Underlining indicates new language; strikethrough indicates deletions.

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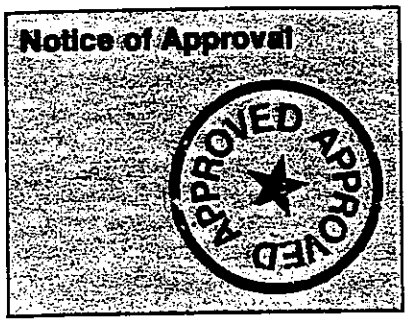

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- ☒ Manager, Muni Dept.
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- ☒ Public Finance
- ☐ Compliance
- ☐ Training
- ☐ Other

Activities of Financial Advisors: Rule G-23

Amendments Approved

The amendments require a dealer acting as a financial advisor and placement agent for an issue to meet the same disclosure and other requirements as a dealer acting as financial advisor and negotiating the underwriting.

On January 16, 1992, the Securities and Exchange Commission approved amendments to rule G-23, on activities of financial advisors.[1] The amendments require a dealer acting as financial advisor and placement agent for an issue to meet the same disclosure and other requirements, set forth in rule G-23(d), as a dealer acting as financial advisor and negotiating the underwriting. The amendments became effective upon approval by the Commission.

Background

Rule G-23 establishes disclosure and other requirements for dealers that act as financial advisors to issuers of municipal securities.[2] The rule is designed principally to minimize the prima facie conflict of interest that exists when a municipal securities dealer acts as both financial advisor and underwriter with respect to the same issue. Specifically, it requires a financial advisor to alert the issuer to the potential conflict of interest that might lead the dealer to act in its own best interest as underwriter rather than the issuer's best interest.

Among other things, rule G-23 prohibits a dealer acting as financial advisor from acquiring a negotiated issue as principal, either alone or in a syndicate, or arranging for such acquisition by a person controlling, controlled by, or under common control with such dealer, unless certain requirements are met. In these instances, rule G-23(d)(i) requires the dealer (i) to terminate the financial advisory relationship with regard to the issue; (ii) at or before such termination, to disclose in writing to the issuer that there may be a conflict of interest in changing from the capacity of financial advisor to that of purchaser of the securities and the source and anticipated amount of all remuneration to the dealer with respect to the issue; (iii) at or after such termination, to obtain the express written consent of the issuer to the acquisition or participation in the purchase; and (iv) to obtain from the issuer a written acknowledgment of the receipt of these disclosures.

Summary of Amendments

The amendments to rule G-23 require a dealer acting as financial advisor and placement agent for an issue to meet the same requirements, set forth in rule G-23(d), as a dealer acting as financial advisor and negotiating the underwriting. The Board believes that there is effectively no difference between the two activities[3] and the disclosure and other requirements of rule G-23(d) should apply to minimize the potential conflict of interest that exists when a dealer acts as both financial advisor and placement agent with respect to the same issue. The amendments do not prohibit a dealer from placing an issue when it is the financial advisor for the issue, but the amendments do require that the dealer terminate the financial advisory relationship with regard to the issue and make certain disclosures.

The Board has determined that the execution of a placement agent agreement which sets forth the compensation for the placement agent will comply with the requirements of rule G-23(d)(i)(C), which requires the dealer to disclose to the issuer the source and anticipated amount of all remuneration to the

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

[1] SEC Release No. 34-30258.

[2] Rule G-23 does not apply to "independent" financial advisors, *i.e.*, those advisors that are not associated with a broker, dealer or municipal securities dealer. The rule also does not apply when, in the course of acting as an underwriter, a municipal securities dealer renders financial advice to an issuer, including advice with respect to the structure, timing, terms and other similar matters concerning a new issue of municipal securities.

[3] Typically bank dealer financial advisors place issues of municipal revenue bonds because banking laws prohibit banks from underwriting such bonds.

dealer with respect to the issue, in addition to the basis of compensation for the financial advisory services rendered. In addition, the amendments make the customer disclosure provisions of rule G-23(g) applicable to a dealer acting as financial advisor and placement agent for an issue.

January 16, 1992

Text of Amendments*

Rule G-23 . Activities of Financial Advisors

(a) - (c) No change.

(d) Underwriting Activities. No broker, dealer, or municipal securities dealer that has a financial advisory relationship with respect to a new issue of municipal securities shall acquire as principal either alone or as a participant in a syndicate or other similar account formed for the purpose of purchasing, directly or indirectly, from the issuer all or any portion of such issue, or act as agent for the issuer in arranging the placement of such issue ~~arrange for such acquisition or participation by a person controlling, controlled by, or under common control with such broker, dealer, or municipal securities dealer~~, unless

(i) if such issue is to be sold by the issuer on a negotiated basis,

(A) the financial advisory relationship with respect to such issue has been terminated in writing and at or after such termination the issuer has expressly consented in writing to such acquisition or participation, as principal or agent, in the purchase of the securities on a negotiated basis;

(B) the broker, dealer, or municipal securities dealer has expressly disclosed in writing to the issuer at or before such termination that there may be a conflict of interest in changing from the capacity of financial advisor to purchaser of or placement agent for the securities with respect to which the financial advisory relationship exists and the issuer has expressly acknowledged in writing to the broker, dealer, or municipal securities dealer receipt of such disclosure; and

(C) the broker, dealer, or municipal securities dealer has expressly disclosed in writing to the issuer at or before such termination the source and anticipated amount of all remuneration to the broker, dealer, or municipal securities dealer with respect to such issue in addition to the compensation referred to in section (c) of this rule, and the issuer has expressly acknowledged in writing to the broker, dealer, or municipal securities dealer receipt of such disclosure; or

(ii) if such issue is to be sold by the issuer at competitive bid, the issuer has expressly consented in writing prior to the bid to such acquisition or participation.

The limitations and requirements set forth in this section (d) shall also apply to any broker, dealer, or municipal securities dealer controlling, controlled by, or under common control with the broker, dealer, or municipal securities dealer having a financial advisory relationship. The use of the term "indirectly" in this section (d) shall not preclude a broker, dealer, or municipal securities dealer who has a financial advisory relationship with respect to a new issue of municipal securities from purchasing such securities from an underwriter, either for its own trading account or for the account of customers, except to the extent that such purchase is made to contravene the purpose and intent of this rule.

(e) through (h) No change.

* Underlining indicates new language; strikethrough indicates deletions.

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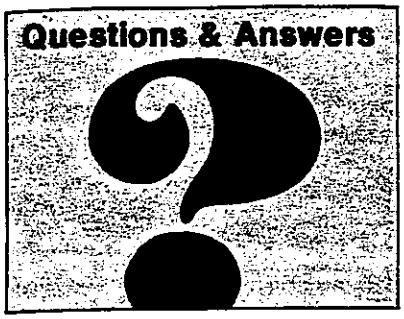

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Activities of Financial Advisors: Rule G-23

Questions and Answers

Answers to frequently asked questions concerning the ethical standards and disclosure requirements for dealers that act as financial advisors to municipal securities issuers.

This is a republication of a 1989 notice describing the requirements of rule G-23. Questions and answers on the application of the rule to the recently approved amendments have been added.

FINANCIAL ADVISORY RELATIONSHIPS

Q: What is the intent of rule G-23 concerning the activities of financial advisors?

A: The intent of this rule is to establish disclosure requirements and standards for dealers that act as financial advisors to issuers of municipal securities.

Q: When is a dealer acting as a financial advisor?

A: A dealer advising an issuer with respect to the structure, timing, terms and other similar matters concerning a new issue or issues of municipal securities for a fee or other compensation or in expectation of such compensation is acting as a financial advisor.

Q: Is a dealer acting as a financial advisor for purposes of the rule when it structures a financing while acting as an underwriter on a negotiated issue?

A: No. A financial advisory relationship does not exist when, in the course of acting as an underwriter on a negotiated issue, a dealer advises an issuer, with respect to the structure, timing, terms and other similar matters concerning a new issue of municipal securities.

Q: Are all financial advisors subject to the rule?

A: The Board's rules apply only to financial advisors who are registered as brokers, dealers and municipal securities dealers with the SEC.

Q: Are financial advisory services provided to corporate obligors in connection with IDB financings subject to rule G-23?

A: No. Rule G-23 applies to dealers that agree to render financial advisory services to or on behalf of the municipal "issuer."

Q: Must a financial advisory relationship be evidenced by a writing?

A: Yes. Each financial advisory relationship must be evidenced by a writing entered into prior to, upon, or promptly after the inception of the financial advisory relationship.

Q: Would financial advisory services furnished to a municipal district which has not yet been officially established at the inception of the relationship constitute financial advisory services for the purposes of the rule?

A: Yes. Paragraph (c) of the rule contemplates that the rule may apply even if the municipal issuer does not exist at the inception of the financial advisory relationship.

Q: If a dealer has an agreement with an issuer which provides that the dealer will furnish financial advisory services from time to time at the issuer's request, does a financial advisory relationship exist with respect to a proposed new issue?

A: If a dealer has entered into a blanket agreement to render financial advisory services, a financial advisory relationship with respect to a particular new issue of securities will be presumed to exist. Whether or not the dealer actually has a financial advisory relationship to the new issue is a factual question.

COMPENSATION

Q: Must the dealer and issuer enter into a written agree

ment regarding the dealer's compensation of its financial advisory services?

A: Yes. The agreement must state the basis of compensation for the financial advisory services, including provisions relating to the deposit of funds with or the utilization of fiduciary or agency services offered by such dealer.

Q: **Is a financial advisory agreement which states that "the basis of compensation shall be a fee not to exceed X dollars" sufficient?**

A: No. The dealer should specify the fees or commissions it is charging, not merely the highest possible amount of compensation it could receive.

