



SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

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

**Form 19b-4 Information (required)**

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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 (required)**

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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**

Pursuant to the provisions of 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> the Municipal Securities Rulemaking Board (the “MSRB” or “Board”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change consisting of amendments to Rules G-8, on books and records, G-14 RTRS Procedures, G-32, on disclosures in connection with primary offerings, G-34, on CUSIP numbers, new issue, and market information requirements, and the Electronic Municipal Market Access (EMMA®)<sup>3</sup> system facility (the “proposed rule change”). The MSRB requests an effective date for the proposed amendments no later than May 6, 2013, or such earlier date to be announced by the MSRB in a notice published on the MSRB website with at least a thirty day advance notification prior to the effective date.

(a) The text of the proposed rule change is attached as Exhibit 5. Material proposed to be added is underlined. Material proposed to be deleted is enclosed in brackets.

(b) Not applicable.

(c) Not applicable.

## **2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the MSRB at its July 25-27, 2012 meeting. Questions concerning this filing may be directed to Karen Du Brul, Associate General Counsel, at 703-797-6739; or Justin R. Pica, Director of Product Management – Market Transparency, at 703-797-6716.

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

(a) Purpose

The proposed rule change amends Rules G-32 and G-34 to allow underwriters to satisfy certain of their submission requirements under Rule G-32 in connection with new issues of municipal securities by their submission of data, pursuant to Rule G-34, to the New Issue Information Dissemination Service (“NIIDS”) operated by the Depository Trust and Clearing Corporation (“DTCC”). In addition, the proposed rule change revises deadlines for the submission of data to NIIDS, removes certain exceptions from the

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

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

<sup>3</sup> EMMA is a registered trademark of the MSRB.

NIIDS submission requirements under Rule G-34 for certain short term instruments, modifies the EMMA system to include certain elements of the NIIDS data on the EMMA website, and eliminates language describing auction rate securities as having a short “effective maturity,” as further described below under “Summary of Proposed Rule Change” and under “Discussion of Comments.”

## BACKGROUND

Rule G-32 requires underwriters to submit selected information about most new issues of municipal securities to the MSRB by completing electronic Form G-32 through EMMA’s Primary Market Disclosure Service. This information includes, among other items, the issuer name and issue description for the new issue and, for each maturity of the new issue, the CUSIP numbers, principal amounts and initial offering prices or yields. Separately, Rule G-34 requires underwriters for most new issues to submit comprehensive information to NIIDS. Information required to be submitted to NIIDS generally includes all of the information required for dealers to produce a “when, as and if issued”<sup>4</sup> customer trade confirmation and also includes many of the same items of information included in Form G-32.

**New Issue EMMA Submission Requirements Under Rule G-32.** EMMA is an information facility of the MSRB for receiving electronic submissions of official statements, initial offering prices and other information about new issues as well as ongoing municipal securities disclosure and other key documents and related information. EMMA makes such documents and information, together with trade price and interest rate information, available to the public at no charge on an Internet website or by paid subscription. The submission of data under Rule G-32 to EMMA’s Primary Market Disclosure Service in connection with new issues is required to be commenced by no later than the end of the day of first execution of transactions in the offered municipal securities.<sup>5</sup> The submission of documents relating to issues of municipal securities,

<sup>4</sup> The term “when, as and if issued” is used to describe the time period in the life of a new issue of municipal securities from the original date of the sale by the issuer to the delivery of the securities to, and payment by, the underwriter. Sales made during the “when, as and if issued” period (also called the “when-issued” period”) are subject to issuance of the securities.

<sup>5</sup> Under Rule G-32(b)(vi)(C)(1) and Section 2.6.2 of the EMMA Dataport Manual (Information by the Date of First Execution of Transactions), underwriters are required to initiate the Form G-32 submission process by no later than the date of first execution of transactions in securities sold in the offering by submitting certain issue-specific information about the new issue. “Date of first execution” is defined in Rule G-32(d)(xi) as:

the date on which the underwriter executes its first transactions with a customer or another broker, dealer or municipal securities dealer in any security offered in a primary offering; provided that, for offerings subject to Rule G-34(a)(ii)(C), ‘date of first

including official statements or preliminary official statements (if applicable), and of certain additional items of information, is subject to other submission deadlines as outlined in Rule G-32.<sup>6</sup>

**New Issue NIIDS Submission Requirements Under Rule G-34.** NIIDS is a centralized system for collecting from underwriters and disseminating to market participants standardized electronic information describing new issue securities. It was developed to ensure that all market participants have access to information necessary for processing transactions once the underwriter executes its first transactions in the new issue. The information submitted by underwriters to NIIDS, required to be completed by no later than two hours after Time of Formal Award<sup>7</sup> for most new issues of municipal securities,<sup>8</sup> is disseminated in real time to DTCC participants and other subscribers, such as information vendors. Submissions to NIIDS also provide a mechanism for underwriters to communicate the Time of Formal Award and Time of First Execution<sup>9</sup> to

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execution' shall mean the date corresponding to the Time of First Execution as defined in Rule G-34(a)(ii)(C)(1)(b); further provided that, solely for purposes of this rule, the date of first execution shall be deemed to occur by no later than the closing date.

<sup>6</sup> Sections 2.6.4 and 2.6.5 of the EMMA Dataport Manual set out the basic timeframes for submitting documents and information to EMMA in connection with a new issue.

<sup>7</sup> "Time of Formal Award" is defined in Rule G-34(a)(ii)(C)(1)(a) as:

for competitive issues, the later of the time the issuer announces the award or the time the issuer notifies the underwriter of the award, and, for negotiated issues, the later of the time the contract to purchase the securities from the issuer is executed or the time the issuer notifies the underwriter of its execution. If the underwriter and issuer have agreed in advance on a Time of Formal Award, that time may be submitted to the new issue information dissemination system in advance of the actual Time of Formal Award.

<sup>8</sup> Rule G-34(a)(ii)(C) currently provides exceptions to the submission requirements for certain short-term instruments, including variable rate instruments, auction rate products and commercial paper. In addition, this requirement does not apply to new issues that do not meet the eligibility criteria for CUSIP number assignments or that consist of municipal fund securities (such as interests in 529 college savings plans) under the general exemption provided in Rule G-34(d).

<sup>9</sup> "Time of First Execution" is defined in Rule G-34(a)(ii)(C)(1)(b) as: "the time the underwriter plans to execute its first transaction in the new issue. The underwriter shall designate a Time of First Execution that is no less than two hours after all

market participants that may trade in the new issue to promote orderly trade execution and processing on the first day of trading in a new issue. Consistent communication of these events ensures that all market participants have sufficient data to process and time to prepare pending trades in new issues for execution, real-time trade reporting<sup>10</sup> and sending of when-issued customer confirmations.

**Planned Integration of EMMA and NIIDS New Issue Submission**

**Requirements.** The MSRB launched EMMA as a pilot on March 31, 2008.<sup>11</sup> On September 30, 2008, amendments to Rule G-34 became effective that instituted the requirement for underwriters to provide new issue information to NIIDS.<sup>12</sup> During the early stages of planning for EMMA, the MSRB had planned on integrating into EMMA's Primary Market Disclosure Service the NIIDS data submitted by underwriters under Rule G-34 for the purpose of also fulfilling the data submission requirements under Rule G-32 and making such information available to the public through the EMMA website. Due to divergent development schedules and limited opportunities to ensure effective interoperability between the two systems, the Primary Market Disclosure Service was launched on June 1, 2009 requiring a separate submission of new issue data to EMMA through Form G-32, although at that time the MSRB continued to plan for future integration of the submission processes under Rules G-32 and G-34.<sup>13</sup>

The MSRB believes there would be significant benefits in integrating the NIIDS data into the EMMA submission process. While the information required to be submitted under Rule G-32 is less extensive than the information required for a NIIDS submission pursuant to Rule G-34, re-keying information under both Rules G-32 and G-34 is time consuming and this duplication of effort may increase the possibility of error. In addition to reducing the submission burden on underwriters, elimination of this duplicative data entry would result in improved data quality on EMMA and throughout the marketplace.

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information required by paragraph (a)(ii)(C) has been transmitted to the new issue information dissemination system.”

<sup>10</sup> “Real-time trade reporting” refers to the reporting of certain information about each purchase and sale transaction effected in municipal securities to the MSRB’s Real-time Transaction Reporting System (“RTRS”), as prescribed by Rule G-14, Rule G-14 RTRS Procedures and the RTRS Users Manual.

<sup>11</sup> See Release No. 34-57577 (March 28, 2008), 73 FR 18022 (April 2, 2008) (File No. SR-MSRB-2007-06) (November 15, 2007).

<sup>12</sup> See Release No. 34-57750 (May 7, 2008), 73 FR 25815 (May 7, 2008) (File No. SR-MSRB-2007-08) (November 27, 2007).

<sup>13</sup> See MSRB Notice 2009-07 (March 23, 2009), in which the MSRB noted that it would advise market participants of any future development of a functionality providing for the use of NIIDS data to fulfill Rule G-32 information submission requirements.

It would allow both underwriters and enforcement agencies to concentrate their compliance activities on ensuring exacting data submissions through this single pipeline through which data would flow uniformly to EMMA as well as to other market data vendors receiving the NIIDS subscription feed.

The integration of the NIIDS data into the EMMA submission process also would accelerate the availability of Form G-32 data on EMMA by displaying such information in real time upon receipt from NIIDS by no later than two hours after the Time of Formal Award as provided under Rule G-34, rather than by the close of business on the date of first execution as currently provided under Rule G-32. In particular, use of the NIIDS data to populate EMMA will allow for more rapid intra-day, rather than end of day, dissemination of the maturity schedule, interest rates and initial offering prices<sup>14</sup> for new issues within two hours after the Time of Formal Award. Furthermore, additional NIIDS data elements not currently available through EMMA, such as the Time of Formal Award and Time of First Execution as announced by the underwriter, would be displayed on EMMA. To enhance transparency for a broader scope of new issues of municipal securities, the MSRB is also proposing to eliminate exceptions under Rule G-34 for submitting data for certain new issues to NIIDS.

## **SUMMARY OF PROPOSED RULE CHANGE**

The proposed rule change revises Rule G-32 to provide that an underwriter's obligations to submit data about a new issue under that rule would be fulfilled through submission of such data through NIIDS as required pursuant to Rule G-34. Data for certain types of offerings not required to use NIIDS (as described below) would continue to be subject to existing Rule G-32 data submission requirements. In addition, certain data elements that are not included in NIIDS, such as underwriting spread (if not included in the official statement), the existence of a continuing disclosure undertaking and the timing for issuer submission of annual financial information, would be required to be submitted to EMMA pursuant to existing timeframes set forth in Rule G-32 and the EMMA Dataport Manual.

