

Proposed Rule Change by Municipal Securities Rulemaking Board  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

Proposed rule change to amend the continuing disclosure service of the EMMA system to reflect recent Securities and Exchange Commission amendments to Securities Exchange Act Rule 15c2-12

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Leslie"/>	Last Name	<input type="text" value="Carey"/>
Title	<input type="text" value="Associate General Counsel"/>		
E-mail	<input type="text" value="lcarey@msrb.org"/>		
Telephone	<input type="text" value="(703) 797-6600"/>	Fax	<input type="text" value="(703) 797-6700"/>

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,  
Municipal Securities Rulemaking Board  
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date

By  (Name)  (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

Ronald Smith, rsmith@msrb.org

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (the “MSRB” or “Board”) is hereby filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to amend the continuing disclosure service of its Electronic Municipal Market Access (“EMMA”) system to reflect recent Commission amendments to Securities Exchange Act Rule 15c2-12 (“Exchange Act Rule 15c2-12”). The MSRB requests an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than December 1, 2010 and shall be announced no later than five (5) business days prior to the effective date.

The text of the proposed rule change is set forth below:<sup>1</sup>

**MUNICIPAL SECURITIES RULEMAKING BOARD  
ELECTRONIC MUNICIPAL MARKET ACCESS SYSTEM –  
EMMA ®**

\* \* \* \* \*

**EMMA CONTINUING DISCLOSURE SERVICE**

No change.

**Submissions to the EMMA Continuing Disclosure Service**

*Designated Electronic Format for Documents.* No change.

*Method of Submission.* No change.

*Timing of Submissions.* No change.

*Document Types.* The EMMA continuing disclosure service accepts submissions from issuers, obligated persons, and their agents of (i) the continuing disclosure documents described in Rule 15c2-12, and (ii) other continuing disclosure documents concerning municipal securities not specifically described in Rule 15c2-12.

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<sup>1</sup> Underlining indicates additions to the existing text of the EMMA continuing disclosure service; brackets indicate deletions from the existing text of the EMMA continuing disclosure service. Certain portions of the existing text of the EMMA continuing disclosure service have been previously approved by the Commission but are not yet effective. See Release No. 34-62182, File No. SR-MSRB-2009-09 (May 26, 2010); Release No. 34-62183, File No. SR-MSRB-2009-10 (May 26, 2010).

The continuing disclosure documents described in Rule 15c2-12 consist of the following categories of documents:

- annual financial information concerning issuers or other obligated persons as described in paragraph (b)(5)(i)(A) of Rule 15c2-12, or other financial information and operating data provided by issuers or other obligated persons as described in paragraph (d)(2)(ii)(A) of Rule 15c2-12;
- financial statements for issuers or other obligated persons if not included in the annual financial information as described in paragraph (b)(5)(i)(B) of Rule 15c2-12;
- notices of certain events[, if material,] as described in paragraph (b)(5)(i)(C) of Rule 15c2-12; and
- notices of failures to provide annual financial information on or before the date specified in the written undertaking as described in paragraph (b)(5)(i)(D) of Rule 15c2-12.

Categories of other disclosure documents concerning municipal securities not specifically described in Rule 15c2-12 include:

- other financial or operating data disclosures, including but not limited to quarterly or monthly financial information; interim or additional financial information or operating data; budget documents; investment, debt or financial policies; consultant reports; information provided to rating agencies, credit or liquidity providers or other third parties; changes in accounting standards, fiscal year or timing of annual disclosure; contractual undertaking, for the benefit of bondholders, of an issuer or obligated person to prepare audited financial statements pursuant to generally accepted accounting principles as established by the Governmental Accounting Standards Board (GASB) or the Financial Accounting Standards Board (FASB), as applicable; contractual undertaking, for the benefit of bondholders, of an issuer or obligated person to submit annual financial information to EMMA within 120 calendar days after the end of the applicable fiscal year (provided that the EMMA continuing disclosure service will accept the submission, through December 31, 2013, of an alternative transitional undertaking of an issuer or obligated person to submit annual financial information to EMMA within 150 calendar days after the end of the applicable fiscal year); uniform resource locator (URL) of the issuer's or obligated person's Internet-based investor relations or other repository of financial/operating information; and other uncategorized financial or operating data; and
- other event-based disclosures, including but not limited to amendments to continuing disclosure undertakings; changes in obligated person; notices to investors pursuant to bond documents; certain communications from the Internal Revenue Service; [tender offer or] secondary market purchase notices; notices of bid for auction rate or other securities; capital or other financing plans; litigation or enforcement action documents; [documents relating to mergers, consolidations, reorganizations, insolvency or bankruptcy;] changes of [trustee,] tender agent, remarketing agent, or other on-going

party; materials relating to derivative or other similar transactions; and other uncategorized event-based disclosures.