Q: **If a dealer provides financial advisory services for a fee and subsequently resigns to negotiate the issue, does the dealer have to reimburse the issuer for the fees received while acting as the financial advisor?**

A: No. If the dealer received these fees for its services during the period it was acting as financial advisor for an issuer it may retain those fees.

UNDERWRITING ACTIVITIES

Q: **May a financial advisor for a particular issue underwrite another issue for the same issuer without complying with the requirements of rule G-23(d)?**

A: Yes. The rule applies only to a dealer that acts in both capacities with respect to a single issue of securities.

Q: **Are there any restrictions on a financial advisor that wishes to underwrite a negotiated issue on which it is a financial advisor?**

A: Yes. Rule G-23(d)(i) requires a financial advisor to:

(a) terminate the financial advisory relationship, in writing, and obtain the issuer's express consent to the dealer's participation in the underwriting.

(b) disclose in writing to the issuer that there may be a conflict of interest in changing from the capacity of financial advisor to underwriter and obtain the issuer's written receipt of such disclosure; and

(c) disclose to the issuer the source and anticipated amount of all remuneration to the dealer with respect to the issue in addition to compensation already received as the financial advisor and obtain the issuer's written receipt of such disclosure.

Q: **If a dealer acts as both financial advisor and placement agent for a new negotiated issue, does rule G-23(d) apply?**

A: Yes. Rule G-23(d) requires a dealer acting as financial advisor and placement agent for an issue to meet the same requirements as a dealer acting as financial advisor and negotiating the underwriting.

Q: **When must a financial advisor obtain an issuer's consent permitting it to underwrite or place a negotiated sale?**

A: The consent of the issuer must be obtained "at or after" the termination of the financial advisory relationship.

Q: **May a financial advisor to an issuer for several issues terminate its financial advisory relationship with the issuer only with respect to a specific negotiated issue which it wishes to underwrite or place?**

A: Yes. Under these circumstances, the advisory relationship may be terminated with respect to the specific negotiated issue.

Q: **Does the execution of a placement agent agreement which sets forth the compensation for the placement agent comply with the requirements of rule G-23(d)(i)(C), which requires the dealer to disclose to the issuer the source and amount of all remuneration to the dealer with respect to the issue, in addition to the basis of compensation for the financial advisory services rendered?**

A: Yes.

Q: **Must a dealer keep a record of all written agreements, disclosures, acknowledgments and consents?**

A: Yes. Each dealer must maintain a copy of the written agreements, disclosures, acknowledgments and consents in a separate file and as required by rule G-9.

Q: **What requirements must a financial advisor meet in order to bid on a competitive issue?**

A: Rule G-23(d)(ii) requires the financial advisor to obtain the express written consent of the issuer prior to bidding on the issue.

Q: **May a financial advisor obtain from the issuer prospective approval to participate in future competitive issues?**

A: No. An issuer should have the opportunity to consider whether the financial advisor's potential conflict of interest is sufficient to warrant not consenting to its participation on the sale. The Board has concluded that an unrestricted consent would not afford an issuer such an opportunity and accordingly such blanket consent is not permitted.

Q: **May a financial advisor reserve the right to bid on a competitive issue in the official statement or notice of sale?**

A: No, since it is not clear that the issuer has a sufficient opportunity to determine whether it is in its best interest to allow its financial advisor to bid on the issue.

Q: **Are there any restrictions on a financial advisor that wishes to purchase some of the bonds of an issue in**

the secondary market or as a member of a selling group?

A: A financial advisor is not precluded from purchasing such securities from an underwriter, either for its own trading account or for the account of customers, except to the extent that such purchase is made to contravene the purpose and intent of this rule.

Q: **Do the restrictions in rule G-23(d) apply to a dealer wishing to act as underwriter for an issue if the dealer is a subsidiary or affiliate of another dealer that is acting as the financial advisor on the issue?**

A: Yes. The limitations and requirements set forth in section (d) apply to any dealer "controlling, controlled by, or under common control with" the dealer having a financial advisory relationship, irrespective of whether or not the two dealers are operating independently.

Q: **In circumstances in which the control relationship between dealers is not obvious, how may one determine if rule G-23(d) applies? For example, if an individual is an officer of both dealers, but there is no corporate affiliation between the dealers, does a control relationship exist?**

A: The existence of a control relationship is a question of fact to be determined from the entire situation. The SEC noted, for purposes of the Regulatory Flexibility Act, that a dealer would be deemed to be controlled by a person or entity who, among other things, has the ability to direct or cause the direction of the management or the policies of the dealer. In the above example, if the officer has the authority to direct the management or formulate the policies of both dealers, a control relationship may be found to exist.

DISCLOSURE TO ISSUER OF CORPORATE AFFILIATION

Q: **If a bank does not have a dealer department but acts as the financial advisor to the issuer, may its broker-dealer subsidiary underwrite the issue without complying with section (d)?**

A: Rule G-23(d) applies only when the financial advisor and underwriter for an issue are the same dealer or are two dealers subject to a control relationship. Since the bank is not a dealer, Board rules do not apply. Section (e), however, requires the dealer to disclose this corporate affiliation in writing to the issuer prior to the acquisition and to receive from the issuer an acknowledgment in writing of receipt of such disclosure.

DISCLOSURE TO CUSTOMERS

Q: **Does a dealer have to disclose his role as financial advisor of an issue of which it is an underwriter or placement agent to a customer?**

A: Yes. The dealer must disclose the financial advisory relationship in writing to each customer who purchased such securities from the dealer.

Q: **When should a dealer acting as an underwriter or placement agent make this disclosure?**

A: Disclosure must be made to the customer at or before completion of the transaction. Thus, the disclosure may be made in the official statement, the when-issued confirmation or in the final confirmation as long as the customer receives it before completion of the transaction.

APPLICABILITY OF STATE LAW

Q: **Does the rule supersede a state law which prohibits financial advisors from serving as underwriters?**

A: The rule specifically provides that it is not intended to supersede any more restrictive provisions of state or local law concerning the activities of financial advisors.

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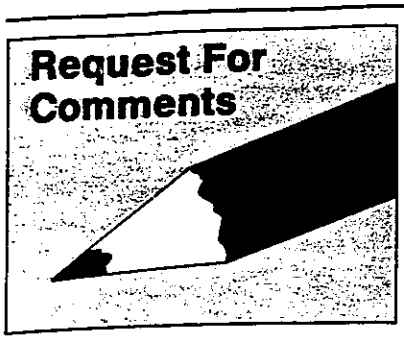

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Automated Clearance and Settlement: Rules G-12 and G-15

Comments Requested

The Board has determined to adopt amendments to rules G-12 and G-15 to require essentially all inter-dealer and institutional customer transactions eligible for processing in automated clearance and settlement systems to be processed within the systems. The Board requests comments on an implementation schedule for the amendments.

In September 1991, the Board requested comments on draft amendments to rules G-12(f) and G-15(d) on automated clearance and settlement of inter-dealer and DVP/RVP customer transactions. These amendments would eliminate the exemptions that currently allow certain transactions to be processed outside the automated clearance and settlement systems. At its February 1992 meeting, the Board determined to adopt the amendments with one modification, as described below.

Almost all of the comments received on the draft amendments were positive. The Board believes, however, that the steps necessary for the municipal securities industry to implement the amendments could be difficult and will require substantial efforts by dealers, institutional customers, clearing agents, service bureaus, and registered clearing agencies. Therefore, the Board believes that an extended implementation plan is warranted which would phase in the effectiveness of the amendments over an 18-month period. The Board is seeking industry comment on this plan prior to filing the amendments with the SEC. Written comments will be accepted until June 1, 1992.

Introduction and Summary of Amendments

Since the adoption of rules G-12(f) and G-15(d) on automated clearance and settlement of municipal securities transactions in 1983, the Board has monitored the industry's automated systems.[1] Although the Board in 1983 provided certain exemptions from the general requirement to use automated systems, it has maintained that, for the market to obtain the full cost savings and efficiencies offered by such systems, it will be necessary to include essentially all inter-dealer and DVP/RVP (*i.e.*, institutional) customer transactions within the automated clearance and settlement systems. Furthermore, the ongoing planning for implementation of the Group of Thirty (G30) goals in the United States has focused much attention on the lack of parity between the corporate and municipal securities markets regarding automated clearance and settlement, and has engendered general agreement that inter-dealer and institutional customer transactions should be cleared and settled through the automated systems.

As noted above, in September 1991, the Board published a request for comments on draft amendments to rules G-12(f) and G-15(d) that would eliminate the exemptions in those rules that currently allow certain transactions to be processed outside the automated clearance and settlement systems.[2] In general, the amendments would have the following effects:

- All dealers in municipal securities would have to have access to the automated comparison services offered by a clearing corporation.
- All inter-dealer transactions would have to be compared through an automated comparison system unless the transaction is ineligible for automated comparison.
- All dealers would have to have access to the services of a securities depository which offers automated confirmation/affirmation and book-entry delivery services for municipal securities transactions. (Access to a

Comments on the draft amendments should be submitted no later than June 1, 1992, and may be directed to Harold L. Johnson, Deputy General Counsel or Jill C. Finder, Assistant General Counsel. Written comments will be available for public inspection.

[1] *See* "Automated Clearance and Settlement in the Municipal Securities Market: A Report to the Securities and Exchange Commission" (MSRB 1988).
[2] Descriptions of the automated clearance and settlement systems, rules G-12(f) and G-15(d), and the background of the draft amendments were published along with the exposure draft in the September 1991 issue of *MSRB Reports* (Vol. 11, No. 3, at pp. 3-9).

depository can either be by direct membership in the depository or through a clearing agent that is a member.)

