MSRB REPORTS

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MSRB REPORTS

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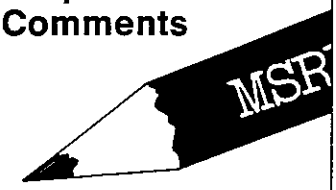
Request For Comments



Route To:

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Delivery of Official Statements in Secondary Market Transactions: Rule G-15

Comments Requested

The Board requests comments on a draft amendment requiring delivery of official statements to customers in secondary market transactions, upon request, and what methods dealers would use to comply with the rule.

In September 1986, the Board published for comment a draft amendment to rule G-15(a) which would have required a dealer effecting a customer transaction in a municipal security to deliver to the customer, upon request, written information about the call features of the security within specific time limits. After reviewing the comments, the Board determined to seek comments on revised draft amendments which would require dealers to include a legend on customer confirmations advising customers that they may obtain additional information about the security and may request a copy of the issue's final official statement.

In proposing the September draft amendments, the Board noted the increasing complexity of call features of issues of municipal securities and requested comment whether its rules might provide a means by which customers would be given the opportunity to receive, upon request, written corroboration of call information concerning a municipal security purchased in a secondary market transaction.[1] While a number of the commentators were in favor of providing customers with written call information upon request, certain commentators pointed out that only delivery of a portion of the official statement would satisfy the requirement for complete call information. A majority of the commentators noted that compliance with such a requirement would be difficult because of the general unavailability of official statements in secondary market transactions. Also, commentators were concerned about the costs of obtaining official statements that were available, for example, through official statement repository services.

After reviewing these comments, the Board determined that other material items of information concerning a security which affect its market value, including credit and put feature information, are as important to investors as call information and should be made available in writing to secondary market customers. Thus, the Board is proposing the draft amendments for comment.

Summary of Draft Amendments to Rule G-15(a)

The Board is considering draft amendments to rule G-15(a) which would require that a legend be included on customer confirmations advising customers that they may obtain additional information about the security. When customers request additional information concerning the security, such information may be provided orally but should be relayed promptly. Dealers can obtain such information from review of official statements and secondary sources of municipal securities information. Secondary sources of information summarize the material aspects of the issue and alert dealers to unique features of the security. Secondary sources include electronic data bases containing descriptive information,[2] underwriting and initial market information,[3] and underwriting information databases.[4] The Board wishes to encourage dealers that utilize secondary sources of information on municipal securities to share such information with customers.[5]

The draft rule also would require the legend to state that a customer who purchases municipal securities in the secondary market may request a copy of the issue's final official statement within one year of the transaction.[6] The official statement would have to be delivered within 30 days of the request. An oral request for the official statement would

Comments on the matters discussed in this notice should be submitted not later than August 15, 1987, and may be directed to Diane G. Klinke, Deputy General Counsel. Written comments will be available for public inspection.

[1] *MSRB Reports* (September 1986) vol. 6, no. 4 at 3. The Board received 21 comments on the September draft which are available for inspection at the Board's offices.
[2] Such services are offered by a number of companies, including Interactive Data Services, Inc. (C-Port), Kenny Information Systems (Munibase) and The Bond Buyer (MuniSEARCH).
[3] Such information is offered, for example, by The Bond Buyer and Kenny Information Systems "Post-Sale Sheet" Services.
[4] Such information is offered, for example, by Investment Dealer Digest and Securities Data Company.
[5] The services identified in this notice are not a complete list of secondary sources of information on municipal securities available to industry members. The Board urges dealers to review the information available from all such services to determine if they would assist them in the trading and sales of municipal securities.
[6] Rule G-32 requires dealers to deliver a copy of the final official statement to new issue customers by settlement of the transaction.

trigger application of the draft amendments. The requirement to deliver a final official statement would apply only to those issues for which a final official statement is prepared.[7] Because of the possibility that material changes are made in the issue after publication of the preliminary official statement, there is no requirement that a preliminary official statement be delivered. In some cases, such as when an issue subsequently is refunded, even the final official statement no longer may provide adequate descriptive information concerning the security. Thus, dealers may wish to stamp the official statement with a disclaimer to the effect that the information may no longer be accurate.

The draft amendments would not alter the current obligation, under rule G-17 on fair dealing, that a dealer disclose all material facts concerning the transaction to its customer prior to execution of the transaction. In addition, dealers still would be required, under rule G-32, to deliver a copy of the final official statement to new issue customers by settlement of the transaction.

Request for Comment

The Board requests comments from interested persons on the draft amendments. Commentators are requested to discuss whether receipt of official statements would be useful to customers in secondary market transactions and whether official statements continue to be reliable sources of descriptive information throughout the term of an issue. The Board seeks comments on the methods dealers would use to comply with the rule, such as whether they would contact issuers and other dealers to obtain official statements, develop in-house official statement libraries or use official statement repository services.[8]

Because the Board recognizes that obtaining official statements for delivery to customers in secondary market transactions may take time, the draft amendments allow a period of 30 days for the delivery of the official statement to the customer. Comments are requested whether 30 days is sufficient time for dealers to deliver official statements to customers or whether they can be delivered in a shorter length of time. Similarly, the Board believes that a customer should have a reasonable period of time after a transaction to request a copy of the official statement. The Board is suggesting a time limit of one year from the trade date for such requests to reduce the burden on dealers. The Board requests comments whether a dealer's obligation to deliver an official statement should extend for one year after the transaction, or whether a shorter or longer period of time would be advisable.

The Board recognizes that there are costs entailed in obtaining official statements for customers in secondary market transactions. Since dealers would have a duty to deliver an official statement for up to one year after the transaction, the Board believes that it would not be unreasonable to allow dealers to pass on the direct cost of obtaining official statements to customers requesting such documents as long as customers are aware they will be charged this cost. Thus, the Board is considering an interpretation of rule G-17 that it would not be a violation of fair principles of trade for a dealer to pass on the direct costs of obtaining the official statement to a customer who requests it in a secondary market transaction. The Board notes that indirect costs of obtaining official statements, such as allocation of clerical time and other overhead expenses, could not be passed along to customers. Moreover, dealers, whenever possible, should consider defraying some or all of these direct costs. The Board seeks comment whether dealers should be permitted to pass along the direct costs of obtaining official statements to customers. In particular, the Board asks whether a rule G-17 interpretation allowing dealers to pass on such costs would influence dealers that ordinarily would not pass on such costs to do so.