The MSRB may combine two or more categories, may divide any category into two or more new categories or subcategories, or may form additional categories for purposes of indexing documents submitted as uncategorized financial/operating data or event-based disclosures, as appropriate, based on the types of documents received.

In addition, for the categories of continuing disclosures listed below, a submitter may provide, in lieu of or in addition to a continuing disclosure document, a statement of the information indicated below by means of a text/data input field: contractual undertaking of an issuer or obligated person to prepare audited financial statements pursuant to generally accepted accounting principles as established by GASB or FASB, as applicable; contractual undertaking of an issuer or obligated person to submit annual financial information to EMMA within 120 calendar days (or, through December 31, 2013, within 150 calendar days) after the end of the applicable fiscal year; and URL of the issuer's or obligated person's Internet-based investor relations or other repository of financial/operating information. Submitters also may indicate any change or rescission of any such contractual undertaking or change or remove any such URL at any time by means of a text/data input field, and any such changes, rescissions or removals will be reflected on the EMMA portal; provided that a contractual undertaking of an issuer or obligated person to submit annual financial information to EMMA within 150 calendar days after the end of the applicable fiscal year will continue to be displayed on the EMMA portal through June 30, 2014, and will automatically cease to be displayed on the EMMA portal after such date, unless the issuer or obligated person has previously changed or rescinded such contractual undertaking and has indicated such change or rescission through the text/data input field.

*Information to be Submitted.* No change.

*Submitters.* No change.

**Public Availability of Continuing Disclosure Documents**

No additional changes.

\* \* \* \* \*

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was adopted by the MSRB on July 23, 2009. Questions concerning this filing may be directed to Leslie Carey, Associate General Counsel, or Justin R. Pica, Director, Uniform Practice Policy, at (703) 797-6600.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Currently Exchange Act Rule 15c2-12 provides that an underwriter for a primary offering of municipal securities subject to Exchange Act Rule 15c2-12 is prohibited from underwriting the offering unless the underwriter has determined that the issuer or an obligated person for whom financial information or operating data is presented in the final official statement has undertaken in writing to provide certain items of information to the MSRB. Such items include: (A) annual financial information; (B) audited financial statements if available and if not included in the annual financial information; (C) notices of certain events ("Rule 15c2-12 Event Notices");<sup>2</sup> and (D) notices of failures to provide annual financial information on or before the date specified in the written undertaking. Written undertakings are to provide that all continuing disclosure documents submitted to the MSRB shall be accompanied by identifying information as prescribed by the MSRB. Such submissions are made by issuers, obligated persons and their agents to the MSRB through the EMMA continuing disclosure service and are made available to the public through the EMMA Web site for free and through paid subscriptions.

The Commission has recently amended Exchange Act Rule 15c2-12 to modify several provisions relating to the submission of continuing disclosures to the MSRB (the "Rule 15c2-12 Amendment").<sup>3</sup> The Rule 15c2-12 Amendment, among other things, (1) removes the exemption from the continuing disclosure provisions of Exchange Act Rule 15c2-12 for demand securities;<sup>4</sup>

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<sup>2</sup> Under Exchange Act Rule 15c2-12(b)(5)(i)(C), notices of the following events currently are required to be submitted to the MSRB, if material: principal and interest payment delinquencies; non-payment related defaults; unscheduled draws on debt service reserves reflecting financial difficulties; unscheduled draws on credit enhancements reflecting financial difficulties; substitution of credit or liquidity providers, or their failure to perform; adverse tax opinions or events affecting the tax-exempt status of the security; modifications to rights of security holders; bond calls; defeasances; release, substitution, or sale of property securing repayment of the securities; and rating changes.

<sup>3</sup> See Release No. 34-62184A; File No. S7-15-09 (May 26, 2010).