Rule G-34 currently requires that information about most new issues of municipal securities be submitted to NIIDS by no later than two hours following the Time of Formal Award of a new issue. Rule G-34 currently exempts certain types of short-term instruments (including variable rate instruments, auction rate products, and commercial paper), as well as municipal fund securities (such as interests in 529 college savings plans) and issues ineligible for CUSIP number assignment. The proposed rule change revises Rule G-34 to remove the exception for underwriters to submit to NIIDS information about short-term instruments such as variable rate instruments, auction rate

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<sup>14</sup> Initial offering prices or yields currently must be, and would continue to be, disclosed for all maturities, including those otherwise designated as "not reoffered," through both EMMA and NIIDS. See Release No. 34-67908 (September 21, 2012), 77 FR 59427 (September 27, 2012) (File No. SR-MSRB-2012-06) (June 28, 2012).

products and notes maturing in less than nine months, but would retain this exception for commercial paper issues, municipal fund securities and issues ineligible for CUSIP number assignment. The proposed rule change adds a narrow exception from the requirement to provide a minimum of two hours advance notice of the planned Time of First Execution for offerings of variable rate instruments with a planned settlement cycle of one day or less.

The proposed rule change revises the EMMA facility by adding to the EMMA display and to the EMMA primary market subscription the Time of First Execution and Time of Formal Award.

In addition, the proposed rule change includes amendments to Rule G-8 to conform recordkeeping requirements to amended Rules G-32 and G-34, and amendments to the Rule G-14 RTRS Procedures and Rules G-32 and G-34 to make certain non-substantive technical changes. The technical amendments to Rule G-32 correct a cross-reference to Exchange Act Rule 15c2-12, correct a mis-numbered paragraph defining the term “obligated person” and eliminate section (e), which operated as a transitional provision in June 2009 from the former pre-EMMA official statement submission process under former Rule G-36 to the EMMA-based submission process under current Rule G-32. The technical amendments to Rule G-34 improve the organization of certain provisions of the rule.

Finally, the technical amendments to section (a)(ii)(B) of the Rule G-14 RTRS Procedures under Rule G-14 revise language in such RTRS Procedures that is parallel to the language regarding short-term instruments that is being removed from Rule G-34 by the amendments described above. Such amendments would more clearly describe the types of securities to which the end-of-day RTRS reporting exception for short-term instruments applies and also eliminate language describing auction rate securities as having a short “effective maturity.” The MSRB believes that auction rate securities should not be characterized as having an effective short-term maturity and has previously noted that, unlike other short-term municipal securities with long-term maturity dates and short-term interest rate reset periods (such as variable rate demand obligations), auction rate securities generally do not have “put” features or liquidity facilities that allow holders to tender their securities back to an issuer-appointed representative on a periodic basis.<sup>15</sup> Thus, the MSRB is eliminating the use of the term “effective maturity” in the

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<sup>15</sup> See MSRB Notice 2008-09 (February 19, 2008), in which the MSRB published an alert regarding investor protection concerns arising in the market for auction rate securities after widespread auction failures began to occur at the beginning of 2008. The MSRB also published educational information regarding this key difference in the EMMA Education Center upon launch of the EMMA pilot on March 31, 2008, which states:

An important distinction between auction rate securities and variable rate demand obligations is that investors in auction rate securities do not have a "put" right. Thus, there is no assurance that



context of auction rate securities in order to avoid any potential implication that holders of auction rate securities have assurances of liquidity on a short-term basis.

(b) The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act, which provides that the 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 and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act. There will be significant benefits in integrating the NIIDS data into the EMMA submission process that will assist in removing impediments to and perfecting the mechanism of a free and open market, and that will also improve protections to all market participants. The current requirement to re-key significant amounts of information under both Rules G-32 and G-34 is time consuming and this duplication of effort may increase the possibility of error. In addition to reducing the submission burden on underwriters, elimination of this duplicative data entry will result in improved data quality on EMMA and throughout the marketplace. It will allow both underwriters and enforcement agencies to concentrate their compliance activities on ensuring exacting data submissions through this single pipeline through which data would flow uniformly to EMMA as well as to other market data vendors receiving the NIIDS subscription feed.

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the investor will be able to sell its holdings during an auction. Instead, investors are dependent on the success of the auction process. Among many other factors, the pool of purchase bids that may be entered can vary widely from auction to auction, and bids entered by broker-dealers, banks and other market professionals that have the effect of supporting market liquidity, if permitted, generally are not required under the legal documents and therefore investors cannot be assured that such bids will be entered in any particular auction.

See <http://emma.msrb.org/EducationCenter/WhatAreBonds.aspx>. The MSRB thereafter launched its Short-term Obligation Rate Transparency ("SHORT") system on January 30, 2009 pursuant to which certain key information regarding periodic auctions for auction rate securities is made available to the public through EMMA.

The integration of the NIIDS data into the EMMA submission process will also accelerate the availability of Form G-32 data on EMMA by displaying such information in real time upon receipt from NIIDS, which will occur by no later than two hours after the Time of Formal Award as provided under Rule G-34, rather than by the close of business on the date of first execution as currently provided under Rule G-32. Furthermore, additional NIIDS data elements not currently available through EMMA, such as the Time of Formal Award and Time of First Execution as announced by the underwriter, will be displayed on EMMA.

Finally, the proposed rule change eliminates exceptions under Rule G-34 for submitting data for certain new issues to NIIDS. Thus, enhanced real-time access to primary market data would become available to the marketplace, both through NIIDS data disseminated by DTCC to information vendors and EMMA data disseminated by the MSRB to market participants and the general public, for a broader scope of new issues of municipal 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, since it would apply equally to all dealers that serve as underwriters of new issues of municipal securities. The enhanced and more timely information flow resulting from the proposed rule change would make such information available to all persons on an equal and non-discriminatory basis.

The marketplace and the general public would realize the substantial benefits of more prompt, more complete and more accurate information about new issue municipal securities, resulting in greater marketplace efficiency that enhances liquidity and the quality of pricing. In addition, the proposed rule change would reduce the burden on dealers that serve as underwriters for new issues of municipal securities. Such dealers would benefit from the reduced burden of significantly diminished levels of duplicative data entry into two separate information systems – including the burden of entering such data and of undertaking appropriate quality control – with only a minimal, one-time burden of reviewing and, if necessary, making minor modifications to their internal policies and procedures with respect to data submissions under MSRB rules. In addition to the reduced burden to dealers resulting from the more efficient use of dealer resources to ensure the accuracy of data submissions through this single pipeline, the resultant improvement in data quality upon initial submission would reduce the burden of making corrections at a later time when errors are detected by market participants and would reduce the incidence of potential problems with secondary market activity that can arise from inaccuracies in the indicative data used by market participants to price and process transactions.

Some underwriters of new issues bearing short-term interest rates previously exempted from the NIIDS submission requirements under Rule G-34 would be required to modify their new issue information dissemination processes to use NIIDS for such

dissemination, rather than the currently permissible use of other means of announcing relevant new issue information promptly in a manner reasonably designed to reach market participants that may trade the new issue. Such underwriters, however, have not previously been exempted from the EMMA submission requirements under Rule G-32, and the proposed rule change would provide for much of the data currently required to be provided through EMMA under Rule G-32 to instead be provided through NIIDS under Rule G-34. Thus, such underwriters would realize a reduced burden of compliance with Rule G-32 while facing a potential incremental change in the burden under Rule G-34. Whether such incremental change in burden under Rule G-34 is an increase or decrease would depend on whether, and to what extent, using NIIDS to disseminate new issue information is more or less burdensome than the alternative means currently used by such underwriters to comply with Rule G-34 and the procedures and processes they currently maintained for using two or more separate data submission processes for new issues rather than a single process through NIIDS. If and to the extent that such balance results in a net burden rather than a net benefit, the bulk of such net burden likely would occur as up-front costs of modifying procedures and likely would be minimal on an ongoing basis.

On balance, the MSRB believes that the benefits of the proposed rule change greatly exceed any potential increased burden resulting therefrom.

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

On April 10, 2012, the MSRB requested comment on a proposal to streamline new issue information submission requirements under Rules G-32 and G-34 by allowing underwriters to satisfy certain of their submission requirements under Rule G-32 by their submission of data to NIIDS pursuant to Rule G-34.<sup>16</sup> Specifically, the MSRB sought comment on whether: (i) the timeframe under Rule G-32 for submission of data for issues not subject to the NIIDS requirement or of data elements not included in NIIDS should be accelerated to coincide with the Time of First Execution, which typically would be within two-to-four hours after the Time of Formal Award;<sup>17</sup> (ii) removing the exception in NIIDS for certain short-term instruments would present compliance challenges; (iii) additional items of information available through NIIDS that are not currently available through EMMA should be added to the EMMA display; (iv) to extend the business day for purposes of determining timeframes for compliance with Rule G-34 deadlines;<sup>18</sup> or

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<sup>16</sup> See MSRB Notice 2012-19 (April 10, 2012).

<sup>17</sup> Rule G-34 generally requires that underwriters submit required data to NIIDS within two hours of the Time of Formal Award, and that such NIIDS data be disseminated to the marketplace for at least two hours prior to the Time of First Execution.

<sup>18</sup> Rule G-34 currently provides that only the hours between 9:00 A.M and 5:00 P.M. Eastern Time on a Business Day for the MSRB's Real-time Transaction

(v) to shorten the time after the formal award occurs for first executions of transactions and other related timeframes under Rule G-34. The MSRB received comment letters from the Securities Industry and Financial Markets Association (“SIFMA”) and TD Securities (USA) LLC (“TD”).

## DISCUSSION OF COMMENTS

SIFMA stated that it “believe[s] this move towards straight-through processing will be beneficial for market participants by reducing transaction costs and increasing data integrity.” TD stated that it “welcome[d] the effort to have one centralized system and one pass in establishing the information necessary to satisfy the regulations.” The MSRB discusses additional comments from these commenters below.

**Accelerating the deadline for completing submission of Form G-32 data not eligible to be submitted to NIIDS.** While no written comments were received on this question, the MSRB understands from conversations with various industry participants that accelerating the submission requirements for Form G-32 data not eligible to be submitted to NIIDS may present compliance challenges for some industry participants, particularly those that make manual submissions of information to NIIDS and Form G-32. Thus, the MSRB determined not to accelerate such timeframes but instead retain the existing timeframe for submission of those Form G-32 data elements not able to be populated using NIIDS data. Similarly, for those securities that are not eligible for submission to NIIDS and therefore would continue to be submitted through Form G-32, the MSRB is retaining all existing timeframes for submission.