- All inter-dealer transactions in depository-eligible securities would have to be settled by book-entry delivery.
- All dealers would have to ensure that each of their customers receiving DVP/RVP privileges has access to a securities depository offering confirmation/affirmation and book-entry settlement services in municipal securities.
- All DVP/RVP transactions with customers would have to be confirmed and affirmed in an automated confirmation/affirmation system operated by a depository unless the transaction is ineligible for confirmation/affirmation.
- All DVP/RVP customer transactions in depository-eligible securities would have to be settled by book-entry delivery.
- Confirmation and settlement obligations concerning retail customer transactions, which do not take place on a DVP/RVP basis, would not be affected by the amendments.

Summary of Comments and Discussion

The Board received sixteen comment letters in response to the draft amendments. Twelve commentators supported the amendments, two were opposed, and two commentators addressed a possible modification without specifically supporting or opposing the draft amendments. The twelve commentators supporting the draft amendments include four industry operations groups, one trade organization representing New York clearing house banks, six dealers, and one bank that acts as clearing agent for institutional customers. The two commentators opposing the draft amendments are securities firms, and the two commentators that did not express an opinion also are securities firms.

The Amendments Would Increase Efficiencies and Reduce Costs

The majority of commentators believe that bringing substantially all inter-dealer and institutional customer transactions into the automated clearance and settlement systems would result in operational efficiencies and provide cost savings to the industry. They state that the automated systems provide for more timely and less expensive clearance and settlement than the physical techniques of mailing paper confirmations and making physical deliveries of securities. These commentators note that the amendments would eliminate the problems associated with physical deliveries, including settlement delays, operational costs, and general inefficiencies. The industry operations associations indicated in their comment letters that the industry generally is willing to make the commitments necessary to implement the amendments. The two commentators opposed to the amendments believe that requiring all eligible transactions to be cleared and settled in automated systems could increase the costs and delays experienced when a dealer must withdraw securities from a depository to make physical deliveries to retail customers. One of these commentators notes that some institutional customers apparently continue to prefer physical delivery of securities. Based on the majority of comments received, however, and the Board's ongoing monitoring of automated clearance and settlement in the industry, the Board believes that adopting the amendments and completing the transition to automated clearance and settlement will increase efficiencies and reduce costs in the industry.

An Exception Will be Provided for Certain Purchases Made by Trustees or Issuers to Retire Securities

A number of commentators addressed a possible problem that may arise under the amendments when a trustee makes purchases to retire securities under a sinking fund provision. In these cases, the trustee needs to obtain physical delivery of securities to record the certificate numbers of securities purchased prior to calling any additional bonds that may be necessary to satisfy the sinking fund provision. Thus, these commentators believe that the amendments should provide an exception for such transactions. The Board agrees that an accommodation should be made in such situations, and has therefore modified the amendments to provide an exception for purchases made by trustees or issuers to retire securities.

In addition, one commentator believes that exceptions should be made in certain other cases, such as when a certificate with a missing coupon is traded, or when securities must be traded on the basis of certificate numbers, as in the case of certain callable or pre-refunded securities. The Board understands that certificates with missing coupons generally are not depository eligible. In addition, the Board believes that securities which do not have CUSIP numbers appropriately assigned to reflect required trading distinctions generally are not depository eligible. Accordingly, transactions in such certificates would not be subject to the book-entry delivery requirements of the amendments. For example, securities that are callable in order of certificate number or which are advance refunded by certificate number generally are depository eligible only if CUSIP numbers have been assigned to reflect these distinctions. One commentator suggests that industry efforts should be undertaken to ensure that new CUSIP numbers are assigned whenever such numbers are needed to establish depository eligibility. In this regard, the Board notes that since 1985, rule G-34 has required the underwriter of an advance refunding issue to obtain new CUSIP numbers for the refunded issue when this is necessary to reflect differences within the refunded issue created by the advance refunding. Thus, the Board believes that issues refunded after 1985 generally are depository eligible.

The Amendments Will Not Require that Underwriters Make All New Issues Depository Eligible at Initial Issuance

Six commentators support the general concept of making all new issues depository eligible at initial issuance. However, a number of commentators are concerned about the cost associated with making small issues depository eligible at issuance and making the initial distribution of the issue by book-entry delivery. The Board believes that, at this time, such economic considerations militate against its adoption of a requirement to make all new municipal securities issues depository eligible at initial issuance.

Access and Use of Book-Entry Delivery Services

Two commentators note that all of their customers receiving DVP/RVP privileges now have access to a depository and, therefore, the amendments would not impose any additional requirements in this respect. Two other commentators note that most of their institutional customers have access to depository services, and that access could be easily obtained by other institutional customers that do not currently have such access. One commentator states that some institutional customers prefer to take physical delivery.

Based on discussions with brokers and dealers, the Board believes that physical deliveries of depository-eligible securities account for a very small number of settlements in the inter-dealer market. With respect to DVP/RVP customer transactions, however, the comment letters indicate that there are some customers that currently do not use, and may not have access to, book-entry delivery services. In such cases, securities are being delivered by messenger or are drafted against payment. The amendments would, in effect, require that these institutional customers join a depository directly or make appropriate arrangements with a clearing agent who would provide depository access to the customer. If these customers still wished to obtain physical securities, they could do so by withdrawing the securities from the depository, either directly or through a clearing agent.

Institutional Customer Transactions that are Not Confirmed/Affirmed in an Automated System May Present an Obstacle to Successful Implementation of the Amendments

One commentator that acts as clearing agent and custodian for institutional customers believes that increased use of the automated confirmation/affirmation systems would help eliminate the settlement delays that sometimes occur in institutional customer transactions. However, another commentator states that some institutional customers do not participate in an automated confirmation/affirmation system, and that these customers may have little incentive to use such a system since their transactions normally settle on time.

The Board is aware that some institutional customers currently settle transactions by book-entry, but do not participate in an automated confirmation/affirmation system.[3] The Board notes that rule G-15(d) currently requires a dealer to use an automated confirmation/affirmation system whenever a depository is used to settle a transaction.

Conclusion

Based on the comments received and the Board's ongoing monitoring of automated clearance and settlement, the Board believes that the industry should continue its transition towards an automated environment for the clearance and settlement of municipal securities transactions. Therefore, the Board has determined to adopt the draft amendments, with one modification: the amendments will exempt purchases made by trustees or issuers to retire securities.

The Board believes that substantially all dealers now have access to, and are capable of using, automated systems either directly or through clearing agents. The Board understands, however, that the participation in automated systems by institutional customers is less complete although most institutional customers currently have access to book-entry delivery services. The Board also is aware that registered clearing agencies are reviewing potential revisions in the operations of the automated comparison and confirmation/affirmation systems. Therefore, the Board believes that it would be appropriate to phase in the amendments over an 18-month period, allowing the industry first to focus on settlement of inter-dealer transactions, and then to turn its attention to areas that may require more intensive implementation efforts.

Request for Comments

The Board is proposing the following implementation schedule for the amendments:

January 1, 1993:	Inter-dealer transactions in depository-eligible securities must be settled by book-entry delivery.
July 1, 1993:	DVP/RVP customer transactions in depository-eligible securities must be settled by book-entry delivery, with the exception of purchases by issuers or trustees to retire securities; and Inter-dealer transactions eligible for automated comparison must be compared in the automated system.
July 1, 1994:	DVP/RVP customer transactions eligible for automated confirmation/affirmation must be confirmed/affirmed in an automated system.

The Board requests comment on the timeframe outlined in the implementation plan and whether additional factors should be considered in the implementation schedule.

April 7, 1992

Text of Draft Amendments*

Rule G-12. Uniform Practice

(a) through (e) no changes.

(f) *Use of Automated Comparison, Clearance, and Settlement Systems.*

~~(i) Notwithstanding the provisions of sections (c) and (d) of this rule, with respect to a transaction in municipal securities which are eligible for comparison through the facilities~~

[3] The Board has discussed with the Depository Trust Company (DTC) the apparently substantial number of book-entry deliveries occurring at DTC that cannot be matched with any automated confirmation or inter-dealer comparison, or otherwise accounted for as a customer account transfer, reclamation, etc. The Board believes that most of these deliveries represent institutional customer transactions that were not processed in an automated confirmation/affirmation system, but that nevertheless settled by book-entry.

* Underlining indicates new language; strikethrough indicates deletions.

~~of a clearing agency registered with the Securities and Exchange Commission, if both parties to such transaction are members in one or more of such clearing agencies (and such clearing agencies are interfaced or linked for comparison purposes), each party to the transaction shall submit to its clearing agency information concerning the transaction, as required by the clearing agency's rules, for purposes of automated trade comparison. In the event that a transaction submitted to a registered clearing agency for comparison in accordance with the requirements of this paragraph (i) shall fail to compare, the party submitting such transaction shall use the post-original-comparison procedures provided by the registered clearing agency in connection with such transaction until such time as the transaction is compared or final notification of a failure to compare the transaction is received from the contra-party.~~

(i) Notwithstanding the provisions of sections (c) and (d) of this rule, a transaction eligible for automated trade comparison through the facilities of a clearing agency registered with the Securities and Exchange Commission (registered clearing agency) shall be compared through a registered clearing agency. Each party to such a transaction shall submit or cause to be submitted to a registered clearing agency all information and instructions required from the party by the registered clearing agency for automated comparison of the transaction to occur. In the event that a transaction submitted to a registered clearing agency for comparison in accordance with the requirements of this paragraph (i) shall fail to compare, the party submitting such transaction shall use the post-original-comparison procedures provided by the registered clearing agency in connection with such transaction until such time as the transaction is compared or final notification of a failure to compare the transaction is received from the contra-party.