<sup>4</sup> Currently primary offerings for demand securities as described in Exchange Act Rule 15c2-12(d)(1)(iii) are exempt from the requirements of Exchange Act Rule 15c2-12.

(2) modifies Exchange Act Rule 15c2-12 to establish a timeliness standard for submission of Rule 15c2-12 Event Notices of ten business days after the occurrence of the event; (3) deletes the general materiality condition for certain of the Rule 15c2-12 Event Notices; (4) modifies the language of the Rule 15c2-12 Event Notice regarding adverse tax events;<sup>5</sup> and (5) adds new Rule 15c2-12 Event Notices.<sup>6</sup>

To permit issuers and obligated persons to meet the provisions of the Rule 15c2-12 Amendment on or prior to the compliance date of December 1, 2010 established under the Rule 15c2-12 Amendment, this proposed rule change would modify the language of the EMMA continuing disclosure service to reflect the materiality standard changes under the Rule 15c2-12 Amendment and would modify the list of voluntary event-based disclosures that may be submitted to the EMMA continuing disclosure service to reflect changes in the list of Rule 15c2-12 Event Notices made by the Rule 15c2-12 Amendment.<sup>7</sup>

Upon this proposed rule change becoming effective, the continuing disclosure service of EMMA would accept submissions of, and make publicly available through EMMA, the following categories of event-based continuing disclosure documents:<sup>8</sup>

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<sup>5</sup> The Rule 15c2-12 Amendment expands the current language of such Rule 15c2-12 Event Notice category to include adverse tax opinions, the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security or other material events affecting the tax status of the security.

<sup>6</sup> The Rule 15c2-12 Amendment includes the following new Rule 15c2-12 Event Notices: tender offers; bankruptcy, insolvency, receivership, or similar event of the issuer or obligated person; the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and the appointment of a successor or additional trustee, or the change of name of a trustee, if material.

<sup>7</sup> The existing language of the EMMA continuing disclosure service would incorporate the changed list of Rule 15c2-12 Event Notices made by the Rule 15c2-12 Amendment by reference to the then-current provisions of Exchange Act Rule 15c2-12 and therefore no change in the language of the EMMA continuing disclosure service would be made. In addition, the removal of the exemption for demand securities from the continuing disclosure provisions of Exchange Act Rule 15c2-12 does not require changes to the EMMA continuing disclosure service in order to permit submission of disclosures in connection with demand securities.

<sup>8</sup> This proposed rule change does not modify the existing categories of financial/operating data disclosures available through the EMMA continuing disclosure service.

**Rule 15c2-12 Event Notices**

- principal and interest payment delinquencies
- non-payment related defaults, if material
- unscheduled draws on debt service reserves reflecting financial difficulties
- unscheduled draws on credit enhancements reflecting financial difficulties
- substitution of credit or liquidity providers or their failure to perform
- adverse tax opinions, IRS notices or events affecting the tax status of the security<sup>9</sup>
- modifications to rights of security holders, if material
- bond calls, if material<sup>10</sup>
- defeasances
- release, substitution or sale of property securing repayment of the securities, if material
- rating changes
- tender offers<sup>11</sup>
- bankruptcy, insolvency, receivership or similar event of the obligated person<sup>12</sup>

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<sup>9</sup> This category would represent the expansion in the Rule 15c2-12 Amendment of the prior category of “adverse tax opinions or events affecting the tax-exempt status of the security” to “adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.” *See* amended Exchange Act Rule 15c2-12(b)(5)(i)(C)(6).

<sup>10</sup> The Rule 15c2-12 Amendment expands this category to include tender offers. *See* amended Exchange Act Rule 15c2-12(b)(5)(i)(C)(8). The EMMA continuing disclosure service currently provides a voluntary event-based notice category of “tender offers/secondary market purchases.” The EMMA continuing disclosure service will continue to utilize “bond call” as a separate category from “tender offer.”

<sup>11</sup> *Id.* The existing “tender offers/secondary market purchases” category of voluntary event-based notice will be split into a new Rule 15c2-12 Event Notice category of “tender offers” and a voluntary event-based category of “secondary market purchases.”



- merger, consolidation, or acquisition of the obligated person, if material<sup>13</sup>
- appointment of a successor or additional trustee, or the change of name of a trustee, if material

**Additional/Voluntary Event-Based Disclosures** (certain communications from the Internal Revenue Service, tender offers, merger/consolidation/reorganization/insolvency/bankruptcy and change of trustee are no longer reflected as additional/voluntary event-based disclosures).