**Removing the exception for certain short term instruments from the data submission requirements under Rule G-34.** SIFMA noted that while eliminating the exception under Rule G-34 for short term notes with maturities of nine months or less would not be a challenge, eliminating the exception for variable rate demand obligations (“VRDOs”) would present operational challenges. SIFMA noted that daily and weekly VRDOs are usually priced, allocated, ticketed and settled on the same or next day. Removing the exception for VRDOs under Rule G-34 would subject VRDOs to deadlines for both data submission and Time of First Execution under Rule G-34. As SIFMA noted, issuers and underwriters already typically agree in advance to a Time of Formal Award to avoid DTCC disincentive fees for short settlements, which means that underwriters generally are able to comply with the data submission requirements for trade eligibility under Rule G-34. Based on additional feedback from SIFMA, the larger concern results from the fact that purchasers of VRDOs require same day cash settlement within a short period of time following time of pricing and formal award and, as a result, the mandatory minimum two hour time period between Time of Formal Award and Time of First Execution required by Rule G-34 would present operational challenges to ensure same day cash settlement.

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Reporting System (RTRS) are used for purposes of the timeframes set out in the rule.

The purpose of the required two hour advanced notification timeframe between disseminating NIIDS data and the announced Time of First Execution is to ensure that dealers with pending trades in new issues are able to receive and enter into trade processing systems NIIDS data before the first transactions in the new issue are executed. For VRDOs, there typically are not multiple dealers with pending transactions in new issues, so the two hour advanced notification timeframe is not as important as for other types of new issues with a broad distribution. However, the MSRB believes that it is important that as many types of securities as possible benefit from the centralized data collection and dissemination of information provided by NIIDS. Accordingly, the proposed rule change removes the exception for short-term instruments (including VRDOs and auction rate securities but not including commercial paper) from Rule G-34 with respect to the requirement to submit information to NIIDS and announce the Time of Formal Award and Time of First Execution, which can be done within the existing timeframes of typical VRDO offerings. However, the proposed rule change also adds a narrow exception from the requirement to provide a minimum two hours of advance notice of the planned Time of First Execution for offerings of variable rate instruments with a planned settlement cycle of one day or less.

**Dissemination of Additional NIIDS information on EMMA.** SIFMA supported the dissemination of the Time of First Execution and Time of Formal Award on EMMA but suggested that the addition of more NIIDS data to EMMA be carefully considered to avoid obscuring important data. SIFMA suggested that those that require additional NIIDS data consider a subscription feed for such data. The MSRB agrees that careful selection of NIIDS data is necessary and will consider this issue as it reviews the full range of NIIDS data for potential inclusion on EMMA at a future date. The MSRB determined that the only new data elements from NIIDS to be added to the EMMA display and to the EMMA primary market subscription product at this time are Time of First Execution and Time of Formal Award.

**Extending Rule G-34 Business Day hours.** SIFMA said that, while expanding the 9:00 A.M. to 5:00 P.M. Eastern timeframe for the deadlines in Rule G-34 may not be problematic for dealers operating in the Eastern Time zone, expanding these hours could cause significant staffing challenges to those dealers operating in other time zones. SIFMA suggested the MSRB not alter the existing 9:00 A.M. to 5:00 P.M. Eastern timeframe in Rule G-34. The MSRB decided against changing the Rule G-34 Business Day hours.

**Shortening advanced notification timeframe between the submission of all data to NIIDS and the Time of First Execution.** TD said that the two hour window between the time of disseminating NIIDS data and first executions was “tough enough” especially for smaller shops that were limited in staff, and that shortening the time period would create undue pressure and add little to transparency. SIFMA stated that, because most dealers receive the NIIDS data from one or more information providers, the two hour dissemination period is frequently needed to integrate the data into their own systems, irrespective of the type of underwriting. However, SIFMA suggested that,

where a dealer has submitted data to NIIDS to make an issue “trade eligible” between 3:00 P.M. and 5:00 P.M. on a trading day, Rule G-34’s current carry-forward of the two hour dissemination period through to the first hours of the following day may not be necessary because the dealer has been able to disseminate and integrate the data through information providers overnight. SIFMA therefore suggested that underwriters of any issue that is made “trade eligible” between 3:00 P.M. and 5:00 P.M. Eastern Time should be permitted to elect to waive the two business hour dissemination period and set the Time of First Execution to be 9:00 A.M. Eastern Time the following morning.<sup>19</sup> SIFMA noted that this option would enable dealers to reduce the risk of carrying these securities.

Recognizing these operational challenges, the MSRB decided against shortening the required two hour minimum period between the time an underwriter disseminates NIIDS information and the Time of First Execution that can be set by an underwriter. However, the MSRB decided that underwriters setting a Time of First Execution for the business day following the day NIIDS data is disseminated should be able to set a Time of First Execution for the following day as early as 9:00 A.M. Eastern Time without having to wait until the full two-hour period has elapsed. Acknowledging that dealers would have sixteen hours between 5:00 P.M. Eastern Time and the earliest possible Time of First Execution at 9:00 A.M. Eastern Time to integrate disseminated NIIDS data and prepare for the underwriter’s announced Time of First Execution, the MSRB believes that it would be appropriate that underwriters wanting to set a Time of First Execution as early as 9:00 A.M. Eastern Time should be able to do so.

#### **6. Extension of Time Period of 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**

Not applicable.

#### **9. Exhibits**

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<sup>19</sup> Currently, an underwriter disseminating NIIDS data at, for example, 4:00 P.M. Eastern Time would not be able to set a Time of First Execution for earlier than 10:00 A.M. Eastern Time the following business day since the two hour advanced notification timeframe must occur between the hours of 9:00 A.M. to 5:00 P.M. Eastern Time.

1. Federal Register Notice
2. Notice Requesting Comment and Comment Letters
5. Text of Proposed Rule Change

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-\_\_\_\_\_; File No. SR-MSRB-2012-08)

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Amendments to Streamline New Issue Information Submission Requirements Under MSRB Rules G-32 and G-34

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 October 23, 2012, the Municipal Securities Rulemaking Board (“MSRB”) filed with the Securities and Exchange Commission (“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 is filing with the Commission a proposed rule change consisting of amendments to Rules G-8, on books and records, G-14 RTRS Procedures, G-32, on disclosures in connection with primary offerings, G-34, on CUSIP numbers, new issue, and market information requirements, and the Electronic Municipal Market Access (EMMA®)<sup>3</sup> system facility (the “proposed rule change”). The MSRB requested an effective date for the proposed amendments no later than May 6, 2013, or such earlier date to be announced by the MSRB in a notice published on the MSRB website with at least a thirty day advance notification prior to the effective date.

The text of the proposed rule change is available on the MSRB’s website at

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

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

<sup>3</sup> EMMA is a registered trademark of the MSRB.



[www.msrb.org/Rules-and-Interpretations/SEC-Filings/2012-Filings.aspx](http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2012-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 and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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

The proposed rule change amends Rules G-32 and G-34 to allow underwriters to satisfy certain of their submission requirements under Rule G-32 in connection with new issues of municipal securities by their submission of data, pursuant to Rule G-34, to the New Issue Information Dissemination Service ("NIIDS") operated by the Depository Trust and Clearing Corporation ("DTCC"). In addition, the proposed rule change revises deadlines for the submission of data to NIIDS, removes certain exceptions from the NIIDS submission requirements under Rule G-34 for certain short term instruments, modifies the EMMA system to include certain elements of the NIIDS data on the EMMA website, and eliminates language describing auction rate securities as having a short "effective maturity," as further described below under "Summary of Proposed Rule Change" and under "Discussion of Comments."

BACKGROUND

Rule G-32 requires underwriters to submit selected information about most new issues of

municipal securities to the MSRB by completing electronic Form G-32 through EMMA's Primary Market Disclosure Service. This information includes, among other items, the issuer name and issue description for the new issue and, for each maturity of the new issue, the CUSIP numbers, principal amounts and initial offering prices or yields. Separately, Rule G-34 requires underwriters for most new issues to submit comprehensive information to NIIDS. Information required to be submitted to NIIDS generally includes all of the information required for dealers to produce a "when, as and if issued"<sup>4</sup> customer trade confirmation and also includes many of the same items of information included in Form G-32.

New Issue EMMA Submission Requirements Under Rule G-32. EMMA is an information facility of the MSRB for receiving electronic submissions of official statements, initial offering prices and other information about new issues as well as on-going municipal securities disclosure and other key documents and related information. EMMA makes such documents and information, together with trade price and interest rate information, available to the public at no charge on an Internet website or by paid subscription. The submission of data under Rule G-32 to EMMA's Primary Market Disclosure Service in connection with new issues is required to be commenced by no later than the end of the day of first execution of transactions in the offered municipal securities.<sup>5</sup> The submission of documents relating to issues of

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<sup>4</sup> The term "when, as and if issued" is used to describe the time period in the life of a new issue of municipal securities from the original date of the sale by the issuer to the delivery of the securities to, and payment by, the underwriter. Sales made during the "when, as and if issued" period (also called the "'when-issued' period") are subject to issuance of the securities.

<sup>5</sup> Under Rule G-32(b)(vi)(C)(1) and Section 2.6.2 of the EMMA Dataport Manual (Information by the Date of First Execution of Transactions), underwriters are required to initiate the Form G-32 submission process by no later than the date of first execution of transactions in securities sold in the offering by submitting certain issue-specific information about the new issue. "Date of first execution" is defined in Rule G-32(d)(xi) as:

municipal securities, including official statements or preliminary official statements (if applicable), and of certain additional items of information, is subject to other submission deadlines as outlined in Rule G-32.<sup>6</sup>

New Issue NIIDS Submission Requirements Under Rule G-34. NIIDS is a centralized system for collecting from underwriters and disseminating to market participants standardized electronic information describing new issue securities. It was developed to ensure that all market participants have access to information necessary for processing transactions once the underwriter executes its first transactions in the new issue. The information submitted by underwriters to NIIDS, required to be completed by no later than two hours after Time of Formal Award<sup>7</sup> for most new issues of municipal securities,<sup>8</sup> is disseminated in real time to DTCC

the date on which the underwriter executes its first transactions with a customer or another broker, dealer or municipal securities dealer in any security offered in a primary offering; provided that, for offerings subject to Rule G-34(a)(ii)(C), ‘date of first execution’ shall mean the date corresponding to the Time of First Execution as defined in Rule G-34(a)(ii)(C)(1)(b); further provided that, solely for purposes of this rule, the date of first execution shall be deemed to occur by no later than the closing date.

<sup>6</sup> Sections 2.6.4 and 2.6.5 of the EMMA Dataport Manual set out the basic timeframes for submitting documents and information to EMMA in connection with a new issue.