Finally, the Board recognizes that, for escrowed-to-maturity issues, the official statement would no longer accurately describe the issue since it would not describe the terms of the escrow agreement, which is put into place only upon the refunding of the issue. This information is material to holders of such escrowed-to-maturity issues. The Board requests comment whether such escrow agreements are accessible to dealers and whether the draft amendments should require dealers that sell escrowed-to-maturity bonds to deliver to a customer, upon request, the underlying escrow agreement, along with the official statement. The Board requests comments whether other similar situations exist and whether placing a disclaimer as to the accuracy of information in the official statement would be advisable.

May 13, 1987

Text of Draft Amendments*

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

(a) Customer Confirmations.

(i) and (ii) No change.

(iii) In addition the information required by paragraphs (i) and (ii) above, each confirmation to a customer shall contain the following information, if applicable:

(A) through (H) No change.

(I) for all municipal securities, a statement that additional information concerning the security is available upon request and a copy of the final official statement for the issue, if prepared, is available if requested within one year of the date of the transaction. A statement, in a footnote or otherwise, to the following effect will be deemed to satisfy this requirement:

"Additional information concerning the security will be provided upon request. A copy of the final official statement for the issue, if prepared, is available if requested

[7] In some competitive issues, "final" official statements are not prepared; rather a separate document including the final terms of the issue is printed as a supplement to the preliminary official statement. In such circumstances, the supplementary document, along with the preliminary official statement, would be viewed as the "final" official statement for purposes of the draft amendments.

[8] Copies of official statements may be purchased from official statement repositories, including those provided by The Bond Buyer (Munifiche), Investment Dealer Digest and Securities Data Company.

*Underlining indicates new language.

within one year of the date of the transaction."

(I) and (J) relettered (J) and (K).

(iv) through (vi) No change.

(vii) (A) Information requested pursuant to this rule, other than written information requested pursuant to subparagraph (iii)(I), shall be given or sent to the customer within five business days following the date of receipt of a request for such information; provided, however, that in the case of information relating to a transaction executed more than 30 calendar days prior to the date of receipt of a request, the information shall be given or sent to the customer within 15 business days following the date of receipt of the request.

(B) Written information requested pursuant to subparagraph (iii)(I) shall be delivered to the customer within 30 days following the date of a request for such information.

(viii) and (ix) No change.

(b) through (e) No change.

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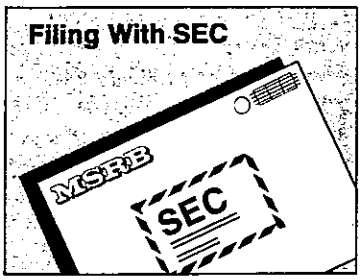

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Book-Entry Delivery of Same-Day Funds Securities: Rules G-12 and G-15

Amendments Filed

The amendments would provide a temporary exemption from the automated clearance rules for transactions in securities that are eligible for book-entry settlement only in same-day funds.

On May 8, 1987, the Municipal Securities Rulemaking Board filed with the Securities and Exchange Commission proposed amendments to rule G-12(f)(ii) and G-15(d)(iii), on book-entry settlement of inter-dealer and customer transactions, respectively. The amendments would provide a temporary exemption from the rules, until June 30, 1988, for transactions in municipal securities that are eligible for book-entry settlement only in a same-day funds settlement system. The amendments will not become effective until approved by the Commission. Dealers wishing to comment on the proposed amendments may comment directly to the Securities and Exchange Commission.[1]

Rule G-12(f)(ii) requires book-entry delivery of inter-dealer municipal securities transactions if both dealers (or their clearing agents for a transaction) are members of a depository making the securities eligible and the transaction is compared through a registered securities clearing agency. Rule G-15(d)(iii) prohibits dealers from granting delivery versus payment or receipt versus payment privileges on a customer transaction in which both the dealer and the customer (or their clearing agents) are members of a depository making the securities eligible unless book-entry delivery is used to settle the transaction.

No depository currently makes eligible municipal securities that settle in same-day funds. The Depository Trust Company (DTC) has informed the Board that it plans to commence, on June 26, 1987, a pilot program that will provide depository services for some same-day funds securities.[2] Any DTC participant will be allowed to participate in the pilot program, subject to the rules of the program.

The proposed amendments would exempt from the application of rules G-12(f)(ii) and G-15(d)(iii) transactions in depository-eligible, same-day funds municipal securities through June 30, 1988. Without the draft amendments, members of DTC would be required to use the same-day fund settlement system for all transactions in eligible securities which fall under the rules. DTC has requested the Board to provide a temporary exemption from the rules during the pilot phase of the program to allow dealers to become familiar with program operations prior to being required to submit all such transactions to the system. In light of the complexity of the program and the possibility that dealers using the program may need to make adjustments in their operations during the pilot phase, the Board concluded that a flexible approach in the application of rules G-12(f)(ii) and G-15(d)(iii) during this time period is warranted.

May 20, 1987

Text of Proposed Amendments*

Rule G-12. Uniform Practice

(a)–(e) No change.

(f) Use of Automated Comparison, Clearance, and Settlement

(i) No change.

(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. The provisions of this paragraph (ii) shall not apply to transactions effected on or ~~after February 1, 1985~~. prior

Questions about the amendments may be directed to Harold L. Johnson, Assistant General Counsel.

[1]File No. SR-MSRB-87-3. Comments filed with the SEC should refer to the file number.
[2]Book-entry delivery services will begin on July 10, 1987.

*Underlining indicates new language; broken rule indicates deletions.

to June 30, 1988, in municipal securities which are eligible only for settlement in same-day funds in a securities depository registered with the Securities and Exchange Commission.

(iii) No change.

(g)–(l) No change.

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

(a)–(c) No change.

(d) Delivery/Receipt vs. Payment Transactions

(i)–(ii) No change.

(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. The provisions of this paragraph (iii) shall not apply to transactions effected on or ~~after February 1, 1985~~ prior to June 30, 1988, in municipal securities which are eligible only for settlement in same-day funds in a securities depository registered with the Securities and Exchange Commission.

(e) No change.

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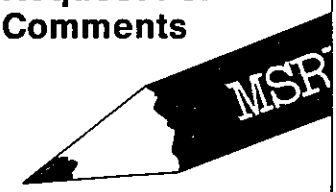

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Delivery of Securities Issuable in Bearer and Registered Form: Rules G-12 and G-15

Comments Requested

The amendments would permit dealers to deliver securities, which are issuable in both registered and bearer form, in either form unless otherwise agreed to by the parties.