- amendment to continuing disclosure undertaking
- change in obligated person
- notice to investors pursuant to bond documents
- certain communications from the Internal Revenue Service
- secondary market purchases
- bid for auction rate or other securities
- capital or other financing plan
- litigation/enforcement action
- change of tender agent, remarketing agent, or other on-going party
- derivative or other similar transaction
- other event-based disclosures

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( . . . continued)

<sup>12</sup> The existing “merger/consolidation/reorganization/insolvency/bankruptcy” category of voluntary event-based notice will be split into a new Rule 15c2-12 Event Notice category of “bankruptcy, insolvency, receivership or similar event of the issuer or obligated person” and a second Rule 15c2-12 Event Notice category of “merger, consolidation or acquisition of the obligated person.” *See* amended Exchange Act Rule 15c2-12(b)(5)(i)(C)(12).

<sup>13</sup> *Id.* The full reference to this category under amended Exchange Act Rule 15c2-12(b)(5)(i)(C)(13) is “the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the normal course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.”

(b) The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Exchange Act, which provides that MSRB's rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Exchange Act in that it effectuates the Commission's Rule 15c2-12 Amendment under the Exchange Act. In addition, the proposed rule change serves to remove impediments to and help perfect the mechanisms of a free and open market in municipal securities and would serve to promote the statutory mandate of the MSRB to protect investors and the public interest. The proposed rule change would aid in providing additional information for making investment decisions more easily accessible to all participants in the municipal securities market on an equal basis throughout the life of the securities without barriers to obtaining such information. Broad access to additional continuing disclosure documents through the continuing disclosure service of EMMA should assist in preventing fraudulent and manipulative acts and practices by improving the opportunity for public investors to access material information about issuers and their securities.

4. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Documents and information provided through the continuing disclosure service would be available to all persons simultaneously. In addition to making the additional documents and information available for free on the EMMA portal to all members of the public, the MSRB would make such documents and information available by subscription on an equal and non-discriminatory basis.

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

Written comments were neither solicited nor received with respect to the proposed rule change.

6. Extension of Time Period for Commission Action

The MSRB declines to consent to an extension of the time period specified in Section 19(b)(2) of the Exchange Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

The proposed rule change is based on and would effectuate the Commission's Rule 15c2-12 Amendment.

9. Exhibits

1. Federal Register Notice.

## **EXHIBIT 1**

### **SECURITIES AND EXCHANGE COMMISSION**

(Release No. 34- ; File No. SR-MSRB-2010-05)

Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to the Continuing Disclosure Service of the MSRB Electronic Municipal Market Access (“EMMA”) System

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on June 30, 2010, the Municipal Securities Rulemaking Board (the “MSRB”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The MSRB has filed with the Commission a proposed rule change to amend the continuing disclosure service of its Electronic Municipal Market Access (“EMMA”) system to reflect recent Commission amendments to Securities Exchange Act Rule 15c2-12 (“Exchange Act Rule 15c2-12”). The MSRB requests an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than December 1, 2010 and shall be announced no later than five (5) business days prior to the effective date.

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

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

The text of the proposed rule change is available on the MSRB's Web site at [www.msrb.org/ Rules-and-Interpretations/SEC-Filings.aspx](http://www.msrb.org/ Rules-and-Interpretations/SEC-Filings.aspx), at the MSRB's principal office, and at the Commission's Public Reference Room.

## **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

### **A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

#### **1. Purpose**

(a) Currently Exchange Act Rule 15c2-12 provides that an underwriter for a primary offering of municipal securities subject to Exchange Act Rule 15c2-12 is prohibited from underwriting the offering unless the underwriter has determined that the issuer or an obligated person for whom financial information or operating data is presented in the final official statement has undertaken in writing to provide certain items of information to the MSRB. Such items include: (A) annual financial information; (B) audited financial statements if available and if not included in the annual financial information; (C) notices of certain events ("Rule 15c2-12 Event Notices");<sup>3</sup> and (D)