<sup>7</sup> “Time of Formal Award” is defined in Rule G-34(a)(ii)(C)(1)(a) as:

for competitive issues, the later of the time the issuer announces the award or the time the issuer notifies the underwriter of the award, and, for negotiated issues, the later of the time the contract to purchase the securities from the issuer is executed or the time the issuer notifies the underwriter of its execution. If the underwriter and issuer have agreed in advance on a Time of Formal Award, that time may be submitted to the new issue information dissemination system in advance of the actual Time of Formal Award.

<sup>8</sup> Rule G-34(a)(ii)(C) currently provides exceptions to the submission requirements for certain short-term instruments, including variable rate instruments, auction rate products

participants and other subscribers, such as information vendors. Submissions to NIIDS also provide a mechanism for underwriters to communicate the Time of Formal Award and Time of First Execution<sup>9</sup> to market participants that may trade in the new issue to promote orderly trade execution and processing on the first day of trading in a new issue. Consistent communication of these events ensures that all market participants have sufficient data to process and time to prepare pending trades in new issues for execution, real-time trade reporting<sup>10</sup> and sending of when-issued customer confirmations.

Planned Integration of EMMA and NIIDS New Issue Submission Requirements. The MSRB launched EMMA as a pilot on March 31, 2008.<sup>11</sup> On September 30, 2008, amendments to Rule G-34 became effective that instituted the requirement for underwriters to provide new issue information to NIIDS.<sup>12</sup> During the early stages of planning for EMMA, the MSRB had planned on integrating into EMMA's Primary Market Disclosure Service the NIIDS data

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and commercial paper. In addition, this requirement does not apply to new issues that do not meet the eligibility criteria for CUSIP number assignments or that consist of municipal fund securities (such as interests in 529 college savings plans) under the general exemption provided in Rule G-34(d).

<sup>9</sup> "Time of First Execution" is defined in Rule G-34(a)(ii)(C)(1)(b) as: "the time the underwriter plans to execute its first transaction in the new issue. The underwriter shall designate a Time of First Execution that is no less than two hours after all information required by paragraph (a)(ii)(C) has been transmitted to the new issue information dissemination system."

<sup>10</sup> "Real-time trade reporting" refers to the reporting of certain information about each purchase and sale transaction effected in municipal securities to the MSRB's Real-time Transaction Reporting System ("RTRS"), as prescribed by Rule G-14, Rule G-14 RTRS Procedures and the RTRS Users Manual.

<sup>11</sup> See Release No. 34-57577 (March 28, 2008), 73 FR 18022 (April 2, 2008) (File No. SR-MSRB-2007-06) (November 15, 2007).

<sup>12</sup> See Release No. 34-57750 (May 7, 2008), 73 FR 25815 (May 7, 2008) (File No. SR-MSRB-2007-08) (November 27, 2007).

submitted by underwriters under Rule G-34 for the purpose of also fulfilling the data submission requirements under Rule G-32 and making such information available to the public through the EMMA website. Due to divergent development schedules and limited opportunities to ensure effective interoperability between the two systems, the Primary Market Disclosure Service was launched on June 1, 2009 requiring a separate submission of new issue data to EMMA through Form G-32, although at that time the MSRB continued to plan for future integration of the submission processes under Rules G-32 and G-34.<sup>13</sup>

The MSRB believes there would be significant benefits in integrating the NIIDS data into the EMMA submission process. While the information required to be submitted under Rule G-32 is less extensive than the information required for a NIIDS submission pursuant to Rule G-34, re-keying information under both Rules G-32 and G-34 is time consuming and this duplication of effort may increase the possibility of error. In addition to reducing the submission burden on underwriters, elimination of this duplicative data entry would result in improved data quality on EMMA and throughout the marketplace. It would allow both underwriters and enforcement agencies to concentrate their compliance activities on ensuring exacting data submissions through this single pipeline through which data would flow uniformly to EMMA as well as to other market data vendors receiving the NIIDS subscription feed.

The integration of the NIIDS data into the EMMA submission process also would accelerate the availability of Form G-32 data on EMMA by displaying such information in real time upon receipt from NIIDS by no later than two hours after the Time of Formal Award as provided under Rule G-34, rather than by the close of business on the date of first execution as

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<sup>13</sup> See MSRB Notice 2009-07 (March 23, 2009), in which the MSRB noted that it would advise market participants of any future development of a functionality providing for the use of NIIDS data to fulfill Rule G-32 information submission requirements.

currently provided under Rule G-32. In particular, use of the NIIDS data to populate EMMA will allow for more rapid intra-day, rather than end of day, dissemination of the maturity schedule, interest rates and initial offering prices<sup>14</sup> for new issues within two hours after the Time of Formal Award. Furthermore, additional NIIDS data elements not currently available through EMMA, such as the Time of Formal Award and Time of First Execution as announced by the underwriter, would be displayed on EMMA. To enhance transparency for a broader scope of new issues of municipal securities, the MSRB is also proposing to eliminate exceptions under Rule G-34 for submitting data for certain new issues to NIIDS.

#### SUMMARY OF PROPOSED RULE CHANGE

The proposed rule change revises Rule G-32 to provide that an underwriter's obligations to submit data about a new issue under that rule would be fulfilled through submission of such data through NIIDS as required pursuant to Rule G-34. Data for certain types of offerings not required to use NIIDS (as described below) would continue to be subject to existing Rule G-32 data submission requirements. In addition, certain data elements that are not included in NIIDS, such as underwriting spread (if not included in the official statement), the existence of a continuing disclosure undertaking and the timing for issuer submission of annual financial information, would be required to be submitted to EMMA pursuant to existing timeframes set forth in Rule G-32 and the EMMA Dataport Manual.

Rule G-34 currently requires that information about most new issues of municipal securities be submitted to NIIDS by no later than two hours following the Time of Formal Award of a new issue. Rule G-34 currently exempts certain types of short-term instruments (including

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<sup>14</sup> Initial offering prices or yields currently must be, and would continue to be, disclosed for all maturities, including those otherwise designated as "not reoffered," through both EMMA and NIIDS. See Release No. 34-67908 (September 21, 2012), 77 FR 59427 (September 27, 2012) (File No. SR-MSRB-2012-06) (June 28, 2012).

variable rate instruments, auction rate products, and commercial paper), as well as municipal fund securities (such as interests in 529 college savings plans) and issues ineligible for CUSIP number assignment. The proposed rule change revises Rule G-34 to remove the exception for underwriters to submit to NIIDS information about short-term instruments such as variable rate instruments, auction rate products and notes maturing in less than nine months, but would retain this exception for commercial paper issues, municipal fund securities and issues ineligible for CUSIP number assignment. The proposed rule change adds a narrow exception from the requirement to provide a minimum of two hours advance notice of the planned Time of First Execution for offerings of variable rate instruments with a planned settlement cycle of one day or less.

The proposed rule change revises the EMMA facility by adding to the EMMA display and to the EMMA primary market subscription the Time of First Execution and Time of Formal Award.

In addition, the proposed rule change includes amendments to Rule G-8 to conform recordkeeping requirements to amended Rules G-32 and G-34, and amendments to the Rule G-14 RTRS Procedures and Rules G-32 and G-34 to make certain non-substantive technical changes. The technical amendments to Rule G-32 correct a cross-reference to Exchange Act Rule 15c2-12, correct a mis-numbered paragraph defining the term “obligated person” and eliminate section (e), which operated as a transitional provision in June 2009 from the former pre-EMMA official statement submission process under former Rule G-36 to the EMMA-based submission process under current Rule G-32. The technical amendments to Rule G-34 improve the organization of certain provisions of the rule.

Finally, the technical amendments to section (a)(ii)(B) of the Rule G-14 RTRS Procedures under Rule G-14 revise language in such RTRS Procedures that is parallel to the language regarding short-term instruments that is being removed from Rule G-34 by the amendments described above. Such amendments would more clearly describe the types of securities to which the end-of-day RTRS reporting exception for short-term instruments applies and also eliminate language describing auction rate securities as having a short “effective maturity.” The MSRB believes that auction rate securities should not be characterized as having an effective short-term maturity and has previously noted that, unlike other short-term municipal securities with long-term maturity dates and short-term interest rate reset periods (such as variable rate demand obligations), auction rate securities generally do not have “put” features or liquidity facilities that allow holders to tender their securities back to an issuer-appointed representative on a periodic basis.<sup>15</sup> Thus, the MSRB is eliminating the use of the term

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<sup>15</sup> See MSRB Notice 2008-09 (February 19, 2008), in which the MSRB published an alert regarding investor protection concerns arising in the market for auction rate securities after widespread auction failures began to occur at the beginning of 2008. The MSRB also published educational information regarding this key difference in the EMMA Education Center upon launch of the EMMA pilot on March 31, 2008, which states:

An important distinction between auction rate securities and variable rate demand obligations is that investors in auction rate securities do not have a "put" right. Thus, there is no assurance that the investor will be able to sell its holdings during an auction. Instead, investors are dependent on the success of the auction process. Among many other factors, the pool of purchase bids that may be entered can vary widely from auction to auction, and bids entered by broker-dealers, banks and other market professionals that have the effect of supporting market liquidity, if permitted, generally are not required under the legal documents and therefore investors cannot be assured that such bids will be entered in any particular auction.

See <http://emma.msrb.org/EducationCenter/WhatAreBonds.aspx>. The MSRB thereafter launched its Short-term Obligation Rate Transparency (“SHORT”) system on January 30, 2009



“effective maturity” in the context of auction rate securities in order to avoid any potential implication that holders of auction rate securities have assurances of liquidity on a short-term basis.

#### EFFECTIVE DATE OF PROPOSED RULE CHANGE

The MSRB requested an effective date for the proposed amendments no later than May 6, 2013, or such earlier date to be announced by the MSRB in a notice published on the MSRB website with at least a thirty day advance notification prior to the effective date.

#### 2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act, which provides that the 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 and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act. There will be significant benefits in integrating the NIIDS data into the EMMA submission process that will assist in removing impediments to and perfecting the mechanism of a free and open market, and that will also improve protections to all market participants. The current requirement to re-key significant amounts of information under both Rules G-32 and G-34 is time consuming and this duplication of effort may increase the possibility of error. In addition to

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pursuant to which certain key information regarding periodic auctions for auction rate securities is made available to the public through EMMA.

reducing the submission burden on underwriters, elimination of this duplicative data entry will result in improved data quality on EMMA and throughout the marketplace. It will allow both underwriters and enforcement agencies to concentrate their compliance activities on ensuring exacting data submissions through this single pipeline through which data would flow uniformly to EMMA as well as to other market data vendors receiving the NIIDS subscription feed.

The integration of the NIIDS data into the EMMA submission process will also accelerate the availability of Form G-32 data on EMMA by displaying such information in real time upon receipt from NIIDS, which will occur by no later than two hours after the Time of Formal Award as provided under Rule G-34, rather than by the close of business on the date of first execution as currently provided under Rule G-32. Furthermore, additional NIIDS data elements not currently available through EMMA, such as the Time of Formal Award and Time of First Execution as announced by the underwriter, will be displayed on EMMA.