The Board is circulating draft amendments to rules G-12(e)(vi)(A) and G-15(c)(iv)(A), on good delivery. The amendments would permit deliveries of securities which are issuable in both bearer and registered form ("interchangeable" issues) to be made in either form unless otherwise agreed to by the parties. The Board also is proposing to delete rule G-12(g)(iii)(4) which permits a dealer to reclaim securities within one business day of their delivery if interchangeable securities are delivered in registered form and were not identified at the time of trade as such.

Many issues of municipal securities issued prior to the effective date of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), permit holders to choose registered or bearer certificates.[1] At that time, the municipal securities market primarily was composed of bearer issues, and the Board's good delivery rule, rule G-12(e), reflected the expectation that inter-dealer deliveries of municipal securities would be in bearer form. Specifically, rule G-12(e)(vi)(A) provides that an inter-dealer

> [D]elivery of securities which are issuable in both bearer and registered form shall be in bearer form unless otherwise agreed to by the parties; *provided, however*, that delivery of securities which are required to be in registered form in order for interest to be exempt from Federal income taxation shall be in registered form.[2]

In addition, rule G-12(g)(iii)(4), on reclamation, permits a dealer to reclaim securities within one business day of their delivery of interchangeable securities are delivered in registered form and were not identified as such at the time of trade.

PSA Request for Amendment

The Public Securities Association (PSA) has asked the Board to reconsider the presumption in favor of bearer certificates contained in rule G-12(e) and to permit deliveries of securities of interchangeable issues to be made in either bearer or registered form, unless the parties specifically agree otherwise.

The PSA believes that such an amendment would encourage delivery of registered securities, thereby generating significant cost savings, increased operating efficiencies and reduced exposure to settlement fails and call processing for municipal securities dealers and ultimately for investors. It points out that investors and dealers have become comfortable with registered securities and that price differentials between bearer and registered securities, which were prevalent with TEFRA first went into effect, now are virtually nonexistent. In addition, the PSA states that a customer that purchases an interchangeable issue and who is delivered registered certificates would benefit from the advantages of registered securities with regard to interest payments, call notification and replacement of lost certificates.

The PSA also states that the amendment would permit depositories to convert interchangeable securities on deposit from bearer to registered form. This would minimize the costs of housing, clipping coupons, monitoring calls and other details of processing bearer certificates and would free up considerable vault space which should permit the depositories to make more bearer issues of municipal securities depository eligible. The PSA states that these cost savings could be passed on to participants in the municipal secu-

Comments on the matters discussed in this notice should be submitted not later than August 15, 1987, and may be directed to Angela Desmond, General Counsel. Written comments will be available for public inspection.

[1]Some interchangeable issues provide that once a bearer certificate is registered, it cannot be converted back to bearer form.
[2]Rule G-15(c)(iv)(A) places identical requirements on deliveries to customers.
The clause in the rule relating to delivery of registered certificates for post-TEFRA issues was added in 1984 to reflect the fact that most issues of municipal securities would be issued in registered form.

rities market.[3]

Summary of Draft Amendment and Request for Comment

In light of the arguments put forward by the PSA, the Board is seeking comments on draft amendments to rule G-12(e)(vi)(A) on interdealer deliveries, and also to corresponding rule G-15(c)(iv)(A), on deliveries to customers, which would permit deliveries of interchangeable securities to be made in either bearer or registered form unless the parties otherwise agree. The Board also is considering deleting the one-day right of reclamation for dealers under rule G-12(g)(iii)(A) so that dealers who agree to a specific form of certificate must reject nonconforming deliveries when they are delivered.

The Board is requesting comments how the draft amendments would impact dealers and investors in interchangeable issues. The Board would like to know how much trading occurs in these issues and how often a customer requires physical possession of certificates. When customers do require delivery of certificates, how often do they specifically request bearer certificates? What are the reasons why a customer requests bearer certificates? Would customers accept registered certificates if the benefits of registration were explained to them? If the draft amendments were adopted, who would bear the costs of converting registered certificates to bearer form? How substantial are those costs? In this regard, the Board requests additional comments whether the draft amendments would increase any costs or engender cost savings for participants in the municipal securities markets.

The Board also is requesting comment whether dealers that wish to agree to deliver bearer certificates can ascertain at the time of trade whether they have possession of or access to bearer certificates. Commentators also are requested to discuss whether the draft amendments would facilitate the transition of the municipal securities industry to automated clearance and settlement. The Board asks whether adoption of the draft rule would result in more bearer issues being made eligible at depositories and the extent to which processing efficiencies would be realized by the dealer community.

Finally, the Board understands that the depositories would convert interchangeable issues into registered form over a period of time. The Board asks how the rule would impact transfer agents.

May 21, 1987

Text of Draft Amendments*

Rule G-12. Uniform Practice

(a)–(d) No change.
(e) No change.
(i)–(v) No change.
(vi) Form of Securities
(A) Bearer and Registered Form. Delivery of securities which are issuable in both bearer and registered form ~~shall~~ may be in bearer form unless otherwise agreed to by the parties; provided, however, that delivery of securities which are required to be in registered form in order for interest thereon to be exempt from Federal income taxation shall be in registered form.
(B) No change.
(vii)–(xvi) No change.
(f) No change.
(g) No change.
(i)–(ii) No change.
(iii) No change.
(A) No change.
(1)–(3) No change.
~~(4) Not good delivery because securities (which were issuable in both bearer and registered form) were delivered in registered form and were not identified as such at the time of trade.~~
(B)–(C) No change.
(iv)–(vi) No change.
(h)–(l) No change.

* * *

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

(a)–(b) No change.
(c) No change.
(i)–(iii) No change.
(iv)(A) Bearer and Registered Form. Delivery of securities which are issuable in both bearer and registered form ~~shall~~ may be in bearer form unless otherwise agreed to by the parties; provided, however, that delivery of securities which are required to be in registered form in order for interest thereon to be exempt from Federal income taxation shall be in registered form.
(B) No change.
(v)–(xii) No change.
(d)–(e) No change.

[3]In this regard, the PSA states that, if the draft amendments are adopted, it will assist the transition by
(i) Recommending that dealers and dealer banks notify their customers who currently own interchangeable issues in bearer form of the potential for change in form well in advance of the conversion;
(ii) Informing transfer agents involved with interchangeable issues and determine their level of preparation for the anticipated increase in volume;
(iii) Assisting the PSA membership in promoting registered securities and certificate immobilization to customers; and
(iv) Working with the depositories in increasing the number of eligible municipal issues as a result of this effort.