~~(ii) Notwithstanding the provisions of section (e) of this rule, if a transaction submitted to one or more registered clearing agencies for comparison in accordance with paragraph (i) above has been compared successfully, and if such transaction involves municipal securities which are eligible for deposit at one or more securities depositories registered with the Securities and Exchange Commission in which both parties to the transaction are members, the parties to such transaction shall settle the transaction by book-entry through the facilities of the depository or through the interface or link, if any, between the depositories.~~

(ii) Notwithstanding the provisions of section (e) of this rule, a transaction eligible for book-entry settlement at a securities depository registered with the Securities and Exchange Commission (depository) shall be settled by book-entry through the facilities of a depository or through the interface between two depositories. Each party to such a transaction shall submit or cause to be submitted to a depository all information and instructions required from the party by the depository for book-entry settlement of the transaction to occur; *provided that*, if a party to a transaction has made arrangements, through its clearing agent or otherwise, to use one or more depositories exclusively, a transaction by that party shall not be subject to the requirements of this paragraph (ii) if the transaction is ineligible for settlement at all such depositories with which such arrangements have been made.

~~(iii) For purposes of this section (f) a municipal securities broker or municipal securities dealer who clears a transaction through an agent who is a member of a registered clearing agency or a registered securities depository shall be deemed to be a member of such registered clearing agency or registered securities depository with respect to such transaction.~~

(g) through (l) no changes.

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

(a) through (c) no changes.

(d) *Delivery/Receipt vs. Payment Transactions.*

(i) no change.

~~(ii) No broker, dealer or municipal securities dealer who is, or whose clearing agent with respect to such transaction is, a participant in a clearing agency registered with the Securities and Exchange Commission shall effect a transaction in any municipal security to which a CUSIP number has been assigned on a delivery vs. payment or receipt vs. payment basis for the account of a customer who is, or whose agent with respect to such transaction is, a participant in such clearing agency (or in a clearing agency interfaced or otherwise linked with such clearing agency) unless the facilities of such clearing agency (or the facilities of a clearing agency interfaced or otherwise linked with such clearing agency, as necessary) are used for the confirmation and acknowledgment of such transaction.~~

(ii) Except as provided in this paragraph, no broker, dealer or municipal securities dealer shall effect a customer transaction for settlement on a delivery vs. payment or receipt vs. payment (DVP/RVP) basis unless the facilities of a clearing agency registered with the Securities and Exchange Commission (registered clearing agency) are used for automated confirmation and affirmation of the transaction. Each broker, dealer and municipal securities dealer executing a customer transaction on a DVP/RVP basis shall: (A) ensure that the customer has the capability, either directly or through its clearing agent, to affirm transactions in an automated confirmation/affirmation system operated by a registered clearing agency; and (B) submit or cause to be submitted to a registered clearing agency all information and instructions required by the registered clearing agency for the production of a confirmation that can be affirmed by the customer or the customers clearing agent; *provided that* a transaction that is not eligible for automated confirmation and affirmation through the facilities of a registered clearing agency shall not be subject to this paragraph (ii).

~~(iii) No broker, dealer or municipal securities dealer who is, or whose clearing agent with respect to such transaction is, a participant in a clearing agency registered with the Securities and Exchange Commission shall effect a transaction in any municipal security which is eligible for book-entry settlement through the facilities of such clearing agency on~~

~~a delivery vs. payment or receipt vs. payment basis for the account of a customer who is, or whose agent with respect to such transaction is, a participant in such clearing agency (or in a clearing agency interfaced or otherwise linked with such clearing agency) unless the facilities of such clearing agency (or the facilities of a clearing agency interfaced or otherwise linked with such clearing agency, as necessary) are used for the book-entry settlement of such transaction.~~ (iii) Notwithstanding the provisions of section (c) of this rule, no broker, dealer or municipal securities dealer shall effect a delivery vs. payment or receipt vs. payment (DVP/RVP) customer transaction that is eligible for book-entry settlement in a depository registered with the Securities and Exchange Commission (depository) unless the transaction is settled through the facilities of a depository or through the interface between two depositories. Each broker, dealer and municipal securities dealer settling such a customer transaction on a DVP/RVP basis shall: (A) ensure that the customer has the capability, either directly or through its clearing agent, to settle transactions in a depository; and (B) submit or cause to be submitted to a depository all information and instructions required from the broker, dealer or municipal securities dealer by the depository for book-entry settlement of the transaction to occur; *provided that*, if a party to a DVP/RVP customer transaction has made arrangements, through its clearing agent or otherwise, to use one or more depositories exclusively, a transaction by that party shall not be subject to the requirements of this paragraph (iii) if the transaction is ineligible for settlement at all such depositories with which such arrangements have been made; and further provided that purchases made by trustees or issuers to retire securities shall not be subject to this paragraph (iii).

(e) no change.

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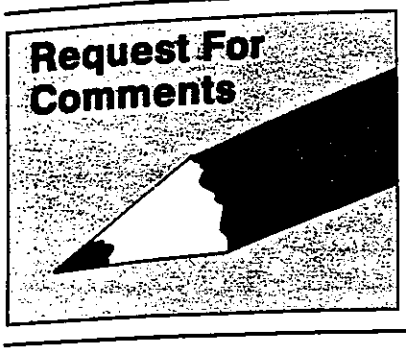

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- ☐ Other

Open Inter-Dealer Transactions: Rule G-12

Comments Requested

The Board requests comments on whether substantial numbers of open inter-dealer transactions exist and, if so, suggestions as to possible actions the Board might take to address this problem, including whether the Board should (i) amend its 90-day rule; (ii) adopt a provision for the mandatory acceptance of partial deliveries of securities; (iii) adopt a provision giving selling dealers the right to close out transactions; and (iv) require dealers to notify their customers when securities have not been reduced to possession or control.

Over the years, dealers have alerted the Board to possible problems associated with closing-out open inter-dealer transactions. The Board is reviewing the application of its close-out rules, and is seeking industry comment on whether open inter-dealer transactions are a widespread problem, and whether there are remedial measures the Board can take to facilitate timely resolution of these transactions.

The Board is concerned that some open transactions are not being resolved as quickly as would be desirable. Recent figures provided to the Board by the National Securities Clearing Corporation (NSCC) as part of its RECAPS program[1] indicate that some firms have a significant number of open transactions that are over 90-days old. NSCC's figures, however, indicate to the Board that this problem may be concentrated among a few firms.

Board Rules Governing Close-Outs

Rule G-12(h) provides a procedure to be used by dealers in closing out open inter-dealer transactions. The rule allows the purchasing dealer to issue a notice of close-out to the selling dealer on any business day from five to 90 business days after the scheduled settlement date.[2] If the selling dealer does not deliver the securities owed on the transaction within 10 business days after receipt of the close-out notice (15 business days for retransmitted notices), then the purchasing dealer may execute a close-out procedure using one of three options: (i) buy identical securities in the market for the account and liability of the seller (a "buy-in"); (ii) agree with the selling dealer to accept substitute securities (a "substitution"); or (iii) require the selling dealer to repurchase the securities (a "mandatory repurchase"). The selling dealer, which is failing to deliver, bears the risk of any increase in the market value of the securities.[3]

The purchasing dealer is not required to initiate a close-out, or to execute a close-out notice that it has initiated. And the selling dealer does not have a right to force a close-out of the transaction. If the purchasing dealer chooses not to initiate a close-out within 90 business days of the settlement date (and ultimately execute it), then that dealer loses its right to use the Board's close-out rules, and the transaction remains open until it is resolved by agreement of the parties or through arbitration. During this period, the selling dealer again is subject to market risk for any increase in the price of the securities, and may be subject to adverse net capital treatment on the open transaction.[4]

The Board provided the close-out options of substitution and mandatory repurchase because municipal securities issues often are not available for a buy-in within a reasonable period of time. In addition, the Board adopted the 90-day time limit for

Comments on the matters discussed in this notice should be submitted no later than June 1, 1992, and may be directed to Jill C. Finder, Assistant General Counsel. Written comments will be available for public inspection.

[1] In NSCC's RECAPS program, dealers acknowledge or "reconfirm" their open transactions through NSCC on a quarterly basis, mark the transactions to the mark, and receive new settlement dates for purposes of the SEC's net capital rules. This reduces the dealer's net capital deductions for "aged" failed transactions, but does not resolve the open transaction. The dealer must continue to keep the transaction open and use the original contract settlement date for purposes of the 90-day limit on close-outs. Repeat RECAPS provides statistics on previously submitted fails for municipal securities, and in June 1991, this figure was 33.7%, with a par value of $12.5 million.

[2] The purchasing dealer also may initiate a close-out within 15 business days after a reclamation made under rule G-12(g)(iii)(C) or G-12(g)(iii)(D), even though more than 90 business days have elapsed since the original settlement date.

[3] For example, if the purchasing dealer executes a buy-in or a mandatory repurchase in a rising market, the selling dealer is liable for the increase in the market value of the securities. The selling dealer must pay any monies owed on a close-out within 10 business days of execution of the close-out.

[4] Securities firms (but not banks) are subject to capital charges for municipal securities fail-to-deliver items over 20 business days old.

close-outs to encourage dealers to resolve open transactions within this time frame. Both the Board and the SEC have been concerned about the prompt resolution of open transactions because of the risks associated with long-term failed transactions. The SEC has, in the past, expressed concern over the amount of time Board rules allow for closing out open transactions, and has urged the Board to shorten such periods to facilitate prompt resolution of open transactions.

The 90-Day Limit on Initiating Close-Outs

Over the years, several industry commentators have urged the Board to consider lengthening or eliminating the 90-day rule. These commentators noted that securities may become available in the market after expiration of the 90-day period, but that the Board's close-out procedures currently are not available to the purchasing dealer after that period.[5]

The Board understands that specific issues of municipal securities are not always available in the market and, therefore, a buy-in may not be immediately possible. In some situations, the securities are unlikely to ever appear in the market. In such a case, the purchasing dealer may always execute a mandatory repurchase within the 90-day period to resolve the inter-dealer transaction. However, a purchasing dealer may have an offsetting transaction with a customer, and while a mandatory repurchase would eliminate the fail-to-receive from the purchasing dealer's books, it would not resolve the dealers obligations to the customer.