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<sup>3</sup> Under Exchange Act Rule 15c2-12(b)(5)(i)(C), notices of the following events currently are required to be submitted to the MSRB, if material: principal and interest payment delinquencies; non-payment related defaults; unscheduled draws on debt service reserves reflecting financial difficulties; unscheduled draws on credit enhancements reflecting financial difficulties; substitution of credit or liquidity providers, or their failure to perform; adverse tax opinions or events  
(continued . . .)

notices of failures to provide annual financial information on or before the date specified in the written undertaking. Written undertakings are to provide that all continuing disclosure documents submitted to the MSRB shall be accompanied by identifying information as prescribed by the MSRB. Such submissions are made by issuers, obligated persons and their agents to the MSRB through the EMMA continuing disclosure service and are made available to the public through the EMMA Web site for free and through paid subscriptions.

The Commission has recently amended Exchange Act Rule 15c2-12 to modify several provisions relating to the submission of continuing disclosures to the MSRB (the “Rule 15c2-12 Amendment”).<sup>4</sup> The Rule 15c2-12 Amendment, among other things, (1) removes the exemption from the continuing disclosure provisions of Exchange Act Rule 15c2-12 for demand securities;<sup>5</sup> (2) modifies Exchange Act Rule 15c2-12 to establish a timeliness standard for submission of Rule 15c2-12 Event Notices of ten business days after the occurrence of the event; (3) deletes the general materiality condition for certain

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(. . . continued)

affecting the tax-exempt status of the security; modifications to rights of security holders; bond calls; defeasances; release, substitution, or sale of property securing repayment of the securities; and rating changes.

<sup>4</sup> See Release No. 34-62184A; File No. S7-15-09 (May 26, 2010).

<sup>5</sup> Currently primary offerings for demand securities as described in Exchange Act Rule 15c2-12(d)(1)(iii) are exempt from the requirements of Exchange Act Rule 15c2-12.

of the Rule 15c2-12 Event Notices; (4) modifies the language of the Rule 15c2-12 Event Notice regarding adverse tax events;<sup>6</sup> and (5) adds new Rule 15c2-12 Event Notices.<sup>7</sup>

To permit issuers and obligated persons to meet the provisions of the Rule 15c2-12 Amendment on or prior to the compliance date of December 1, 2010 established under the Rule 15c2-12 Amendment, this proposed rule change would modify the language of the EMMA continuing disclosure service to reflect the materiality standard changes under the Rule 15c2-12 Amendment and would modify the list of voluntary event-based disclosures that may be submitted to the EMMA continuing disclosure service to reflect changes in the list of Rule 15c2-12 Event Notices made by the Rule 15c2-12 Amendment.<sup>8</sup>

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<sup>6</sup> The Rule 15c2-12 Amendment expands the current language of such Rule 15c2-12 Event Notice category to include adverse tax opinions, the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security or other material events affecting the tax status of the security.

<sup>7</sup> The Rule 15c2-12 Amendment includes the following new Rule 15c2-12 Event Notices: tender offers; bankruptcy, insolvency, receivership, or similar event of the issuer or obligated person; the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and the appointment of a successor or additional trustee, or the change of name of a trustee, if material.

<sup>8</sup> The existing language of the EMMA continuing disclosure service would incorporate the changed list of Rule 15c2-12 Event Notices made by the Rule 15c2-12 Amendment by reference to the then-current provisions of Exchange Act Rule 15c2-12 and therefore no change in the language of the EMMA continuing disclosure service would be made. In addition, the removal of the exemption for demand securities from the continuing disclosure provisions of Exchange Act Rule 15c2-12 does not require changes to the EMMA continuing disclosure

(continued . . .)

Upon this proposed rule change becoming effective, the continuing disclosure service of EMMA would accept submissions of, and make publicly available through EMMA, the following categories of event-based continuing disclosure documents:<sup>9</sup>

**Rule 15c2-12 Event Notices**

- principal and interest payment delinquencies
- non-payment related defaults, if material
- unscheduled draws on debt service reserves reflecting financial difficulties
- unscheduled draws on credit enhancements reflecting financial difficulties
- substitution of credit or liquidity providers or their failure to perform
- adverse tax opinions, IRS notices or events affecting the tax status of the security<sup>10</sup>
- modifications to rights of security holders, if material
- bond calls, if material<sup>11</sup>

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(. . . continued)

service in order to permit submission of disclosures in connection with demand securities.