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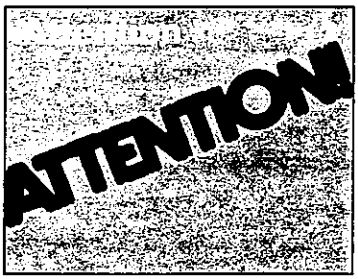

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SEC Release on Zero-Coupon Securities

SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-24368]
Zero-Coupon Securities
AGENCY: Securities and Exchange Commission.
ACTION: Notice to broker-dealers concerning disclosure requirements for mark-ups on zero-coupon securities.
SUMMARY: The Commission has become aware of potential abuses in the mark-up and mark-down practices of broker-dealers trading various zero-coupon securities. Because there is limited market information available concerning the secondary market for zero-coupon securities, and those securities generally are sold at a deep discount to the face amount, investors may not fully appreciate the size of the percentage mark-ups that sometimes have been charged by broker-dealers. Broker-dealers must recognize that sales of zero-coupon securities with mark-ups that are excessive and undisclosed violate the federal securities laws, and the rules and regulations of the Commission. Further, excessive mark-ups, whether or not disclosed, violate the rules of the Naitonal Association of Securities Dealers, Inc. ("NASD") and the Municipal Securities Rulemaking Board ("MSRB").
DATE: April 21, 1987.
FOR FURTHER INFORMATION CONTACT: Alden Adkins, Branch Chief, (202) 272-2857, or Christine Sakach, Attorney, (202) 272-2418, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. *Background*

Zero-coupon securities are debt securities that do not pay interest to the holder periodically prior to maturity, and are sold, therefore, at a substantial discount from the face amount.[1] Most bonds can be issued in zero-coupon form or can be stripped; the discount from face value in effect represents the aggregate interest the holder receives if he holds the security to its stated term of maturity. Zero-coupon securities have become increasingly popular with retail customers for various reasons including the substantially lower price of these instruments relative to coupon bonds and the locked-in yields they produce if held to maturity.[2] While stripped United States Treasury securities initially were the most prevalent type of zero-coupon security,[3] zero-coupon municipal securities also are now being issued.[4]

Dealers engaging in principal transactions with customers usually charge their customers a net

[1]As used in this release the term "zero-coupon security" includes: (1) original issue discount bonds (bonds sold by the issuer without coupons attached); (2) stripped coupon bonds (bonds originally issued with coupons from which the coupons have been stripped); and (3) interest coupons stripped from bonds and sold as separate instruments.
[2]The holders of coupon bonds bear the risk that they may not be able to reinvest periodic interest payments at the same rate as that used to calculate their original yield to maturity.
[3]More recently, an active secondary market has developed in "STRIPS," bonds that are directly issued by the U.S. Treasury in a format that allows dealers immediately to sell them as zero-coupon products and thus do not entail the repackaging steps that are necessary to transform straight Treasuries into zero-coupon instruments. Prior to Treasury's stripping program, stripped U.S. Treasury bonds were created as proprietary products of certain broker-dealers. Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill") and Salomon Brothers Inc, ("Salomon"), for example, sold proprietary zero-coupon U.S. Treasury products called TIGRs (Treasury Investment Growth Receipts) and CATS (Certificates of Accrual on Treasury Securities), respectively. Also, several other firms issued zero-coupon instruments under the non-proprietary name "Treasury Receipts." All were created by stripping the coupons from Treasury securities and selling a certificate representing an interest in the stripped coupons or securities. Since implementation of the Treasury program, Merrill and Salomon have not issued new TIGRs or CATS.
[4]Since enactment of the Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. ___ (1986), several broker-dealers have introduced stripped municipal bonds. *See* Monroe, "Stripped Municipal Bonds to Be Offered by Securities Firms Under New Tax Law," *Wall St. J.*, at 53, col. 2, October 21, 1986; "Morgan Stanley Joining Issuers of Stripped Munis," *Wall St. J.*, at 41, col. 1, October 29, 1986; and "More Zero-Coupons," *Daily Bond Buyer*, at 2, col. 4, November 5, 1986.

price that, in lieu of or in addition to a commission or service charge, includes a mark-up or mark-down[5] over the prevailing inter-dealer market price as compensation for effecting the trade. Rule 10b-10 under the Securities Exchange Act of 1934 ("Exchange Act")[6] generally requires the customer's confirmation for transactions in debt securities to show the net dollar price and yield. It does not, however, require that the mark-up be separately stated. In addition to these confirmation requirements, Rule 10b-5 requires disclosure of excessive mark-ups[7] and the rules of the NASD and MSRB prohibit excessive dealer mark-ups.[8]

II. *DISCUSSION*

A. *Federal Securities Law*

The antifraud provisions of the federal securities laws proscribe deceptive pricing practices by broker-dealers.[9] Charging retail customers excessive mark-ups without proper disclosure constitutes such a deceptive practice or scheme.[10] The fact that a broker-dealer is acting in a principal capacity does not diminish its obligation to deal fairly with public customers.[11] This duty of fair dealing includes the implied representation that the price a firm charges bears a reasonable relationship to the prevailing market price.[12] If a dealer's price to a customer includes an excessive mark-up over the prevailing market price, then, absent proper disclosure, the dealer has violated Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder, and Section 17(a) of the Securities Act of 1933 ("Securities Act").[13] The Commission consistently has held that, at the least, undisclosed mark-ups of more than 10% above the prevailing market price are fraudulent in the sale of equity securities.[14] The Commission also consistently has taken the position that mark-ups on debt securities, including municipal securities, generally are expected to be lower than mark-ups on equity securities,[15] and has upheld NASD decisions finding mark-ups as low as 5.1% to violate the rules of the MSRB.[16]

As a result of the Commission's ongoing oversight of the secondary markets, the Commission believes that as a general matter, common industry practice regarding mark-ups is to charge a mark-up over the prevailing inter-dealer market price of between 1/32% and 3-1/2% (including minimum charges) for principal sales to customers of conventional or "straight" Treasuries, depending on maturity, order size and availability. In light of this evidence, the Commission concludes that mark-

[5]This release generally will discuss broker-dealer sales transactions involving mark-ups. The principles stated in the release, however, are equally applicable to broker-dealer purchase transactions involving mark-downs.

[6]17 CFR § 240.10b-10 (1986). Rule 10b-10 applies to transactions by broker-dealers in U.S. Treasury securities and corporate bonds but not municipal securities. The rule applies to zero-coupon securities as well as other forms of debt. The NASD and MSRB have substantially similar confirmation rules. See Disclosure on Confirmations, *NASD Manual* (CCH) ¶ 2162; and MSRB Rule G-12, *MSRB Manual* (CCH) ¶ 3571.