Finally, the proposed rule change eliminates exceptions under Rule G-34 for submitting data for certain new issues to NIIDS. Thus, enhanced real-time access to primary market data would become available to the marketplace, both through NIIDS data disseminated by DTCC to information vendors and EMMA data disseminated by the MSRB to market participants and the general public, for a broader scope of new issues of municipal 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, since it would apply equally to all dealers that serve as underwriters of new issues of municipal securities. The enhanced and more timely information flow resulting from the proposed rule

change would make such information available to all persons on an equal and non-discriminatory basis.

The marketplace and the general public would realize the substantial benefits of more prompt, more complete and more accurate information about new issue municipal securities, resulting in greater marketplace efficiency that enhances liquidity and the quality of pricing. In addition, the proposed rule change would reduce the burden on dealers that serve as underwriters for new issues of municipal securities. Such dealers would benefit from the reduced burden of significantly diminished levels of duplicative data entry into two separate information systems – including the burden of entering such data and of undertaking appropriate quality control – with only a minimal, one-time burden of reviewing and, if necessary, making minor modifications to their internal policies and procedures with respect to data submissions under MSRB rules. In addition to the reduced burden to dealers resulting from the more efficient use of dealer resources to ensure the accuracy of data submissions through this single pipeline, the resultant improvement in data quality upon initial submission would reduce the burden of making corrections at a later time when errors are detected by market participants and would reduce the incidence of potential problems with secondary market activity that can arise from inaccuracies in the indicative data used by market participants to price and process transactions.

Some underwriters of new issues bearing short-term interest rates previously exempted from the NIIDS submission requirements under Rule G-34 would be required to modify their new issue information dissemination processes to use NIIDS for such dissemination, rather than the currently permissible use of other means of announcing relevant new issue information promptly in a manner reasonably designed to reach market participants that may trade the new issue. Such underwriters, however, have not previously been exempted from the EMMA

submission requirements under Rule G-32, and the proposed rule change would provide for much of the data currently required to be provided through EMMA under Rule G-32 to instead be provided through NIIDS under Rule G-34. Thus, such underwriters would realize a reduced burden of compliance with Rule G-32 while facing a potential incremental change in the burden under Rule G-34. Whether such incremental change in burden under Rule G-34 is an increase or decrease would depend on whether, and to what extent, using NIIDS to disseminate new issue information is more or less burdensome than the alternative means currently used by such underwriters to comply with Rule G-34 and the procedures and processes they currently maintained for using two or more separate data submission processes for new issues rather than a single process through NIIDS. If and to the extent that such balance results in a net burden rather than a net benefit, the bulk of such net burden likely would occur as up-front costs of modifying procedures and likely would be minimal on an ongoing basis.

On balance, the MSRB believes that the benefits of the proposed rule change greatly exceed any potential increased burden resulting therefrom.

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

On April 10, 2012, the MSRB requested comment on a proposal to streamline new issue information submission requirements under Rules G-32 and G-34 by allowing underwriters to satisfy certain of their submission requirements under Rule G-32 by their submission of data to NIIDS pursuant to Rule G-34.<sup>16</sup> Specifically, the MSRB sought comment on whether: (i) the timeframe under Rule G-32 for submission of data for issues not subject to the NIIDS requirement or of data elements not included in NIIDS should be accelerated to coincide with the

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<sup>16</sup> See MSRB Notice 2012-19 (April 10, 2012).

Time of First Execution, which typically would be within two-to-four hours after the Time of Formal Award;<sup>17</sup> (ii) removing the exception in NIIDS for certain short-term instruments would present compliance challenges; (iii) additional items of information available through NIIDS that are not currently available through EMMA should be added to the EMMA display; (iv) to extend the business day for purposes of determining timeframes for compliance with Rule G-34 deadlines;<sup>18</sup> or (v) to shorten the time after the formal award occurs for first executions of transactions and other related timeframes under Rule G-34. The MSRB received comment letters from the Securities Industry and Financial Markets Association (“SIFMA”) and TD Securities (USA) LLC (“TD”).

#### DISCUSSION OF COMMENTS

SIFMA stated that it “believe[s] this move towards straight-through processing will be beneficial for market participants by reducing transaction costs and increasing data integrity.” TD stated that it “welcome[d] the effort to have one centralized system and one pass in establishing the information necessary to satisfy the regulations.” The MSRB discusses additional comments from these commenters below.

Accelerating the deadline for completing submission of Form G-32 data not eligible to be submitted to NIIDS. While no written comments were received on this question, the MSRB understands from conversations with various industry participants that accelerating the submission requirements for Form G-32 data not eligible to be submitted to NIIDS may present

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<sup>17</sup> Rule G-34 generally requires that underwriters submit required data to NIIDS within two hours of the Time of Formal Award, and that such NIIDS data be disseminated to the marketplace for at least two hours prior to the Time of First Execution.

<sup>18</sup> Rule G-34 currently provides that only the hours between 9:00 A.M and 5:00 P.M. Eastern Time on a Business Day for the MSRB’s Real-time Transaction Reporting System (RTRS) are used for purposes of the timeframes set out in the rule.

compliance challenges for some industry participants, particularly those that make manual submissions of information to NIIDS and Form G-32. Thus, the MSRB determined not to accelerate such timeframes but instead retain the existing timeframe for submission of those Form G-32 data elements not able to be populated using NIIDS data. Similarly, for those securities that are not eligible for submission to NIIDS and therefore would continue to be submitted through Form G-32, the MSRB is retaining all existing timeframes for submission.

Removing the exception for certain short term instruments from the data submission requirements under Rule G-34. SIFMA noted that while eliminating the exception under Rule G-34 for short term notes with maturities of nine months or less would not be a challenge, eliminating the exception for variable rate demand obligations (“VRDOs”) would present operational challenges. SIFMA noted that daily and weekly VRDOs are usually priced, allocated, ticketed and settled on the same or next day. Removing the exception for VRDOs under Rule G-34 would subject VRDOs to deadlines for both data submission and Time of First Execution under Rule G-34. As SIFMA noted, issuers and underwriters already typically agree in advance to a Time of Formal Award to avoid DTCC disincentive fees for short settlements, which means that underwriters generally are able to comply with the data submission requirements for trade eligibility under Rule G-34. Based on additional feedback from SIFMA, the larger concern results from the fact that purchasers of VRDOs require same day cash settlement within a short period of time following time of pricing and formal award and, as a result, the mandatory minimum two hour time period between Time of Formal Award and Time of First Execution required by Rule G-34 would present operational challenges to ensure same day cash settlement.

The purpose of the required two hour advanced notification timeframe between disseminating NIIDS data and the announced Time of First Execution is to ensure that dealers with pending trades in new issues are able to receive and enter into trade processing systems NIIDS data before the first transactions in the new issue are executed. For VRDOs, there typically are not multiple dealers with pending transactions in new issues, so the two hour advanced notification timeframe is not as important as for other types of new issues with a broad distribution. However, the MSRB believes that it is important that as many types of securities as possible benefit from the centralized data collection and dissemination of information provided by NIIDS. Accordingly, the proposed rule change removes the exception for short-term instruments (including VRDOs and auction rate securities but not including commercial paper) from Rule G-34 with respect to the requirement to submit information to NIIDS and announce the Time of Formal Award and Time of First Execution, which can be done within the existing timeframes of typical VRDO offerings. However, the proposed rule change also adds a narrow exception from the requirement to provide a minimum two hours of advance notice of the planned Time of First Execution for offerings of variable rate instruments with a planned settlement cycle of one day or less.

Dissemination of Additional NIIDS information on EMMA. SIFMA supported the dissemination of the Time of First Execution and Time of Formal Award on EMMA but suggested that the addition of more NIIDS data to EMMA be carefully considered to avoid obscuring important data. SIFMA suggested that those that require additional NIIDS data consider a subscription feed for such data. The MSRB agrees that careful selection of NIIDS data is necessary and will consider this issue as it reviews the full range of NIIDS data for potential inclusion on EMMA at a future date. The MSRB determined that the only new data

elements from NIIDS to be added to the EMMA display and to the EMMA primary market subscription product at this time are Time of First Execution and Time of Formal Award.

Extending Rule G-34 Business Day hours. SIFMA said that, while expanding the 9:00 A.M. to 5:00 P.M. Eastern timeframe for the deadlines in Rule G-34 may not be problematic for dealers operating in the Eastern Time zone, expanding these hours could cause significant staffing challenges to those dealers operating in other time zones. SIFMA suggested the MSRB not alter the existing 9:00 A.M. to 5:00 P.M. Eastern timeframe in Rule G-34. The MSRB decided against changing the Rule G-34 Business Day hours.

Shortening advanced notification timeframe between the submission of all data to NIIDS and the Time of First Execution. TD said that the two hour window between the time of disseminating NIIDS data and first executions was “tough enough” especially for smaller shops that were limited in staff, and that shortening the time period would create undue pressure and add little to transparency. SIFMA stated that, because most dealers receive the NIIDS data from one or more information providers, the two hour dissemination period is frequently needed to integrate the data into their own systems, irrespective of the type of underwriting. However, SIFMA suggested that, where a dealer has submitted data to NIIDS to make an issue “trade eligible” between 3:00 P.M. and 5:00 P.M. on a trading day, Rule G-34’s current carry-forward of the two hour dissemination period through to the first hours of the following day may not be necessary because the dealer has been able to disseminate and integrate the data through information providers overnight. SIFMA therefore suggested that underwriters of any issue that is made “trade eligible” between 3:00 P.M. and 5:00 P.M. Eastern Time should be permitted to elect to waive the two business hour dissemination period and set the Time of First Execution to



be 9:00 A.M. Eastern Time the following morning.<sup>19</sup> SIFMA noted that this option would enable dealers to reduce the risk of carrying these securities.

Recognizing these operational challenges, the MSRB decided against shortening the required two hour minimum period between the time an underwriter disseminates NIIDS information and the Time of First Execution that can be set by an underwriter. However, the MSRB decided that underwriters setting a Time of First Execution for the business day following the day NIIDS data is disseminated should be able to set a Time of First Execution for the following day as early as 9:00 A.M. Eastern Time without having to wait until the full two-hour period has elapsed. Acknowledging that dealers would have sixteen hours between 5:00 P.M. Eastern Time and the earliest possible Time of First Execution at 9:00 A.M. Eastern Time to integrate disseminated NIIDS data and prepare for the underwriter's announced Time of First Execution, the MSRB believes that it would be appropriate that underwriters wanting to set a Time of First Execution as early as 9:00 A.M. Eastern Time should be able to do so.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should

be disapproved.