<sup>9</sup> This proposed rule change does not modify the existing categories of financial/operating data disclosures available through the EMMA continuing disclosure service.

<sup>10</sup> This category would represent the expansion in the 15c2-12 Amendment of the prior category of “adverse tax opinions or events affecting the tax-exempt status of the security” to “adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.” *See* amended Exchange Act Rule 15c2-12(b)(5)(i)(C)(6).



- defeasances
- release, substitution or sale of property securing repayment of the securities, if material
- rating changes
- tender offers<sup>12</sup>
- bankruptcy, insolvency, receivership or similar event of the obligated person<sup>13</sup>
- merger, consolidation, or acquisition of the obligated person, if material<sup>14</sup>
- appointment of a successor or additional trustee, or the change of name of a trustee, if material

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( . . . continued)

<sup>11</sup> The Rule 15c2-12 Amendment expands this category to include tender offers. *See* amended Exchange Act Rule 15c2-12(b)(5)(i)(C)(8). The EMMA continuing disclosure service currently provides a voluntary event-based notice category of “tender offers/secondary market purchases.” The EMMA continuing disclosure service will continue to utilize “bond call” as a separate category from “tender offer.”

<sup>12</sup> *Id.* The existing “tender offers/secondary market purchases” category of voluntary event-based notice will be split into a new Rule 15c2-12 Event Notice category of “tender offers” and a voluntary event-based category of “secondary market purchases.”

<sup>13</sup> The existing “merger/consolidation/reorganization/insolvency/bankruptcy” category of voluntary event-based notice will be split into a new Rule 15c2-12 Event Notice category of “bankruptcy, insolvency, receivership or similar event of the issuer or obligated person” and a second Rule 15c2-12 Event Notice category of “merger, consolidation or acquisition of the obligated person.” *See* amended Exchange Act Rule 15c2-12(b)(5)(i)(C)(12).

<sup>14</sup> *Id.* The full reference to this category under amended Exchange Act Rule 15c2-12(b)(5)(i)(C)(13) is “the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the normal course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.”

**Additional/Voluntary Event-Based Disclosures** (certain communications from the Internal Revenue Service, tender offers, merger/consolidation/reorganization/insolvency/bankruptcy and change of trustee are no longer reflected as additional/voluntary event-based disclosures).

- amendment to continuing disclosure undertaking
- change in obligated person
- notice to investors pursuant to bond documents
- certain communications from the Internal Revenue Service
- secondary market purchases
- bid for auction rate or other securities
- capital or other financing plan
- litigation/enforcement action
- change of tender agent, remarketing agent, or other on-going party
- derivative or other similar transaction
- other event-based disclosures

## **2. Statutory Basis**

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Exchange Act, which provides that MSRB's rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Exchange Act in that it effectuates the Commission's Rule 15c2-12 Amendment under the Exchange Act. In addition, the proposed rule change serves to remove impediments to and help perfect the mechanisms of a free and open market in municipal securities and would serve to promote the statutory mandate of the MSRB to protect investors and the public interest. The proposed rule change would aid in providing additional information for making investment decisions more easily accessible to all participants in the municipal securities market on an equal basis throughout the life of the securities without barriers to obtaining such information. Broad access to additional continuing disclosure documents through the continuing disclosure service of EMMA should assist in preventing fraudulent and manipulative acts and practices by improving the opportunity for public investors to access material information about issuers and their securities.

**B. Self-Regulatory Organization's Statement on Burden on Competition**

The MSRB does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Documents and information provided through the continuing disclosure service would be available to all persons simultaneously. In addition to making the additional documents and information available for free on the EMMA portal to all members of the public, the MSRB would make such documents and information available by subscription on an equal and non-discriminatory basis.

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

Written comments were neither solicited nor received on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

The MSRB has requested an effective date for the proposed rule change of a date to be announced by the MSRB in a notice published on the MSRB Web site, which date shall be no later than December 1, 2010 and shall be announced no later than five (5) business days prior to the effective date.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form ([www.sec.gov/rules/sro.shtml](http://www.sec.gov/rules/sro.shtml)); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2010-05 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MSRB-2010-05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site ([www.sec.gov/rules/sro.shtml](http://www.sec.gov/rules/sro.shtml)). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-2010-05 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

Elizabeth M. Murphy  
Secretary

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<sup>15</sup> 17 CFR 200.30-3(a)(12).