[7]*See, e.g., Krome v. Merrill Lynch & Co.*, 637 F. Supp. 910 (S.D.N.Y. 1986). *But see Ettinger v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, Fed. Sec. L. Rep. (CCH) ¶ 93,102 (E.D. Pa. Dec. 22, 1986), *appeal pending*, No. 87-1045 (3d Cir.). In *Ettinger*, the court held that Rule 10b-5 does not require that excessive mark-ups be disclosed. The court also held that the Commission's failure to promulgate a rule defining under what circumstances a mark-up is excessive precluded the court's finding Merrill's mark-up excessive. The Commission disagrees with the district court's holding and will file a brief, *amicus curiae*, in the court of appeals arguing that Rule 10b-5 imposes an obligation to disclose excessive mark-ups to customers and that decided cases and rules provide adequate guidance regarding what constitutes an excessive mark-up.

[8]While disclosure is one of the factors to be considered in determining the reasonableness of a mark-up under self-regulatory organization rules, *In re* Herrick, Waddell & Co., Inc., 25 S.E.C. 437, 448 (1947), these rules are not antifraud rules, but rules reflecting just and equitable principles of trade, and thus prohibit mark-ups which are unfair in the light of all other relevant circumstances, even if disclosed. *In re* Amsbray, Allen & Morton, Inc., 42 S.E.C. 919, 922 (1966); *In re* Thill Securities Corporation, 42 S.E.C. 89, 95 (1964).

[9]The Commission recently has announced settlement of a mark-up case involving zero-coupon securities. *See In re* Sutro & Co. Incorporated, Securities Exchange Act Release No. 23663, 36 S.E.C. Doc. 1199.

[10]The previous cases and Commission decisions have not addressed what disclosure would have been sufficient under the facts and circumstances of those cases.

[11]*In re* Duker & Duker, 6 S.E.C. 386 (1939), *cited in In re* Alstead, Dempsey & Co., Securities Exchange Act Release No. 20825 (April 5, 1984), 30 S.E.C. Doc. 259; and 3 L. Loss, *Securities Regulation* 1483 (1961).

[12]*Charles Hughes & Co., Inc. v. SEC*, 139 F.2d 434, (2d Cir.), *cert. denied*, 321 U.S. 786 (1943). *See* L. Loss, *Fundamentals of Securities Regulation* 946-58 (1983). Although some cases have not been couched in terms of disclosure, the Commission believes that the gravamen of a mark-up violation under the federal securities laws is charging excessive mark-ups without disclosure.

[13]*See, e.g., Ryan v. SEC*, Sec. Reg. & L. Rep. (BNA) No. 26 at 1273 (July 1, 1983) (9th Cir., May 23, 1983), *aff'g, In re* James E. Ryan, Securities Exchange Act Release No. 18617 (April 5, 1982), 24 S.E.C. Doc. 1859; *Barnett v. United States*, 319 F.2d 340 (8th Cir. 1961); *Samuel B. Franklin & Co. v. SEC*, 290 F.2d 719 (9th Cir.), *cert. denied*, 368 U.S. 889 (1961); and *Charles Hughes & Co. v. SEC*, 139 F.2d 434, 437 (2d Cir. 1943), *cert. denied*, 321 U.S. 786 (1944). If it needs repetition at this late date, dealers engaged in over-the-counter trading with their customers are held to a simple standard:

> When nothing [is] said about market price, the natural implication in the untutored minds of the purchasers [is] that the price asked [is] close to the market. The law of fraud knows no difference between express representation on the one hand and implied misrepresentation or concealment on the other . . . .

Charles Hughes & Co., 139 F.2d at 437. The dealer's disclosure obligation reflects Congress' determination to regulate broker-dealers so as to require a "high standard of business ethics." *U.S. v. Naftalin*, 441 U.S. 768, 778 (1979). The disclosure obligation also may be justified by that feature of the normal functioning of the secondary over-the-counter market which affords each purchaser the ability to make a realistic assessment of the risk of profit or loss upon resale immediately or (after allowing for intervening market movements and accompanying changes in inter-dealer bid-asked spreads) at some subsequent time. Undisclosed excessive mark-ups distort that risk and frustrate that ability.

[14]*In re* Alstead, Dempsey & Co., *supra* note 11; *In re* Peter J. Kisch, Securities Exchange Act Release No. 19005 (August 24, 1982), 25 S.E.C. 1533, 1539; *In re* Powell & Associates, Securities Exchange Act Release No. 18577 (March 22, 1982), 24 S.E.C. Doc. 1671, 1673; *James E. Ryan, supra* note 12; *In re* Sherman Gleason, 15 S.E.C. 639, 651 (1944); and *Duker & Duker, supra* note 11, at 386–87.

[15]*In re* Crosby & Elkin, Inc., 22 S.E.C. Doc. 772, 775 (1981); *In re* Edward J. Blumenfeld, 18 S.E.C. Doc. 1,379, 1,381 (1980); and *SEC v. Charles A. Morris & Associates, Inc.*, 786 F. Supp. 1327, 1334 n.5 (W.D. Tenn. 1973). The Commission has observed that it is the industry practice, in general, for broker-dealers in principal transactions to charge retail customers mark-ups on sales of debt securities that are measurably lower than those charged on sales of equity securities.

[16]*In re* Staten Securities Corporation, Securities Exchange Act Release No. 18628 (April 9, 1982), 25 S.E.C. Doc. 2006.

ups on government securities, like mark-ups on corporate and municipal debt securities, usually are smaller than those on equity securities.