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<sup>19</sup> Currently, an underwriter disseminating NIIDS data at, for example, 4:00 P.M. Eastern Time would not be able to set a Time of First Execution for earlier than 10:00 A.M. Eastern Time the following business day since the two hour advanced notification timeframe must occur between the hours of 9:00 A.M. to 5:00 P.M. Eastern Time.

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 (<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-2012-08 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-MSRB-2012-08. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the MSRB's offices. 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-2012-08 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>20</sup>

Elizabeth M. Murphy  
Secretary

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<sup>20</sup> 17 CFR 200.30-3(a)(12).



## MSRB NOTICE 2012-19 (APRIL 10, 2012)

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### REQUEST FOR COMMENT ON PROPOSAL TO STREAMLINE NEW ISSUE INFORMATION SUBMISSION REQUIREMENTS UNDER MSRB RULES G-32 AND G-34

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The Municipal Securities Rulemaking Board (the “MSRB”) is requesting comment on draft amendments to MSRB Rules G-32 and G-34 that would allow underwriters to satisfy certain of their submission requirements under Rule G-32 in connection with new issues of municipal securities by their submission of data to the New Issue Information Dissemination Service (“NIIDS”) operated by the Depository Trust and Clearing Corporation (“DTCC”) pursuant to Rule G-34. In addition, the draft amendments would revise deadlines for the submission of data to NIIDS; remove certain exceptions from the NIIDS submission requirements under Rule G-34 for short term instruments with effective maturities of nine months or less; and modify the MSRB’s Electronic Municipal Market Access (EMMA®)[1] system to include certain elements of the NIIDS data on the EMMA website.

Comment is requested from market participants on all aspects of the proposed rule changes, including other measures that could improve the timeliness and quality of price transparency information for new issues of municipal securities. Comments should be submitted no later than May 8, 2012 and may be submitted in electronic or paper form. Comments may be submitted electronically by clicking [here](#). Comments submitted in paper form should be sent to Ronald W. Smith, Corporate Secretary, Municipal Securities Rulemaking Board, 1900 Duke Street, Suite 600, Alexandria, VA 22314. All comments will be available for public inspection on the MSRB’s website.[2]

Questions about this notice should be directed to Justin R. Pica, Director, Product Management – Market Transparency, or Karen Du Brul, Associate General Counsel, at 703-797-6600.

#### **BACKGROUND**

MSRB Rule G-32 requires underwriters to submit selected information about most new issues of municipal securities to the MSRB by completing electronic Form G-32. This information includes, among other items, the issuer name and issue description for the new issue and, for each maturity of the new issue, the CUSIP numbers, principal amounts and initial offering prices/yields. Separately, MSRB Rule G-34 requires underwriters for most new issues to submit comprehensive information to NIIDS. Information required to be submitted to NIIDS generally includes all of the information required for dealers to produce a “when, as and if issued” customer trade confirmation and also includes many of the same items of information included in Form G-32.

**New Issue EMMA Submission Requirements Under Rule G-32.** EMMA is an information facility of the MSRB for receiving electronic submissions of official statements, initial offering prices and other information about new issues as well as on-going municipal securities disclosure and other key documents and related information. EMMA makes such documents and information, together with trade price and interest rate information, available to the public at no charge on an Internet website or by paid subscription. The submission of data under Rule G-32 to EMMA is required to be commenced by no later than the end of the day of the date of first execution.[3] The submission of documents relating to issues of municipal securities, including official statements or preliminary official statements (if applicable), and of

certain additional items of information, is subject to other submission deadlines as outlined in Rule G-32.[4]

**New Issue NIIDS Submission Requirements Under Rule G-34.** NIIDS is a centralized system for collecting from underwriters and disseminating to market participants standardized electronic information describing new issue securities. It was developed to ensure that all market participants have access to information necessary for processing transactions once the underwriter executes its first transactions in the new issue. The information submitted by underwriters to NIIDS, required to be completed by no later than two hours after Time of Formal Award[5] for most new issues of municipal securities,[6] is disseminated in real time to DTCC participants and other subscribers, such as information vendors. Submissions to NIIDS also provide a mechanism for underwriters to communicate the Time of Formal Award and Time of First Execution[7] to market participants that may trade in the new issue to promote orderly trade execution and processing on the first day of trading in a new issue. Consistent communication of these events ensures that all market participants have sufficient data to process and time to prepare pending trades in new issues for execution, real-time trade reporting and sending of when-issued customer confirmations.

**Planned Integration of EMMA and NIIDS New Issue Submission Requirements.**

The MSRB launched EMMA as a pilot on March 31, 2008.[8] Shortly thereafter, on September 30, 2008, amendments to Rule G-34 became effective that instituted the requirement for underwriters to provide new issue information to NIIDS.[9] During the early stages of planning for EMMA, the MSRB had planned on integrating into EMMA's Primary Market Disclosure Service the NIIDS data submitted by underwriters under Rule G-34 for the purpose of also fulfilling the data submission requirements under Rule G-32 and making such information available to the public through the EMMA website. Due to divergent development schedules and limited opportunities to ensure effective interoperability between the two systems, the Primary Market Disclosure Service was launched on June 1, 2009 requiring a separate submission of new issue data to EMMA through Form G-32, although at that time the MSRB continued to plan for future integration of the submission processes under Rules G-32 and G-34.[10]

The MSRB believes there would be significant benefits in moving forward at this time to integrate the NIIDS data into the EMMA submission process. While the information required to be submitted under Rule G-32 is less extensive than the information required for a NIIDS submission pursuant to Rule G-34, re-keying information under both Rules G-32 and G-34 is time consuming and this duplication of effort may increase the possibility of error. In addition to reducing the submission burden on underwriters, elimination of this duplicative data entry would result in improved data quality on EMMA and throughout the marketplace. It would allow both underwriters and enforcement agencies to concentrate their compliance activities on ensuring exacting data submissions through this single pipeline through which data would flow uniformly to EMMA as well as to other market data vendors receiving the NIIDS subscription feed.

The integration of the NIIDS data into the EMMA submission process also would accelerate the availability of Form G-32 data on EMMA by displaying such information in real time upon receipt from NIIDS by no later than two hours after the Time of Formal Award as provided under Rule G-34, rather than by the close of business on the date of first execution as currently provided under Rule G-32. In particular, use of the NIIDS data to populate EMMA will allow for more rapid intra-day, rather than end of day, dissemination of the maturity schedule, interest rates and initial offering

prices<sup>[11]</sup> for new issues within two hours after the Time of Formal Award. Furthermore, additional NIIDS data elements not currently available through EMMA, such as the Time of Formal Award and Time of First Execution as announced by the underwriter, would be displayed on EMMA. To enhance real-time transparency for a broader scope of new issues of municipal securities, the MSRB also is proposing to eliminate exceptions under Rule G-34 for submitting data for certain new issues to NIIDS.

### **SUMMARY OF PROPOSED RULE CHANGES**

The MSRB is proposing revisions to Rules G-32 and G-34 and to the EMMA information facility. As further described below, the proposed revisions would have the effect of:

- Providing underwriters with a straight-through process for populating many of the items of information required on Form G-32 with the information about new issues submitted to and disseminated from NIIDS by underwriters pursuant to Rule G-34;
- Posting on EMMA in real-time those items of information disseminated by NIIDS that are currently posted to EMMA only after submission of Form G-32, thereby accelerating the time EMMA receives key information about new issues, including the plain English issuer name, plain English issue description, maturity principal amounts, initial offering prices/yields and expected issue closing date;
- Clarifying that underwriters would continue to be required to provide those items of information required on Form G-32 that are not included in the information collected by and disseminated from NIIDS, including, among other things, information concerning the existence of a continuing disclosure undertaking by the issuer or obligated person;
- Removing the Rule G-34 exception for underwriters to submit to NIIDS information about certain short-term instruments with effective maturities of nine months or less, including variable rate instruments and auction rate products but retaining the exception for commercial paper, so that information for virtually all security types is received by EMMA on the accelerated timeframe in Rule G-34;
- Retaining direct EMMA submission requirements for commercial paper and any other securities ineligible for submission to NIIDS, including non-CUSIP eligible issues and municipal fund securities; and
- Adding to the EMMA website the underwriter-announced Time of Formal Award and Time of First Execution to ensure access by all market participants to these key items of information.

### **PROPOSED REVISIONS TO RULE G-32**

Rule G-32 currently requires underwriters to submit to EMMA both data and documents concerning certain new issues of municipal securities, subject to various exceptions. An underwriter is required to initiate submission of certain data to EMMA on Form G-32 at or prior to the end of the Date of First Execution, and to complete such submission by the dates prescribed in Rule G-32 or the EMMA Dataport Manual. These requirements do not apply to certain commercial paper offerings or remarketings exempt under Securities Exchange Act Rule 15c2-12.<sup>[12]</sup> An underwriter is also required to submit certain documents relating to the new issue of municipal securities at various times specified under Rule G-32, subject to certain exceptions.<sup>[13]</sup>

Proposed revisions to Rule G-32 would provide that an underwriter's obligations to submit data about a new issue of municipal securities under Rule G-32(b)(i)(A) would be deemed submitted, subject to confirmation and completion, if such data has been

submitted at the time and in the manner required pursuant to Rule G-34. Any changes to data submitted pursuant to Rule G-34(a)(ii)(C) shall be made promptly and, to the extent feasible, in the manner originally submitted. This would ensure that all changes to information submitted to NIIDS would be disseminated to all market participants; however, if such changes were not able to be made using NIIDS, underwriters would be required to submit such changes to EMMA. Further, the proposed revisions to Rule G-32 would clarify that any data not required to be submitted to NIIDS pursuant to Rule G-34(a)(ii)(C) (such as non-CUSIP eligible issues, commercial paper and municipal fund securities) would continue to be subject to Rule G-32(b)(i)(A)(1). Other proposed changes to Rule G-32 would require that information about the underwriting spread or agency fee (if not included in the official statement), and notification of the timing set forth in the continuing disclosure undertaking for the submission of annual financial information by the issuer and/or any obligated person be submitted on or prior to the date of first execution. As noted above, these revisions would allow underwriters to comply with certain of their obligations under Rule G-32 and eliminate certain steps in the data submission process.

A second proposed revision to Rule G-32 is set forth in subsection (b)(i)(F). This revision would delete the reference to paragraph (d)(1)(iii) under Rule 15c2-12 and replace it with a reference to “paragraph (d)(5)” to conform with amendments to Rule 15c2-12 adopted by the Securities and Exchange Commission in 2010.