Some dealers may be reluctant to approach their customers and inform them that securities purchased by the customer cannot be obtained. Nevertheless, the Board believes that it is critical for dealers in these cases to contact their customers and attempt to resolve the problem with a proposed substitution or repurchase by the dealer. It is not appropriate for a purchasing dealer, under the guise of waiting for a buy-in opportunity to appear, simply to allow a transaction to remain open indefinitely or until maturity of the security.

In 1986, the Board requested comments on its close-out rules, including whether it should change or eliminate the 90-day rule. Based on the comments received, the Board determined that no rulemaking was necessary. Recently, however, the Board again has received comments from industry participants suggesting that the 90-day rule may not be totally effective as an incentive to resolving open transactions. However, because of the need to resolve open transactions quickly, the Board does not believe that it would be appropriate to eliminate the 90-day rule without providing some other incentive for dealers to resolve open transactions quickly, especially in those cases in which a buy-in is not feasible because the securities are not available in the market.

Partial Deliveries

One industry commentator, the Regional Municipal Operations Association (RMOA), has suggested that the total number of failed transactions might be reduced if a dealer that initiates a close-out is required to accept a partial delivery.[6] The RMOA believes that partial deliveries would help dealers fulfill certain obligations, such as reducing fully-paid customer securities to possession or control, pursuant to SEC Rule 15c3-3(d).[7] The RMOA also believes that mandatory acceptance of partial deliveries would not disadvantage any dealer since only a dealer choosing to initiate a close-out would bear the risk of being unable to redeliver the securities if that dealer had an offsetting transaction with a customer.

Request for Comments

The Board requests comment on whether its close-out rules should provide for the mandatory acceptance of partial deliveries of securities for dealers that initiate close-outs.

The Board also specifically requests comment on the following:

- The nature and extent of problems associated with open inter-dealer transactions, including those that remain open for over 90 business days.
- Whether the 90-day rule should be eliminated, shortened, or lengthened.
- The methods currently used by selling dealers to resolve open transactions, and whether these methods generally are successful.
- Whether Board rules should allow the selling dealer to force a close-out of the transaction, for example, through a repurchase by the seller for a short period of time following expiration of the 90-day period.
- Whether, as a means of encouraging dealers to resolve open transactions with customers quickly, dealers should be required to give a notice to their customers if securities have not been reduced to possession or control after a certain number of days.

The Board will continue to review open transactions in municipal securities, and will carefully review all comment letters received as part of this ongoing process. If the Board determines that action is warranted in this area, it will consider rulemaking and also may initiate discussions with the SEC to examine whether current SEC customer protection and net capital rules adequately address open transactions in municipal securities.

April 7, 1992

[5] The purchasing dealer may, of course, buy the securities without availing itself of the Board's close-out procedures. If this results in a loss, then the purchasing dealer can seek compensation from the selling dealer, and if unsuccessful, initiate an arbitration.

[6] Currently, under rule G-12(e), a purchasing dealer is not required to accept a partial delivery. In 1983, the Board requested comments on a proposed amendment that would have provided for the mandatory acceptance of partial deliveries by dealers. A substantial majority of commentators opposed this provision largely because of concern that it would create financing costs for dealers who would be forced to accept partial deliveries, but who would be unable to make their customers accept partial deliveries.

[7] SEC Rule 15c3-3(d) requires that if a broker or dealer has fully-paid securities on its books or records which are listed as failed to receive for more than 30 calendar days, then the broker or dealer must take prompt steps to obtain possession or control of such securities.

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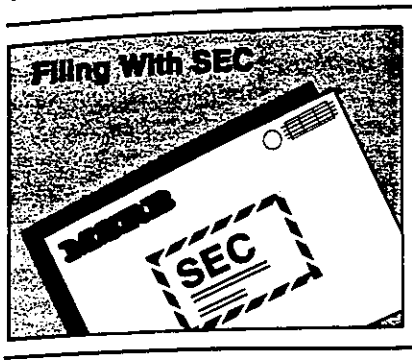

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Professional Qualifications: Rule G-3

Amendments Filed

The amendments revise the organization of the rule and delete the references to the "grandfathering" provisions.

On March 3, 1992, the Board filed with the Securities and Exchange Commission amendments to rule G-3, on professional qualifications, which revise the organization of the rule to clarify its requirements and delete the reference to the "grandfathering" provisions.[1] The Board has asked that the Commission delay the effectiveness of the amendments for 90 days after Commission approval.

Background

Board rules set minimum qualification standards for dealers and their associated persons. Under rule G-2, on standards of professional qualifications, every dealer must meet professional qualification standards before effecting any transaction in municipal securities. Rule G-2 also is applicable to every associated person of the dealer who will engage in municipal securities activities. The application of the professional qualification standards is delineated in rule G-3. Specifically, rule G-3

- prescribes qualification examinations or, in special circumstances, provides for waiver of an examination;
- requires a dealer to have a certain number of municipal securities principals and financial and operations principals to ensure that its activities in municipal securities are being adequately supervised; and
- requires that a candidate entering the municipal securities industry for the first time as a representative serve an apprenticeship of at least 90 days.

Reorganization of Rule G-3

The Board has defined four categories of associated persons: municipal securities representative, municipal securities principal, municipal securities sales principal and financial and operations principal. Each of these categories has its own set of standards and qualification requirements to maintain those standards. Rule G-3 requires that municipal securities professionals take and pass examinations prior to being qualified to engage in municipal securities representative activities or to supervise municipal securities activities as principals.

Rule G-3 currently is arranged by the definitions of the four categories of associated persons; numerical requirements for municipal securities principals and financial and operations principals; the qualification requirements of the four categories of associated persons; provisions concerning the confidentiality of the qualification requirements; provisions concerning the retaking of qualification examinations; and provisions concerning employment (relating to the apprenticeship of municipal securities representatives).

The proposed rule change revises the organization of the rule into the following headings:

(a) Municipal Securities Representative
  (i) Definition
  (ii) Qualification Requirements
  (iii) Apprenticeship
(b) Municipal Securities Principal
  (i) Definition
  (ii) Qualification Requirements
  (iii) Numerical Requirements
(c) Municipal Securities Sales Principal
  (i) Definition
  (ii) Qualification Requirements
(d) Financial and Operations Principal
  (i) Definition
  (ii) Qualification Requirements
  (iii) Numerical Requirements
(e) Confidentiality of Qualification Examinations
(f) Retaking of Qualification Examinations
(g) Waiver of Qualification Requirements

The reorganization of rule G-3 seeks to make the presentation of the rule's requirements more understandable. The definitions, qualification requirements, and numerical and apprenticeship requirements, if applicable, have been brought under the major headings of each category of associated person. In reorganizing the rule's presentation, no additional qualification

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

[1] SEC File No. SR-MSRB-92-2. Comments filed with the Commission should refer to the file number.

requirements have been placed in the rule.

Other than the revisions discussed below, no substantive changes were made to the definitions, qualification requirements or numerical requirements. The section on qualification requirements for municipal securities sales principals was revised to reflect that the General Securities Sales Supervisor Qualification Examination is the appropriate examination designated by the Board for qualification in this associated person category.

Numerical Requirements

Rule G-3(b) currently contains the numerical requirements for municipal securities principals and financial and operations principals. The numerical requirements for municipal securities principals have been placed in revised section (b) with the definition and qualification requirements of municipal securities principals. The minimum number of municipal securities principals required to be associated with a dealer engaging in a municipal securities business are:

- An NASD-member firm which conducts a general securities business is required to have at least one municipal securities principal;
- A dealer which has fewer than eleven associated persons employed in any capacity on a full-time basis must also have at least one municipal securities principal; and
- All other dealers must have at least two municipal securities principals.

The numerical requirement for financial and operations principals has been placed in revised section (d) with the definition and qualification requirements of financial and operations principals. Every dealer, except for bank dealers and "introducing brokers", is required to have at least one associated person, its chief financial officer, qualified as a financial and operations principal. The individual with the policy-making authority for the processing and clearance of municipal securities for a bank dealer is required to qualify as a municipal securities principal. The numerical requirement for financial and operations principals also does not apply to dealers which function solely as "introducing brokers."

No substantive changes were made to the provisions on numerical requirements.

Apprenticeship

Rule G-3(i), on employment, currently contains a description of the 90-day apprenticeship period. An individual who first becomes associated with a dealer in a representative capacity (whether as a municipal securities representative or general securities representative) and who has not previously qualified as a municipal securities representative or general securities representative must complete a period of apprenticeship. In revised rule G-3, the requirements of this section have been placed in section (a) along with the definition and qualification requirements of municipal securities representatives. In addition, language has been added to the rule to clarify that prior experience, of at least 90 days, as a general securities representative, mutual fund salesperson or government securities representative would fulfill the apprenticeship requirement. After the apprenticeship requirement has been fulfilled once, it need not be served again in a qualification renewal.

Confidentiality of Qualification Examinations and Retaking of Qualification Examinations

Revised sections (e), on confidentiality of the qualification examinations, and (f), on retaking of qualification examinations, have not been substantively revised. Section (e) sets forth strict prohibitions of activities that would compromise the confidential nature of a Board examination or its purpose as a test of an individual's professional qualifications. Section (f) imposes specified time periods before an individual may retake a failed examination. There is no provision in the rule which allows these time period restrictions to be waived under any circumstances.