To determine the mark-up charged to the customer, the broker-dealer must determine the "prevailing market price."[17] The dealer mark-up equals the price charged to the customer minus the prevailing market price. The proper method for determining the prevailing market price for a security, however, is often the major contested issue in mark-up cases.[18]

As a general matter, the best evidence of the prevailing market price for a broker-dealer who is not making a market in the security is that dealer's contemporaneous cost of acquiring a security.[19] For integrated market makers (*i.e.*, dealers who both make a market in a security and sell it to retail customers), the best evidence of the prevailing market generally is contemporaneous sales by the firm (or by other market makers) to other dealers.[20] For actively traded securities, if ask quotations have been determined to be an accurate indication of the offer side of the market (*i.e.*, transactions generally occur at these quotations), they may be used instead of sales transactions. For inactively traded securities, inter-dealer sales transactions are of primary importance in calculating a firm's mark-ups because quotations for such securities frequently are the subject of negotiation.[21] Thus, the quotations for the security may not accurately reflect the prevailing market price for the security.[22]

B. *NASD and MSRB Regulation*

Since 1943 the NASD has enforced an interpretation of its Rules of Fair Practice that deems it inconsistent with just and equitable principles of trade for a member to enter into any transaction with a customer at a price not reasonably related to the current market price of the security.[23] Under the NASD's Mark-Up Policy, mark-ups for equity securities greater than 5% above the prevailing market price generally are considered to be unreasonable, and thus violative of NASD rules.[24]

Similarly, excessive mark-ups involving municipal securities have been held to violate MSRB Rule G-17, which requires dealers to deal fairly with their customers,[25] and MSRB Rule G-30, which requires dealers to sell municipal securities to customers at a price which is "fair and reasonable, taking into consideration all relevant factors."[26] The NASD and MSRB rules cannot be satisfied by disclosure of the amount of the mark-up.[27]

C. *Applicability of Policies to Zero-Coupon Bonds*

Mark-ups for corporate, municipal and government debt securities, including zero-coupon securities, are subject to the applicable rules and policies described above. Thus, charging an excessive, undisclosed mark-up on a transaction in a zero-coupon security violates Section 10(b) and Rule 10b-5.[28] Similarly, excessive mark-ups on zero-coupon securities violate the NASD's and MSRB's rules within their respective jurisdictions.

(1) *Prevailing Market Price*[29]

As with other securities, the first step in calculating an appropriate mark-up for zero-coupon securities is to determine the prevailing market price. Ascertaining the prevailing market price is particularly difficult for zero-coupon securities because there usually is limited information regarding inter-dealer market transactions. Indeed, where the inter-dealer market is dominated by a single market maker (which may be the case where a zero-coupon security is a proprietary product of a broker-dealer), the best evidence of the prevailing market generally will be the broker-dealer's contemporaneous retail

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[17] *See* discussion, *infra* Section II C (1), on the method of determining the "prevailing market price."
[18] *See* N. Wolfson, R. Phillips & T. Russo, *Regulation of Brokers, Dealers and Securities Markets* 2--46 (1977).
[19] *See, e.g., In re* Peter J. Kisch, *supra* note 14, at 1539; and *In re* Alstead, Dempsey & Co., Inc., *supra* note 11.
[20] *See id.*
[21] Stated otherwise, the quotations are not firm and transactions often do not occur at or around the quotations.
[22] *See In re* Alstead, Dempsey & Co., Securities Exchange Act Release No. 20825 (April 5, 1984), 30 S.E.C. Doc. 259, *aff'g and rev'g, in part,* Alstead, Strangis & Dempsey, Incorporated, Admin. Pro. File No. 3-6135 (December 20, 1982). *Cf.* B. Becker & H. Kramer, SEC Plays Proper Role in OTC Pricing Regulation, *Legal Times,* November 26, 1984, at 14.
In situations where the security is not only inactively traded, but a competitive market does not exist, the use of market maker sales or quotations may be impractical or misleading. Accordingly, the most reliable basis for determining the prevailing market in such a "dominated" market generally is the dealer's contemporaneous cost, which is either the price the market maker paid to other dealers or is the price paid to retail customers, adjusted for (*i.e.*, by adding back) the mark-down inherent in the transaction.
[23] Interpretation of the Board of Governors on the NASD Mark-Up Policy, *NASD Manual* (CCH) ¶ 2154.
[24] *Samuel B. Franklin & Co., supra* note 13; and *In re* Voss & Co., Inc., Securities Exchange Act Release No. 21301 (September 10, 1984), 31 S.E.C. Doc. 459. As with the Commission's mark-up policy, the NASD's 5% threshold is only a guideline. The circumstances surrounding trading in a security may suggest that mark-ups less than 5% may be unreasonable, or that mark-ups greater than these figures may be reasonable. *See, e.g., In re* Staten Securities Corporation, *supra* note 16.
[25] *MSRB Manual* (CCH) ¶ 3581.
[26] *MSRB Manual* (CCH) ¶ 3646.
[27] *But cf., supra* note 8.
[28] *SEC v. MV Securities, Inc.*, (S.D.N.Y., No. 84 Civ. 1164), Litigation Rel. No. 10289 (February 21, 1984), 29 S.E.C. Doc. 1454; and Litigation Rel. No. 10303 (March 5, 1984), 29 S.E.C. Doc. 1591 (describing consent order). In that case, the Commission's memorandum of law requesting a temporary restraining order alleged mark-ups on zero-coupon bonds that were excessive compared to the firm's contemporaneous cost. See Memorandum in Support of Application for an Order to Show Cause, Temporary Restraining Order, and Motion for a Preliminary Injunction and Other Equitable Relief, at 23, in *SEC v. MV Securities, Inc.*, (S.D.N.Y., No. 84 Civ. 1164). *See In re* Sutro & Co. Incorporated, *supra* note 9.
[29] *See* discussion, *supra* Section II A.

purchases, adjusted to reflect the mark-down inherent in such customer transactions.[30] Moreover, because both the stripped interest coupons and the bond are separate securities, it is not sufficient for a broker-dealer to assure itself that the aggregate mark-up for the unstripped security taken as a whole is not excessive. Instead, the broker-dealer must evaluate the mark-up for each stripped coupon and the stripped bond separately and ensure that each is not excessive.

(2) *Amount of Mark-up*

As noted above, the Commission, the NASD and the MSRB have indicated that the percentage mark-up for debt securities historically has been less than the amount charged for equity securities. It is expected, therefore, that percentage mark-ups on zero-coupon securities, as with other debt securities, usually will be smaller than those on equity securities. Therefore, broker-dealers should be advised when marking up debt securities, including zero-coupon securities, that what might be an appropriate mark-up for the sale of an equity security may be an excessive mark-up for a debt security transaction of the same size.[31]

The Commission has become aware of the practice of a number of broker-dealers of charging a percentage mark-up based on the face amount of a zero-coupon security for all maturities, a pricing practice often employed in the market for conventional coupon bonds. Although this percentage may be as low as 1% of the face amount, such pricing can result in a mark-up that is excessive relative to the prevailing market price because zero-coupon bonds trade at a deep discount.[32] This problem will be especially acute for securities with long maturities because the purchase price, net of the mark-up, that an investor will pay per $1,000 face amount for a zero-coupon bond with a long maturity is significantly less than that for a zero-coupon with a short maturity.