#### **REQUEST FOR COMMENT**

- The proposed revisions to Rule G-32 would allow underwriters to comply with certain of their obligations under Rule G-32 by submitting certain data to NIIDS pursuant to Rule G-34. Further, while underwriters would still be required to complete a limited number of data elements on Form G-32 by submitting to EMMA such other data, including the existence of the continuing disclosure undertaking, the underwriting spread or agency fee (if not included in the official statement), and the timing set forth in the continuing disclosure undertaking for the submission of annual financial information by the issuer and/or any obligated person (such information not currently included in the information disseminated from NIIDS), all such data would now be required to be submitted on or prior to the date of first execution. Should the deadline for completing this portion of Form G-32 be accelerated to, for example, the Time of First Execution? This would ensure that all Form G-32 information is available on EMMA before the underwriter executes the first transactions in the new issue.
- The proposed revisions to Rule G-32 would have the effect of accelerating the availability of Form G-32 data on EMMA by displaying such information in real time upon receipt from NIIDS. For those types of securities that are ineligible for submission to NIIDS, including non-CUSIP eligible issues, commercial paper issues and municipal fund securities, should the current deadlines for submitting all of the Form G-32 information about these ineligible issues be accelerated to be consistent with the deadlines for NIIDS-eligible issues?

#### **PROPOSED REVISIONS TO RULE G-34**

Rule G-34 currently requires that information about most new issues of municipal securities be submitted to NIIDS and completed by no later than two hours following Time of Formal Award. Rule G-34 also states that only the hours between 9:00 A.M. and 5:00 P.M. Eastern on an RTRS Business Day are counted for purposes of the time tables listed in the rule. Rule G-34 exempts from this requirement short-term instruments with less than nine months in effective maturity, including variable rate

instruments, auction rate products, and commercial paper, and instead permits the underwriter to submit certain CUSIP information and the Time of Formal Award by no later than the Time of First Execution of a transaction in the new issue.

Proposed changes to Rule G-34 would remove the exception for underwriters to submit to NIIDS information about those short-term instruments that are eligible for submission to NIIDS, which include variable rate instruments and auction rate products, but would retain this exception for those securities that are ineligible for NIIDS submissions. Currently, such securities include non-CUSIP eligible issues, commercial paper issues and municipal fund securities. Removing this exception would ensure that information about substantially all security types is received by EMMA on the timeframe specified in Rule G-34.

### **REQUEST FOR COMMENT**

- Would removing the exception for certain short-term instruments with effective maturities of nine months or less present compliance challenges to meeting this deadline?
- Comments are also requested on whether the current requirement to announce a Time of First Execution that is at least two hours after the time that all required information is provided to NIIDS should be shortened. Since electronically formatted information can be retransmitted immediately and since underwriters have had several years' experience in implementing the NIIDS system for automated submissions, is there a more appropriate, shorter timeframe that would provide time for NIIDS information to be disseminated and entered into trade processing systems, yet continue to promote orderly trade execution and processing on the first day of trading in a new issue? Would it be appropriate to provide different time periods for competitive and negotiated underwritings?
- Only the hours between 9:00 A.M and 5:00 P.M. Eastern Time on an RTRS Business Day are used for purposes of the times listed in Rule G-34. For example, if an underwriter does not obtain and transmit all information necessary for Trade Eligibility to NIIDS by 3:00 P.M. Eastern Time, the underwriter would not be able to set a Time of First Execution until the following day as a result of the current requirement to provide at least two hours advance notice of the time of first execution. The MSRB requests comment on whether the 9:00 A.M and 5:00 P.M. Eastern Time window should be expanded.

### **PROPOSED REVISIONS TO THE EMMA FACILITY**

Proposed changes to the EMMA facility would include the display on EMMA of certain data submitted by underwriters to NIIDS, thereby eliminating the delay, between the Time of First Execution and the end of the Date of First Execution, in receiving and displaying key information about new issues of municipal securities. This step would also address concerns raised by market participants about the timely distribution of new issue data and "not reoffered" designations. Since neither NIIDS nor Form G-32 allows the designation of "NRO" for a new issue of municipal securities, the price or yield information about each maturity of an issue would be displayed within the current time frame applicable to the dissemination of NIIDS data, instead of by the end of the Date of First Execution when submitted by the underwriter under Rule G-32.

Other proposed changes would include the display of the Time of Formal Award and Time of First Execution on EMMA. Including the Time of First Execution on the EMMA website would ensure that all market participants would have advance notification of the underwriter's planned time for first execution. While underwriters are currently required to submit a Time of First Execution as part of its NIIDS data, including this



data on EMMA would give dealers that are not in the underwriting group advance notice of when their own transactions in the new issue should begin, and enhance the ability of those dealers to report their initial transactions in a timely and accurate manner. In addition, posting this data on EMMA would give advance notice to all participants as to when the first transactions in the new issue would be executed.

#### REQUEST FOR COMMENT

- Should additional items of information disseminated from NIIDS be displayed on EMMA?

April 10, 2012

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#### TEXT OF DRAFT AMENDMENTS [14]

##### G-32: Disclosures in Connection with Primary Offerings

(a) *Customer Disclosure Requirements.* No change.

(b) *Underwriter Submissions to EMMA.*

(i) *Official Statements, Preliminary Official Statements, and Information Concerning Exempt Offerings.*

(A) *Form G-32 Information Submission.* Except as otherwise provided in paragraph (F) of this subsection (i), the underwriter of a primary offering of municipal securities shall **submit, in addition to any applicable documents and information required to be submitted pursuant to paragraphs (B) through (E) of this subsection (i).** [initiate the submission of] Form G-32 information relating to the offering [on or prior to the date of first execution, and shall,] in a timely and accurate manner **as follows:** [, complete the submission of all information required to be submitted by Form G-32 relating to such offering at such times and in such manner as required under subsection (b)(vi) of this rule and as set forth in the EMMA Dataport Manual.]

**(1) NIIDS-Eligible Primary Offerings. For any primary offering of municipal securities that is a new issue eligible for submission of information to NIIDS under Rule G-34(a)(ii)(C), the underwriter of such offering shall submit all information required to be submitted under this paragraph (A) on Form G-32 relating to such offering at such times and in such manner as required under Rule G-34(a)(ii)(C), and the submission of such information under Rule G-34(a)(ii)(C) in a full and timely manner shall be deemed to be in compliance with the submission requirement of this paragraph (b)(i)(A); provided, however, that:**

**(a) Any items of information required to be included on Form G-32 but for which no corresponding data element then is available through NIIDS shall be submitted through EMMA on Form G-32 on or prior to the date of**

**first execution in such manner as required under subsection (b)(vi) of this rule and as set forth in the EMMA Dataport Manual; and**

**(b) Any corrections to data submitted pursuant to Rule G-34(a)(ii)(C) shall be made promptly and, to the extent feasible, in the manner originally submitted.**

**(2) Primary Offerings Ineligible for NIIDS. For any primary offering of municipal securities that is not a new issue eligible for submission of information to NIIDS under Rule G-34(a)(ii)(C), the underwriter of such offering shall initiate the submission of Form G-32 information relating to the offering on or prior to the date of first execution, and shall complete the submission of all information required to be submitted by Form G-32 relating to such offering at such times and in such manner as required under subsection (b)(vi) of this rule and as set forth in the EMMA Dataport Manual.**

(B) – (E) No change.

(F) *Exemption for Certain Commercial Paper Offerings or Remarketings.* The underwriter of a primary offering of municipal securities that consists of commercial paper not subject to Securities Exchange Act Rule 15c2-12 by virtue of paragraph (d)(1)(ii) thereof or of a remarketing of municipal securities not subject to **paragraphs (b)(1) through (b)(4) of** Securities Exchange Act Rule 15c2-12 by virtue of paragraph **(d)(5) [(d)(1)(iii)]** thereof shall not be required to comply with the requirements of paragraph (A) of this subsection (i) or to submit the official statement or any preliminary official statement to EMMA if:

(1) no official statement is prepared for the offering; or

(2) the official statement used in connection with such offering:

(a) has previously been properly submitted to EMMA in connection with a prior primary offering; and

(b) has not been supplemented or amended subsequent to such prior submission.

(ii) – (vi) No change.

(c) No change.

(d) *Definitions.* For purposes of this rule, the following terms have the following meanings:

(i) - (xiv) No change.

**(xv) The term “NIIDS” shall mean a new issue information dissemination**

**system as described in Rule G-34(a)(ii)(C).**

\* \* \* \* \*

**G-34: CUSIP Numbers, New Issue, and Market Information Requirements****(a) *New Issue Securities.***

(i) No change.

(ii) (A) - (B) No change.

(C) The underwriter of a new issue of municipal securities shall communicate information about the new issue in accordance with the requirements of this paragraph (a)(ii)(C) to ensure that other brokers, dealers and municipal securities dealers have timely access to information necessary to report, compare, confirm, and settle transactions in the new issue and to ensure that registered securities clearing agencies receive information necessary to provide comparison, clearance and depository services for the new issue; provided however, that this paragraph (a)(ii)(C) shall not apply to **any new issue of municipal securities ineligible for submission to a new issue information dissemination system.** [short-term instruments under nine months in effective maturity, including variable rate instruments, auction rate products, and commercial paper.]

(1) – (3) No change.

(D) The underwriter of **any [a]** new issue of municipal securities **ineligible for submission to a new issue information dissemination system** [of short-term instruments under nine months in effective maturity, including variable rate instruments, auction rate products, and commercial paper,] shall as promptly as possible announce each item of information listed below in a manner reasonably designed to reach market participants that may trade the new issue. All information shall be announced no later than the time of the first execution of a transaction in the new issue by the underwriter.

(1) - (2) No change.

(E) No change.

(iii) No change.

(b) - (d) No change.

(e) *NIIDS Registration and Testing Requirements.* NIIDS is an automated, electronic system that receives comprehensive new issue information on a market-wide basis for the purposes of establishing depository eligibility and immediately re-disseminating such information to information vendors supplying formatted municipal securities information for use in automated trade processing systems. It is operated by Depository Trust and Clearing Corporation (DTCC), a securities clearing agency registered with the Securities and Exchange Commission providing depository services for municipal securities.

(i) NIIDS Registration. Prior to acting as underwriter for a new issue of

municipal securities **eligible for submission to NIIDS** [with nine months or greater effective maturity], each broker, dealer or municipal securities dealer must register to use NIIDS with DTCC.

(ii) NIIDS Testing.

(A) NIIDS Web Interface. Prior to acting as underwriter for a new issue of municipal securities **eligible for submission to NIIDS** [with nine months or greater effective maturity], each broker, dealer or municipal securities dealer shall test its capability to use NIIDS by successfully submitting two test new issues using the NIIDS Web Interface.

(B) NIIDS Autofeed Interface. Prior to acting as underwriter for a new issue of municipal securities **eligible for submission to NIIDS** [with nine months or greater effective maturity], each broker, dealer or municipal securities dealer that plans to establish computer-to-computer connections with NIIDS (either directly or through a vendor) shall test its capability to use NIIDS by successfully submitting two test new issues using computer-to-computer connections.