A qualification examination taken in contravention of revised section (f) not only violates this provision of the rule, but also is invalid for purposes of meeting the examination requirements of the rule. Thus, an individual who sits for an examination within 30 days of a failed first or second examination attempt (or within six months of the third and all subsequent failures) does not become qualified by means of that reexamination, regardless of the test score achieved. In addition, an individual may not take the Municipal Securities Principal Qualification Examination (Test Series 53) without meeting certain prerequisites of the rule.[2] The Series 53 examination taken in violation of the prerequisite requirements is null and void and consequently does not meet the qualification requirement for a municipal securities principal.

At this time, the Board also would like to remind dealers that only associated persons of dealers are allowed to take the qualification examinations prescribed by the Board.

Waiver of Qualification Requirements

A new section (g), on waiver of qualification requirements, has been added to the rule. This section contains the same provisions as the current rule G-3; revised section (g) simply presents under one heading the waiver provisions applicable to the four associated person qualification examinations and the apprenticeship period for municipal securities representatives as currently contained in various sections throughout the rule.

The waiver exemption is granted only in extraordinary circumstances–it is not a means to circumvent the intent and spirit of the examination or the apprenticeship requirement. For the most part, the Board expects that a candidate demonstrate competence by examination. The decision to grant a waiver request is made by the appropriate regulatory body which has jurisdiction over the dealer–either the NASD or the three federal bank regulatory agencies. Waiver requests are made directly to the organization which regulates the applicant's dealer.

[2] An individual must be qualified as a municipal securities representative or a general securities representative or have at least passed the qualification examinations for either of these two categories before becoming qualified as a municipal securities principal. The same prerequisite requirements hold true for anyone seeking qualification as a municipal securities sales principal.

Deletion of "Grandfathering" Provisions

Individuals seeking to qualify at this time in any of the four categories of associated persons are required to take qualification examinations or obtain a waiver from the qualification requirements. For a period of time following the development of the qualification rules and their implementation, certain industry professionals became qualified as municipal securities representatives or municipal securities principals based on designated qualification credentials in a specified area at a specified time. Qualification through this means is known as "grandfathering."

An individual may have qualified as a municipal securities representative by "grandfathering" if one or more of the following criteria had been met:

- The individual was functioning as a municipal securities representative on December 1, 1975, and continuously functioned in this capacity through July 14, 1978;
- The individual was qualified as a general securities representative or a general securities principal by the NASD on July 14, 1978;
- The individual was qualified in a general securities supervisory capacity (branch manager or allied member) with a national securities exchange on July 14, 1978;
- The individual was associated with a SECO firm as a qualified general securities representative or principal on July 14, 1978; or
- The individual began functioning as a municipal securities representative after December 1, 1975; was qualified at that time as a general securities representative or principal or in a general securities supervisory capacity (each as above); and continuously functioned as a municipal securities representative from that time until July 14, 1978.

An individual may have qualified as a municipal securities principal by "grandfathering" if one or more of the following criteria had been met:

- The individual was functioning as a municipal securities principal on December 1, 1975, and continuously functioned in this capacity through November 28, 1979;
- The individual was qualified as a general securities principal with the NASD on November 28, 1979;
- The individual was qualified in a general securities supervisory capacity (branch manager or allied member) with a national securities exchange on November 28, 1979;
- The individual was associated with a SECO firm and was qualified as a general securities principal with the SEC on November 28, 1979; or
- The individual began functioning as a municipal securities principal after December 1, 1975; was qualified at the time as a general securities principal or in a general securities supervisory capacity; and continuously functioned as a municipal securities principal from that time until November 28, 1979.

The amendments clarify and simplify the qualification requirements of rule G-3 by removing the references to the "grandfathering" provisions. The "grandfathering" provisions are no longer relevant to anyone seeking to qualify as a municipal securities principal or municipal securities representative at this time. The amendment to delete from the rule language the cut-off dates applicable to the "grandfathering" provisions does not affect the qualification status of those individuals who have qualified as municipal securities principals or municipal securities representatives through "grandfathering."

Qualification through "grandfathering" does not mean that an individual is always qualified in a particular category. A municipal securities representative ceasing to be an associated person with a dealer for two years or more loses his or her qualification status as a municipal securities representative. A municipal securities principal ceasing to supervise in his or her area of responsibility for two years or more loses qualification status as a municipal securities principal. In 1985, the Board clarified that the definition of a municipal securities principal relates only to an associated person of a dealer that is in compliance with rule A-12.[3] Therefore, rule G-3 requires that a person be associated with a dealer in compliance with rule A-12 in order to be considered as acting as a municipal securities principal. After two years of association with a dealer not in compliance with rule A-12, an individual would no longer be qualified as a municipal securities principal.

Individuals are urged to ensure that their qualification registrations are accurately reflected in their registration records with the regulatory agencies. The Board has requested that the Commission delay the effective date of the amendments for a period of 90 days after Commission approval. This will allow adequate time for individuals to verify their qualification registrations with the appropriate regulatory agencies to ensure that their noted registrations are accurate, particularly those individuals who have been acting as municipal securities principals or municipal securities representatives with the belief that their records indicate they were "grandfathered" as such.

March 3, 1992

Text of Amendments*

Rule G-3. Classification of Principals and Representatives; Numerical Requirements; Testing

No ~~municipal securities~~ broker, dealer or municipal securities dealer or person who is a municipal securities representative, municipal securities principal, ~~financial and operations principal, municipal securities representative, or~~ municipal securities sales principal or financial and operations principal (as hereafter defined) shall be qualified for purposes of rule G-2 unless such ~~municipal securities~~ broker, dealer or municipal securities dealer or person meets the requirements of this rule.

~~(a) through (i)~~

(a) *Municipal Securities Representative.*

(i) Definition. The term "municipal securities representative" means a natural person associated with a broker, dealer or

[3] Rule A-12 requires a dealer to submit certain identifying information to the Board along with payment of a $100 initial fee prior to effecting any transactions in municipal securities.

* Underlining indicates new language; strikethrough indicates deletions.

municipal securities dealer, other than a person whose functions are solely clerical or ministerial, whose activities include one or more of the following:

(A) underwriting, trading or sales of municipal securities;

(B) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;

(C) research or investment advice with respect to municipal securities; or

(D) any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

provided, however, that the activities enumerated in subparagraphs (C) and (D) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (A) and (B) above.

(ii) Qualification Requirements.

(A) Except as otherwise provided in this paragraph (a)(ii), every municipal securities representative shall take and pass the Municipal Securities Representative Qualification Examination prior to being qualified as a municipal securities representative. The passing grade shall be determined by the Board.

(B) The requirements of subparagraph (a)(ii)(A) of this rule shall not apply to any person who is duly qualified as a general securities representative by reason of having taken and passed the General Securities Registered Representative Examination.

(C) Any person who ceases to be associated with a broker, dealer or municipal securities dealer (whether as a municipal securities representative or otherwise) for two or more years at any time after having qualified as a municipal securities representative in accordance with subparagraphs (a)(ii)(A) or (B) shall again meet the requirements of subparagraphs (a)(ii)(A) or (B) prior to being qualified as a municipal securities representative.

(iii) Apprenticeship.

(A) Any person who first becomes associated with a broker, dealer or municipal securities dealer in a representative capacity (whether as a municipal securities representative or general securities representative) without having previously qualified as a municipal securities representative or general securities representative shall be permitted to function in a representative capacity without qualifying pursuant to subparagraphs (a)(ii)(A) or (B) for a period of at least 90 days following the date such person becomes associated with a broker, dealer or municipal securities dealer, *provided, however,* that such person shall not transact business with any member of the public with respect to, or be compensated for transactions in, municipal securities during such 90 day period, regardless of such person's having qualified in accordance with the examination requirements of this rule. A person subject to the requirements of this paragraph (a)(iii) shall in no event continue to perform any of the functions of a municipal securities representative after 180 days following the commencement of such persons association with such broker, dealer or municipal securities dealer, unless such person qualifies as a municipal securities representative pursuant to subparagraphs (a)(ii)(A) or (B).

(B) Prior experience, of at least 90 days, as a general securities representative, mutual fund salesperson or government securities representative, will meet the requirements of this paragraph (a)(iii).

(b) *Municipal Securities Principal.*

(i) Definition. The term "municipal securities principal" means a natural person (other than a municipal securities sales principal), associated with a broker, dealer or municipal securities dealer that has filed with the Board in compliance with rule A-12, who is directly engaged in the management, direction or supervision of one or more of the following activities:

(A) underwriting, trading or sales of municipal securities;

(B) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;

(C) processing, clearance, and, in the case of brokers, dealers and municipal securities dealers other than bank dealers, safekeeping of municipal securities;

(D) research or investment advice with respect to municipal securities;

(E) any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

(F) maintenance of records with respect to the activities described in subparagraphs (A) through (E); or

(G) training of municipal securities principals or municipal securities representatives;

provided, however, that the activities enumerated in subparagraphs (D) and (E) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (A) or (B) above.

(ii) Qualification Requirements.

(A) Every municipal securities principal shall take and pass the Municipal Securities Principal Qualification Examination prior to being qualified as a municipal securities principal. The passing grade shall be determined by the Board.

(B) Any person seeking to become qualified as a municipal securities principal in accordance with subparagraph (b)(ii)(A) of this rule, must, prior to being qualified as a municipal securities principal:

(1) have been duly qualified as either a municipal securities representative or a general securities representative; or

(2) have taken and passed either the Municipal Securities Representative Qualification Examination or the General Securities Registered Representative Examination.

broker, dealer or municipal securities dealer meeting the requirements of paragraph (a)(2) or (3) of rule 15c3-1 under the Act or exempted from the requirements of rule 15c3-1 in accordance with paragraph (b)(3) thereof) shall have at least one financial and operations principal, including its chief financial officer, qualified in accordance with paragraph (d)(ii) of this rule.