III. *CONCLUSION*

The established mark-up rules and policies of the Commission, the NASD and the MSRB apply fully to transactions in zero-coupon securities. The Commission's rules prohibit excessive undisclosed mark-ups, and the NASD's and MSRB's rules and policies prohibit excessive mark-ups whether or not disclosed. The Commission expects that mark-ups on zero-coupon securities, as with other debt securities, usually will be less than those charged for equity securities. In this regard, mark-ups calculated based upon the face amount at maturity may be excessive in relation to the discounted price of the security.

The Commission urges broker-dealers to review their procedures and policies for marking up zero-coupon securities to ensure that they are consistent with the federal securities laws, the rules and regulations of the Commission, and the rules of the NASD and the MSRB.

By the Commission.

Jonathan G. Katz
Secretary

Dated: April 21, 1987

[30] *In re* Alstead, Dempsey & Co., *supra* note 11. *See In re* Manthos, Moss & Co., 40 S.E.C. 542, 543–44 (1961). *See* N. Wolfson, R. Phillips & T. Russo, *supra* note 15, at 2–47; and 3 L. Loss, *Securities Regulation* 3688 (1961).

[31] *Cf., e.g.*, "[A] higher percentage of mark-up customarily applies to a common stock transaction than to a bond transaction of the same size." *See* NASD Mark-Up Policy, *NASD Manual* (CCH) ¶ 2154.

[32] For example, a 30-year Treasury zero might sell at 13.1, or $131 per $1,000 face amount, to equal the current market yield of 7%. A one-point mark-up to 14.1 only would be $10 per $1,000 face amount, but would be a 7.6% mark-up over the market price, and it would cut the yield to 6.76%.

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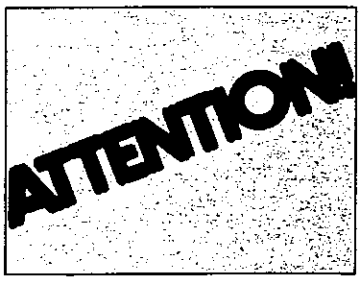

Route To:

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

Confirmation Disclosure of Securities Eligible for Bank Deductibility: Rules G-12 and G-15

Amendments Withdrawn

The Board withdraws draft amendments which would have required confirmation disclosure of securities eligible for bank deductibility.

The Board is withdrawing draft amendments to rules G-12(c) and G-15(a) which would have required disclosure on customer and inter-dealer confirmations of issues designated as eligible for bank deductibility.

The Tax Reform Act of 1986 eliminated bank deductibility for interest on funds used to carry or purchase bonds acquired after August 7, 1986, except for obligations of certain governmental units. To quality for an exemption from this provision, an issuer must not issue, during a calendar year, more than $10 million of governmental and Section 501(c)(3) bonds. It also must designate these obligations as qualifying for this exemption. Thus, these bonds remain subject to the 20% disallowance rule of prior law. This exclusionary provision is applicable not only to the original purchaser but to all subsequent owners of these designated obligations.

In January 1987, the Board published for comment draft amendments to rules G-12(c) and G-15(a) which would have required that dealers note in the description field of inter-dealer and customer confirmations, when applicable, that the obligations are designated as eligible for bank deductibility. The confirmation disclosure requirement for issues designated as eligible for bank deductibility would have been applicable only to issues which are identified by the issuer as such.[1]

The Board received 12 comments on the draft amendments, a majority of which opposed the draft amendments. The commentators stated that most bank eligible issues will be traded among dealers and bank investors that are familiar with the issues and that, as a result, there should not be pricing or information problems. Accordingly, the Board has determined not to adopt the draft amendments.

The Board reminds dealers, however, that, under rule G-17 on fair dealing, whether an issue is designated to retain the 80 percent deductibility of cost of carry should be disclosed to customers prior to or at the time of trade. The Board intends to monitor the trading and sales of bank eligible issues to determine whether it may be necessary to revisit confirmation disclosure requirements for these securities in the future.

May 12, 1987

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

[1]Issuers must designate issues as bank eligible for such eligibility to exist.

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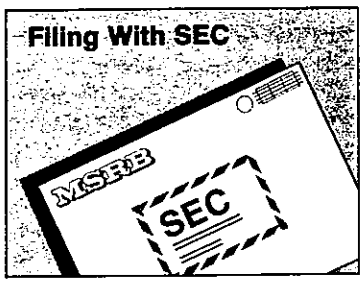

Route To:

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Delivery of Investor Brochure: Rule G-10

Amendment Filed

The new rule would require a dealer to deliver the Board's investor brochure to a customer upon receipt of a written complaint concerning a securities transaction from that customer.

On June 18, 1987, the Board filed with the Securities and Exchange Commission proposed rule G-10 which would require a dealer to deliver the Board's investor brochure to a customer upon receipt of a written complaint. The proposed rule will become effective upon approval by the Commission. Comments by interested persons on the proposed rule should be filed directly with the Securities and Exchange Commission,[1] 450 Fifth Street, N.W., Washington, D.C. 20549.

The Board is concerned that many municipal securities customers may not be aware of the protections provided by its rules and of the availability of its arbitration program to resolve disputes arising from municipal securities transactions. To rectify this situation, the Board recently updated its brochure entitled "Information for Municipal Securities Investors" which contains information about the Board and summarizes Board rules designed to protect investors in municipal securities. The brochure also includes a section describing the Board's arbitration program. In addition, in January 1987, the Board published for comment draft rule G-10 which would have required dealers to deliver to new and existing municipal securities customers a copy of the brochure.[2]

The Board received 31 comments on the draft rule, all of which opposed the draft rule.[3] A number of commentators noted that the industry currently does not have procedures in place to provide the brochure to such customers, and, as a result, the benefits to be achieved by distribution of the brochure are outweighed by the costs to dealers of such a distribution. After considering these comments, the Board has concluded that, at this time, dealers should not be required to deliver the brochure to new and existing municipal securities customers.

A number of commentators suggested that a brochure should be provided to a customer at the time a written complaint is received by the dealer. Commentators noted that such a requirement would focus the customer's attention on the rules of the Board and the availability of arbitration at the time it is most relevant to the customer. The Board agrees. Delivery of the brochure to customers upon receipt of a written complaint would inform the customer about the rules of the Board, the necessity of working out the dispute with the dealer, and the availability of arbitration and enforcement action, if necessary.

The proposed rule would require a dealer to deliver the investor brochure to a customer upon receipt of a written complaint concerning a municipal securities transaction from such customer. Rule G-8(a)(xii) currently requires dealers to keep a record of all written customer complaints and what action has been taken in response. Upon the approval of proposed rule G-10, dealers would be required to annotate the written complaint file to reflect the mailing of the brochure. In this way, enforcement agencies will be able to inspect for compliance with rule G-10 by their periodic review of the complaint file.