(e) *Confidentiality of Qualification Examinations.* No associated person of a broker, dealer or municipal securities dealer shall:

(i) in the course of taking a qualification examination required by this rule receive or give assistance of any nature;

(ii) disclose to any person questions, or answers to any questions, on any qualification examination required by this rule;

(iii) engage in any activity inconsistent with the confidential nature of any qualification examination required by this rule, or with its purpose as a test of the qualification of persons taking such examinations; or

(iv) knowingly sign a false certification concerning any such qualification examination.

(f) *Retaking of Qualification Examinations.* Any associated person of a broker, dealer or municipal securities dealer who fails to pass a qualification examination prescribed by the Board shall be permitted to take the examination again after a period of 30 days has elapsed from the date of the prior examination, except that any person who fails to pass an examination three or more times in succession shall be prohibited from again taking the examination until a period of six months has elapsed from the date of such person's last attempt to pass the examination.

(g) *Waiver of Qualification Requirements.*

(i) The requirements of paragraphs (a)(ii), (a)(iii), b(ii) and (c)(ii) may be waived in extraordinary cases for any associated person of a broker, dealer or municipal securities dealer who demonstrates extensive experience in a field closely related to the municipal securities business of such broker, dealer or municipal securities dealer. Such waiver may be granted by

(A) a registered securities association with respect to a person associated with a member of such association, or

(B) the appropriate regulatory agency as defined in section 3(a)(34) of the Act with respect to a person associated with any other broker, dealer or municipal securities dealer.

(ii) The requirements of paragraph (d)(ii) may be waived for any associated person of a broker, dealer or municipal securities dealer in circumstances sufficient to justify the granting of a waiver if such person were seeking to register and qualify with a member of a registered securities association as a financial and operations principal. Such waiver may be granted by a registered securities association with respect to a person associated with a member of such association.

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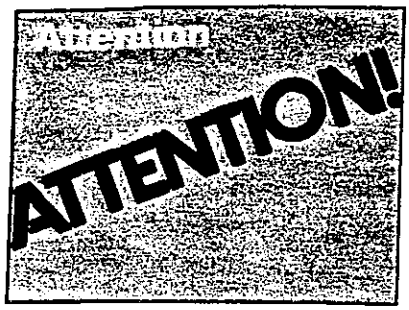

Route to:

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

Syndicate Expenses: Rule G-11

Notice

The Board reminds dealers that syndicate expenses charged to members must be clearly identified and must be the actual expenses incurred on behalf of the syndicate.

Board rule G-11, concerning syndicate practices, among other things, requires syndicates to establish priorities for different categories of orders and requires certain disclosures to syndicate members which are intended to assure that allocations are made in accordance with those priorities. Rule G-11(h)(i) requires that a senior syndicate manager, at or before final settlement of a syndicate account, furnish to syndicate members "an itemized statement setting forth the nature and amount of all actual expenses incurred on behalf of the syndicate." One of the purposes of this section is to render managers accountable for their handling of syndicate funds.

Over the years, the Board, pursuant to rule G-11 and rule G-17, on fair dealing, has urged syndicate managers to provide members with a clear and accurate itemized statement of all actual expenses incurred in the underwriting of each issue. In a 1984 notice, the Board stated that expense items must be sufficiently described to make the expenditures readily understandable by syndicate members, and that generalized categories of expenses are not sufficient if they do not portray the specific nature of the expenses.[1] In 1985, the Board issued a notice specifically warning managers to take care in determining actual syndicate expenses, and noting that managers may violate rule G-17 if the expenses charged to syndicate members bear no relation to, or otherwise overstate, the actual expenses incurred.[2] And in 1987, in response to industry complaints concerning the amount of syndicate expenses charged by managers, the Board issued another notice reiterating that Board rules prohibit managers from overstating actual syndicate expenses.[3]

The Board wishes to reiterate its interpretation of rules G-11 and G-17 that syndicate expenses charged to members must be clearly identified and must be the actual expenses incurred on behalf of the syndicate.[4] The Board continues to be concerned over the number of complaints about syndicate managers who may be charging expenses that are overstated or excessive, particularly with respect to clearance fees for designated sales and computer expenses. Board rules specifically prohibit managers from overstating actual syndicate expenses.

The Board urges syndicate members to report possible overstatements of syndicate expenses and other problems in compliance with rule G-11(h)(i). The Board will continue to monitor this situation, and will refer any complaints it receives in this area to the appropriate enforcement agencies. In addition, the NASD has alerted the Board that it will accept telephone complaints or information from syndicate members who do not wish to reveal their identities.

November 14 , 1991

Questions about this notice may be directed to Jill C. Finder, Assistant General Counsel.

[1] Notice Concerning Disclosure of Syndicate Expenses (January 12, 1984) *MSRB Manual* (CCH) paragraph 3551.
[2] Notice Concerning Syndicate Managers Charging Excessive Fees for Designated Sales (July 29, 1985) *MSRB Manual* (CCH) paragraph 3581.
[3] Notice Concerning Syndicate Expenses that Appear Excessive (March 3, 1987) *MSRB Manual* (CCH) paragraph 3551.
[4] *See MSRB Reports*, Vol. 5, No. 6 (November 1985), and Vol. 5, No. 5 (August 1985).

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Arbitrator Training

The Board wishes to apprise arbitrators of the existence of educational programs offered by other self-regulatory organizations (SROs) and non-SRO forums. The New York Stock Exchange, Inc. (NYSE) has scheduled arbitrator training seminars, using the Securities Arbitrator Training Video produced by the American Arbitration Association (AAA) and the NYSE and a senior member of the NYSE arbitration staff, for the following cities and dates:

New Orleans, LA	May 14, 1992
Cincinnati, OH	May 19, 1992
Cleveland, OH	May 20, 1992
Indianapolis, IN	May 21, 1992
Hartford, CT	June 17, 1992
Rochester, NY	June 18, 1992

For information concerning these and future NYSE training seminars, contact Robert S. Clemente, Director, Arbitration, NYSE, (212) 656-5608.

In addition, the National Association of Securities Dealers, Inc. (NASD) has scheduled the following arbitrator orientation programs for new arbitrators during 1992:

Date	City	Contact
May 4, 1992	New York, NY	Jill Wile, Esq. (212) 858-4400
June 1, 1992	New York, NY	Valerie Bailey, Esq. (212) 858-4400
June 15, 1992	Tampa, FL	Pamela Burdick, Esq. (305) 522-7391
July 6, 1992	New York, NY	Trey Hall (212) 858-4400
August 3, 1992	New York, NY	Monica Shia, Esq. (212) 858-4400
August 3, 1992	Fort Lauderdale, FL	Pamela Burdick, Esq. (305) 522-7391
Sept. 14, 1992	New York, NY	Jill Wile, Esq. (212)858-4400
Oct. 5, 1992	New York, NY	Trey Hall (212) 858-4400
Oct. 5, 1992	Fort Lauderdale, FL	Pamela Burdick, Esq. (305) 522-7391
Nov. 2, 1992	New York, NY	Monica Shia, Esq. (212) 858-4400
Dec. 7, 1992	New York, NY	Shari Sturm, Esq. (212) 858-4400
Dec. 14, 1992	Tampa, FL	Pamela Burdick, Esq. (305) 522-7391

For information about other NASD arbitrator education events, contact the NASD Arbitration Department (212) 858-4400.

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- ☐ Other

Financial Statements—Fiscal Years Ended September 30, 1991 and 1990

Coopers & Lybrand | certified public accountants

Report of Independent Accountants

To the Members of the
Municipal Securities Rulemaking Board, Inc.

We have audited the accompanying balance sheets of the Municipal Securities Rulemaking Board, Inc. as of September 30, 1991 and 1990, and the related statements of revenues and expenses and change in fund balance and cash flows for the years then ended. These financial statements are the responsibility of the Board's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits using generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Municipal Securities Rulemaking Board, Inc. as of September 30, 1991 and 1990, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

Coopers & Lybrand

Washington, D.C.
November 1, 1991

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.
BALANCE SHEETS
September 30, 1991 and 1990

ASSETS

	1991	1990
Cash and cash equivalents (Note 1)	$ 212,618	$ 186,386
Investments (Note 1)	2,827,849	2,838,177
Assessment fees receivable (Note 1)	559,328	288,627
Accrued interest receivable	38,573	55,264
Other assets	20,665	38,986
Office furniture, equipment and leasehold improvements, at cost, less accumulated depreciation and amortization of $399,441 in 1991 and $375,068 in 1990 (Note 1)	268,174	219,290
	$3,927,207	$3,626,730

LIABILITIES AND FUND BALANCE

Accounts payable	$ 188,409	$ 62,006
Accrued salaries and vacation pay	51,392	41,992
Deferred rent credit (Note 2)	96,791	127,794
	336,592	231,792
Commitments (Notes 2 and 5)		
Fund balance	3,590,615	3,394,938
	$3,927,207	$3,626,730

The accompanying notes are an integral part of these financial statements.

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.
STATEMENTS OF CASH FLOWS
for the years ended September 30, 1991 and 1990

	1991	1990
Cash flows from operating activities:		
Excess (deficiency) of revenues over expenses:	$ 195,677	$ (97,504)
Adjustments to reconcile excess (deficiency) of revenues over expenses to net cash used by operating activities:		
Depreciation and amortization	107,694	79,895
Gain on sale of fixed assets	(21,040)	-
Increase in accounts receivable	(270,701)	(156,339)
Decrease in interest receivable	16,691	17,966
(Increase) decrease in other assets	18,321	(21,689)
Increase (decrease) in accounts payable and accrued expenses	135,803	(30,658)
Decrease in deferred credit	(31,003)	(31,000)
Total adjustments	(44,235)	(141,825)
Net cash provided (used) by operating activities	151,442	(239,329)
Cash flows from investing activities:		
Acquisition of office equipment	(137,025)	(184,979)
Proceeds from sale of office equipment	1,487	97
Purchases of U.S. Treasury Notes	(2,240,719)	(944,094)
Maturities of U.S. Treasury Notes	2,250,000	1,450,000
Amortization of investment premium/discount	1,047	(21,483)
Net cash provided (used) by investing activities	(125,210)	299,541
Net increase in cash and cash equivalents	26,232	60,212
Cash and cash equivalents, beginning of year	186,386	126,174
Cash and cash equivalents, end of year	$ 212,618	$ 186,386

The accompanying notes are an integral part of these financial statements.

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.

STATEMENTS OF REVENUES AND EXPENSES AND CHANGE IN FUND BALANCE

for the years ended September 30, 1991 and 1990

	1991	1990
Revenues:		
Assessment fees (Note 1)	$3,350,957	$2,482,909
Annual fees (Note 1)	264,200	277,800
Initial fees (Note 1)	22,600	24,900
Investment income	213,366	267,010
MSIL fees	22,822	-
Board manuals and other	93,840	71,882
	3,967,785	3,124,501
Expenses:		
Administration and operations	1,317,169	1,067,948
Board and committee	508,133	536,061
Professional qualifications	258,229	225,583
Arbitration	234,644	209,863
MSIL:		
Development (Note 5)	644,987	558,212
Operations (Note 5)	86,714	36,013
Education and communications	327,544	297,474
Rulemaking and policy development	394,688	290,851
	3,772,108	3,222,005
Excess (deficiency) of revenues over expenses	195,677	(97,504)
Fund balance, beginning of year	3,394,938	3,492,442
Fund balance, end of year	$3,590,615	$3,394,938

The accompanying notes are an integral part of these financial statements.

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.
NOTES TO FINANCIAL STATEMENTS

1. Accounting policies

The Municipal Securities Rulemaking Board (the Board) was established in 1975 pursuant to authority granted by the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975, as an independent, self-regulatory organization charged with rulemaking responsibility for the municipal securities industry. Effective May 17, 1989, the Board became incorporated as a nonprofit, non-stock corporation in the Commonwealth of Virginia.

Assessment fees

The underwriting assessment fee is equal to a percentage of the face amount of all municipal securities which are purchased from an issuer as part of a new issue by or through such municipal securities broker or municipal securities dealer, whether acting as principal or agent, and which have a final stated maturity of not less than two years and an aggregate par value of not less than $1,000,000. The fee charged was .002% on all such sales for the year ended September 30, 1990. The fee charged was increased from .002% to .003% on August 1, 1991. Revenue from assessment fees is recognized upon the sale of the issue and is payable within 30 days of settlement between the underwriter and the issuer.

Annual fees

Each municipal securities broker and municipal securities dealer is required to pay an annual fee of $100 with respect to each fiscal year of the Board in which the municipal securities broker or municipal securities dealer conducts business.

Initial fees

The initial fee is a one-time fee of $100, which is to be paid by every municipal securities broker or municipal securities dealer registered with the Securities and Exchange Commission.

Revenue from initial fees is recognized when received by the Board.

Continued

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.
NOTES TO FINANCIAL STATEMENTS

Investments

Investments in securities are stated at amortized cost, which approximates market value. Investments consist entirely of U.S. Treasury notes, maturing on various dates through November 1992. It is management's intention to hold each note through maturity.

Equipment, improvements, related depreciation and amortization

Furniture and equipment are recorded at cost and are depreciated using the straight-line method over the estimated useful lives of the assets. Leasehold improvements are amortized using the straight-line method over the shorter of the remaining lease period or the estimated useful life of the improvement.

When assets are retired or sold, the related cost and accumulated depreciation are removed from the accounts, and any profit or loss arising from such disposition is included as income or expense.

Cash and cash equivalents

Cash and cash equivalents include cash on hand, time and demand deposits, and money market funds with maturities of three months or less. Cash and cash equivalents includes amounts held by banks and financial institutions in the United States.

Reclassification

Certain amounts in the 1990 financial statements have been reclassified to conform with the 1991 presentation.

2. Lease agreements

On November 16, 1984, the Board leased new office space under a lease agreement expiring in November 1994. This agreement calls for the Board to receive a rent credit equal to one-half of the base monthly rent for the first 30

Continued

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.
NOTES TO FINANCIAL STATEMENTS

months of the lease. As a result, the monthly rental payments were $9,350 through May 1987 and are $18,700 a month for the remainder of the lease term, subject to an annual escalation based on the Consumer Price Index and a proportionate share of the increase in the costs of operating the building. For financial reporting purposes, the Board is recognizing rental expense evenly during the 10-year lease term at $16,105 a month. The Board is required to maintain an irrevocable letter of credit of $18,700, in lieu of a security deposit, payable to the lessor as part of the lease agreement. The lease may be renewed at the Board's option, for a period of five years, in accordance with the terms set forth in the lease agreement.

On August 7, 1990, the Board amended its existing lease agreement, allowing for 2,313 additional square feet of office space. Initial base monthly rent is $4,530, with annual escalations similar to those of the existing lease agreement. The Board is committed to this arrangement until August 31, 1992, at which time it shall have the option to extend the lease agreement.

Total lease expense for office space and equipment for the years ended September 30, 1991 and 1990, was $374,257 and $290,887, respectively.

3. Retirement plans

The Board has a defined-contribution retirement plan. All employees are eligible to participate upon attaining a minimum length of service. The Board makes contributions to an insurance company based on a percentage of the salaries of covered employees and their lengths of service. Retirement plan costs are funded as they accrue. Employees may also make voluntary contributions. Cost of the plan was approximately $84,000 and $68,000 for the years ended September 30, 1991 and 1990, respectively.

The Board also has a deferred compensation plan which covers all employees. The Board contributes $.50 for every $1 contributed by an employee, with a maximum Board contribution of 2% of the employee's annual salary. The cost of this plan was approximately $14,000 and $13,000 for the years ended September 30, 1991 and 1990, respectively.

Continued

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.
NOTES TO FINANCIAL STATEMENTS

4. Income taxes

Under provisions of the Internal Revenue Code and applicable income tax regulations of the District of Columbia, the Board is exempt from taxes on income other than unrelated business income. No provision for income taxes has been made as of September 30, 1991 and 1990, since the Board believes that any unrelated business income is not significant.

5. MSIL Technical Support Agreement

On September 1, 1989, the Board entered into an agreement with an independent contractor which provides for the delivery of products and technical services in support of its development of the MSIL (Municipal Securities Information Library), which collects, stores and disseminates official statements and advance refunding documents.

On August 12, 1991, the Board amended the agreement, increasing estimated total costs for this cost plus fixed fee contract to $964,899, with the fixed fee component of $54,271. For the years ended September 30, 1991 and 1990, $456,822 and $428,169 of costs were incurred on this contract in the development of MSIL, respectively. Payment terms provide for the monthly billing of the contractor's actual costs plus a proportionate amount of the fixed fee. The duration of the contract is through April 1, 1992.

The conditions of the contract allow for either party to terminate the agreement at any time provided one party states an effective termination date in its written notice thereon.

Publications List

Manuals and Rule Texts

MSRB Manual
Soft-cover edition containing the text of MSRB rules, interpretive notices and letters, samples of forms, texts of the Securities Exchange Act of 1934 and of the Securities Investor Protection Act of 1970, as amended, and other applicable rules and regulations affecting the industry. Reprinted semi-annually.
April 1, 1992 ..... $5.00

Glossary of Municipal Securities Terms
Glossary of terms (adapted from the State of Florida's *Glossary of Municipal Bond Terms*) defined according to use in the municipal securities industry.
1985 ..... $1.50

Professional Qualification Handbook
A guide to the requirements for qualification as a municipal securities representative, principal, sales principal and financial and operations principal, with questions and answers on each category. Includes sections on examination procedures, waivers, disqualification and lapse of qualification, the text of MSRB qualification rules and a glossary of terms.
1990 ..... 5 copies per order ..... no charge
Each additional copy $1.50

Manual on Close-Out Procedures
A discussion of the close-out procedures of rule G-12(h)(i) in a question and answer format. Includes the text of rule G-12(h)(i) with each sentence indexed to particular questions, and a glossary of terms.
January 1, 1985 ..... $3.00

Arbitration Information and Rules
Based on SICA's *Arbitration Procedures* and edited to conform to the Board's arbitration rules, this pamphlet includes the text of rules G-35 and A-16, a glossary of terms and list of other sponsoring organizations.
1991 ..... no charge

Instructions for Beginning an Arbitration
Step-by-step instructions and forms necessary for filing an arbitration claim.
1991 ..... no charge

The MSRB Arbitrator's Manual
The Board's guide for arbitrators. Based on SICA's *The Arbitrator's Manual*, it has been edited to conform to the Board's arbitration rules. It also contains relevant portions of the *Code of Ethics for Arbitrators in Commercial Disputes*.
1991 ..... $1.00

Reporter and Newsletter

MSRB Reports
The MSRB's reporter and newsletter to the municipal securities industry. Includes notices of rule amendments filed with and/or approved by the SEC, notices of interpretations of MSRB rules, requests for comments from the industry and the public and news items.
Quarterly ..... no charge

Examination Study Outlines

A series of guides outlining subject matter areas a candidate seeking professional qualification is expected to know. Each outline includes a list of reference materials and sample questions.

Study Outline: Municipal Securities Representative Qualification Examination
Outline for Test Series 52.
November 1989 ..... no charge

Study Outline: Municipal Securities Principal Qualification Examination
Outline for Test Series 53.
July 1990 ..... no charge

Brochure

MSRB Information for Municipal Securities Investors
Investor brochure describing Board rulemaking authority, the rules protecting the investor, arbitration and communication with the industry and investors. Use of this brochure satisfies the requirements of rule G-10.
1 to 500 copies ..... no charge
Over 500 copies ..... $.01 per copy