While the Board is not adopting a requirement for delivery of the brochure to new and current customers at this time, it encourages dealers voluntarily to provide the brochure to its customers. The Board believes that all municipal securities customers would benefit from receipt of the information contained in the brochure.

June 18, 1987

Text of Proposed Rule

Rule G-10. Delivery of Investor Brochure

(a) Each broker, dealer and municipal securities dealer shall deliver a copy of the investor brochure to a customer promptly upon receipt of a complaint by the customer.

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

(i) the term "investor brochure" shall mean the publication or publications so designated by the Board, and

(ii) the term "complaint" is defined in rule G-8(a)(xii).

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

[1]Comments should refer to SEC File No. SR-MSRB-87-6.
[2]*MSRB Reports*, vol. 7, no. 1 (January 1987) at 7.
[3]These comments are available for inspection at the Board's offices.

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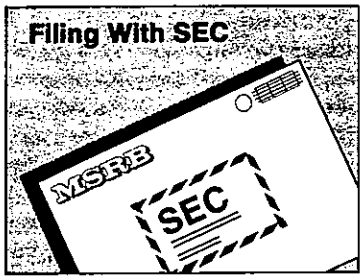

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Decrease in Underwriting Assessment Fee: Rule A-13

Amendments Filed

The amendments would decrease the Board's underwriting assessment fee from $.02 to $.01 per $1,000 par value for all new securities sold on or after July 1, 1987 and modify information required on Form A-13.

On May 27, 1987, the Board filed with the Securities and Exchange Commission amendments to rule A-13 concerning the Board's underwriting assessment fee.[1] The amendments will take effect July 1, 1987.

The amendments decrease the underwriting fee from $.02 to $.01 per $1,000 par value for all new issue municipal securities sold on or after July 1, 1987, having an aggregate par value of $1,000,000 or more and a maturity date of not less than two years from the date of the securities.

The amendments to rule A-13 also require the managing underwriter to furnish the Board with the front page of the final official statement. The front page of the official statement should provide the official name of the issue, the identity of the underwriters, bond counsel, and other information required by the Board to process the fees and adequately record each issue.

In addition, the amendment eliminates the requirement that a Form A-13 be filed with the Board for issues of municipal securities which have an aggregate par value of less than $1,000,000.

Finally, the amendments to rule A-13 eliminate paragraph (e) of rule A-13 which provides that the Board may recommend that the Commission revoke or suspend the registration of any firm failing to comply with the rule. The inspection procedures of the NASD and the bank regulators adequately enforce compliance with rule A-13 and render this provision unnecessary.

The Board has revised Form A-13 to reflect the proposed rule change which is reprinted below.

May 27, 1987

Text of the Amendment*

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

(a) ~~In addition to the fees prescribed by other rules of the Board, a~~ Each ~~municipal~~ securities broker, dealer and municipal securities dealer shall pay ~~a fee~~ to the Board an underwriting fee as set forth in paragraph (b) for all municipal securities ~~equal to .002% ($.02 per $1000) of the par value of all municipal securities which are~~ purchased from an issuer by or through such municipal securities 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 $1,000,000 or more and which has a final stated maturity of not less than two years from the date of the securities. ~~*provided, however,* that if such municipal securities broker or municipal securities dealer is a member of~~ If a syndicate or similar account has been formed for the purchase of ~~such~~ the securities, ~~such fee shall be calculated on the basis of the participation of such municipal securities broker or municipal securities dealer in the syndicate or similar account. Such fee must be received at the office of the Board in Washington, D.C., not later than 30 calendar days following the date of settlement with the issuer. In the event 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) ~~Payment of the fee required in paragraph (a) hereof shall be accompanied by one completed copy of Form A-13 prescribed by the Board~~. The amount of the underwriting fee is:

.001% ($.01 per $1,000) of the par value for issues sold on or after July 1, 1987, and

.002% ($.02 per $1,000) of the par value for issues sold before July 1, 1987.

(c) ~~In addition to filing the copy or copies of the Form~~

Questions about the amendments may be directed to Gloria H. Bunting, Comptroller.

[1]SEC File No. SR-MSRB-87-4. Comments filed with the SEC should refer to the file number.
*Underlining indicates new language; broken rule indicates deletions.

~~A-13 required by paragraph (b) hereof, each municipal securities broker and municipal securities dealer shall file with the Board one completed copy of Form A-13 for each issue of municipal securities which is purchased from an issuer by or through such municipal securities broker or municipal securities dealer, whether acting as principal or agent, as part of a new issue which has an aggregate par value of less than $1,000,000 and which has a final stated maturity of not less than two years from the date of the securities; provided, however, that if such municipal securities broker or municipal securities dealer is a member of a syndicate or similar account formed for the purchase of such securities, the Form A-13 with respect to such securities shall be filed by the managing underwriter on behalf of each participant in the syndicate or similar account. Each Form A-13 required to be filed under this paragraph~~ The underwriting fee must be received at the office of the Board in Washington, D.C. not later than ~~15~~ 30 calendar days following the ~~end of the calendar quarter in which~~ the date of the settlement with the issuer ~~occurs~~.

(d) ~~The fee prescribed in paragraph (a) shall be payable with respect to any new issue municipal security which a municipal securities broker or municipal securities dealer shall have contracted on or after July 1, 1985 to purchase from an issuer~~. 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 (as defined in Rule G-32). If an official statement in final form will not be 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.

~~(e) In the event any person subject to this rule shall fail to pay the required fee, the Board may recommend to the Commission that the registration of such person with the Commission be suspended or revoked~~.

New Form A-13 is on the last page of this issue.

New Issue of *MSRB Manual*

The updated issue of the *MSRB Manual*, dated April 1, 1987, now is available.

The *MSRB Manual*, published by Commerce Clearing House, includes the texts of the Securities Exchange Act of 1934 and the Securities Investor Protection Act of 1970, Board rules and interpretations, pertinent regulations of other agencies and samples of forms. The Board has discontinued printing the *MSRB Rules*.

Copies of the updated *Manual* may be obtained from the Board's offices by submitting a completed order form along with payment for the full amount due. The cost of the *Manual* is $5.00. The order form is on page 23 of this issue.

Publications List

Manuals and Rule Texts

MSRB Manual
Complete text of MSRB rules, interpretive notices and letters. Includes 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, 1987 ..... $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.
July 1986 ..... 5 copies per year ..... 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.
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