[(iii) NIIDS Start-Up. Each broker, dealer or municipal security dealer that has acted at any time after September 30, 2007 and plans to continue to act as an underwriter for a new issue of municipal securities with nine months or greater effective maturity shall complete the requirements of this section (d) by no later than September 15, 2008.]

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[1] EMMA® is a registered trademark of the MSRB.

[2] Comments are posted on the MSRB website without change. Personal identifying information such as name, address, telephone number, or email address will not be edited from submissions. Therefore, commenters should submit only information that they wish to make available publicly.

[3] Under Rule G-32(b)(vi)(C)(1) and Section 2.6.2 of the EMMA Dataport Manual (Information by the Date of First Execution of Transactions), underwriters are required to initiate the Form G-32 submission process by no later than the date of first execution of transactions in securities sold in the offering, and to submit certain issue-specific information about the new issue. "Date of first execution" is defined in Rule G-32(d)(xi) as:

the date on which the underwriter executes its first transactions with a customer or another broker, dealer or municipal securities dealer in any security offered in a primary offering; provided that, for offerings subject to Rule G-34(a)(ii)(C), 'date of first execution' shall mean the date corresponding to the Time of First Execution as defined in Rule G-34(a)(ii)(C)(1)(b); further provided that, solely for purposes of this rule, the date of first execution shall be deemed to occur by no later than the closing date.

[4] Section 2.6.4 of the EMMA Dataport Manual (Summary of Basic Information Requirements) sets out the basic timeframes for submitting documents and information to EMMA in connection with a new issue, and Section 2.6.5 of the EMMA Dataport Manual (Additional Items in Connection with Special Cases) describes

additional submission requirements and timeframes in cases where (i) the official statement is not available for submission by closing, (ii) the offering consists solely of one or more limited offerings for which the official statement will not be made available by the underwriter through EMMA, (iii) any issue in the offering advances refunds outstanding securities, (iv) the underwriter is underwriting only a portion of an issue, (v) the official statement is amended, or (vi) corrections are necessary to information previously provided.

[5] “Time of Formal Award” is defined in Rule G-34(a)(ii)(C)(1)(a) as:

for competitive issues, the later of the time the issuer announces the award or the time the issuer notifies the underwriter of the award, and, for negotiated issues, the later of the time the contract to purchase the securities from the issuer is executed or the time the issuer notifies the underwriter of its execution. If the underwriter and issuer have agreed in advance on a Time of Formal Award, that time may be submitted to the new issue information dissemination system in advance of the actual Time of Formal Award.

[6] Rule G-34(a)(ii)(C) currently provides exceptions to the submission requirements for certain short-term instruments with effective maturities of nine months or less, including variable rate instruments, auction rate products and commercial paper. In addition, this requirement does not apply to new issues that do not meet the eligibility criteria for CUSIP number assignments or that consist of municipal fund securities (such as interests in 529 college savings plans) under the general exemption provided in Rule G-34(d).

[7] “Time of First Execution” is defined in Rule G-34(a)(ii)(C)(1)(b) as: “the time the underwriter plans to execute its first transactions in the new issue. The underwriter shall designate a Time of First Execution that is no less than two hours after all information required by paragraph (a)(ii)(C) has been transmitted to the new issue information dissemination system.”

[8] See [MSRB Notice 2008-14 \(March 7, 2008\)](#).

[9] See [MSRB Notice 2008-41 \(September 30, 2008\)](#).

[10] See [MSRB Notice 2009-07 \(March 23, 2009\)](#), in which the MSRB noted that it would advise market participants of any future development of a functionality providing for the use of NIIDS data to fulfill Rule G-32 information submission requirements.

[11] Initial offering prices or yields currently must be, and would continue to be, disclosed for all maturities, including those otherwise designated as “not reoffered,” through both EMMA and NIIDS. See [MSRB Notice 2012-14 \(March 13, 2012\)](#).

[12] Offerings of municipal securities that are exempt under Securities Exchange Act Rule 15c2-12(d)(1)(ii) or former (d)(1)(iii). Securities previously exempt under former paragraph (d)(1)(iii) (now deleted) are now exempt for the purposes of Rule G-32 under Rule 15c2-12(d)(5).

[13] Subject to various qualifications, an underwriter is not required to submit an official statement in connection with a primary offering of municipal securities (i) if no official statement was required under Rule 15c2-12; or (ii) the offering is exempt under paragraphs (d)(1)(i), (d)(1)(ii) or (d)(1)(iii) (now paragraph (d)(5)) of Rule 15c2-12. Underwriters may be required to submit preliminary official statements if available, or notices concerning the availability of official statements, to investors.

[14] Underlining indicates additions, brackets denote deletions.

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**Alphabetical List of Comment Letters on MSRB Notice 2012-19 (April 10, 2012)**

1. Securities Industry and Financial Markets Association: Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, dated May 8, 2012
2. TD Securities (USA) LLC: E-mail from Frank Alessandro dated May 8, 2012



May 8, 2012

Ronald W. Smith  
Corporate Secretary  
Municipal Securities Rulemaking Board  
1900 Duke Street  
Suite 600  
Alexandria, VA 22314

**Re: MSRB Notice 2012-19: Request for Comment on Proposal to Streamline New Issue Information Submission Requirements Under MSRB Rules G-32 and G-34**

Dear Mr. Smith:

The Securities Industry and Financial Markets Association (“SIFMA”)<sup>1</sup> appreciates this opportunity to respond to Notice 2012-19<sup>2</sup> (the “Notice”) issued by the Municipal Securities Rulemaking Board (the “MSRB”) in which the MSRB is requesting comment on draft amendments to MSRB Rules G-32 and G-34. This change will streamline the submission of data by allowing underwriters to satisfy certain of their submission requirements under Rule G-32 in connection with new issues of municipal securities by their submission of data to the New Issue Information Dissemination Service (“NIIDS”) operated by the Depository Trust and Clearing Corporation (“DTCC”) pursuant to Rule G-34. SIFMA would like to applaud the MSRB for its efforts as we believe this move towards straight-through processing will be beneficial for market participants by reducing transactions costs and increasing data integrity. SIFMA, however, does have some comments and concerns on selected parts of this proposal which are detailed below.

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<sup>1</sup> The Securities Industry and Financial Markets Association (SIFMA) brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA’s mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit [www.sifma.org](http://www.sifma.org).

<sup>2</sup> MSRB Notice 2012-19 (April 10, 2012).



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## **I. Challenges for Short-Term Instruments**

In the Notice, the MSRB has queried whether removing the exception for certain short-term instruments with effective maturities of nine months or less present compliance challenges to meeting the deadlines in the rules. SIFMA's members feel that removing the exception for short term notes with an effective maturity of nine months or less under Rule G-34 would not present compliance challenges. However, removing the exception for reset instruments such as variable rate demand obligations ("VRDOs") under Rule G-34 would present significant compliance challenges. Daily VRDOs are generally priced, allocated, ticketed and settled on the same day. Weekly VRDOs are generally priced and allocated the day before settlement and ticketed and settled on the following date. Typically there is a sole underwriter. To avoid DTCC disincentive fees for short settlements (typically paid by the Issuer), underwriters may apply to DTCC for trade eligibility three days before settlement. The time of formal award is set in advance with the Issuer pursuant to MSRB Rule G-34 in order to efficiently price and close these issues. We believe the unique characteristics of short-term reset instruments, warrants continuation of the current exemption.

Additionally, it is important to note that information dissemination for a variety of information is still required of VRDO remarketing agents to the MSRB's Short-Term Obligation Rate Transparency ("SHORT") system, so interest rate discovery will not be affected. Also, price discovery for VRDOs is typically meaningless, as they trade at par, a price equal to their face amount.

## **II. Time of First Execution**

The MSRB is requesting comment on whether the current requirement to announce a Time of First Execution that is at least two hours after the time that all required information is provided to NIIDS should be shortened. SIFMA recognizes that electronically formatted information can be retransmitted, but wishes to point out that such retransmission is not always seamless. Most broker dealers do not get the NIIDS feed directly from DTCC. Instead, it is common for information to travel from DTCC to one or a chain of information service providers, then to broker dealers for integration of that information into their internal systems. These steps are not instantaneous, there are sometimes issues with the feeds<sup>3</sup>, and there are many instances in the current regulatory environments when the full two hour dissemination period is needed. This situation is true regardless of whether the underwriting was competitive or negotiated in nature.

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<sup>3</sup> Formatting errors appear to be the most common problem with new issue data.

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SIFMA would like to suggest one change to the dissemination period paradigm. In the case when the underwriter has submitted all information to NIIDS to make the issue “trade eligible” late in the day, between 3:00 p.m. and 5:00 p.m. Eastern Time, a dealer currently needs to complete the regulatory dissemination period the following morning. For instance, if a dealer submits all the information necessary to make a transaction “trade eligible” by 4:45 p.m., then G-34 mandates the dissemination period must extend at least until 10:45 a.m. the next business morning, and the Time of First Execution may be no earlier than 10:45 a.m.

SIFMA feels that when an issue has been made “trade eligible” late in the day, the current regulatory mandate for a minimum of a two hour dissemination period, which continues into the next business morning, may not be necessary for some transactions, as there has been sixteen hours overnight to disseminate and integrate the information through the information service providers, various electronic transmissions and internal broker dealer systems. The transactions in which the dissemination period in the morning could be unnecessary may have fewer CUSIP numbers, a small amount of trades booked, and those where the underwriter is willing to devote extra staff in the overnight hours to check the data from the information service providers and ensure the transactions are properly set up and processing. There are other scenarios whereby the dealer may want to preserve the dissemination period in the morning. Those transactions are likely ones with more CUSIP numbers, transactions with a large amount of trades booked, and those where time is needed in the morning to ensure all the data from the information service providers is correct and the transactions are properly set up. Therefore, SIFMA recommends that underwriters of any issue that is made “trade eligible” between 3:00 p.m. and 5:00 p.m. Eastern Time should be permitted, though not required, to waive the two business hour dissemination period and at their discretion, set the Time of First Execution to be 9:00 a.m. Eastern Time the following morning. Permitting these transactions to set a Time of First Execution of 9:00 a.m. Eastern Time will enable broker dealers to reduce the risk of carrying these securities, if they so wish, as markets can and do fluctuate.

### **III. RTRS Business Day Hours for G-34 Purposes**

SIFMA represents not only underwriters that underwrite transactions in New York, also but broker dealers across the country that do business in every time zone from Eastern Time to the Pacific Time and beyond. Although expanding the RTRS business hours for G-34 purposes may not be problematic to those dealers operating in the Eastern Time, those that are further west are already required to begin their day early to meet regulatory needs and business demands. Expanding the RTRS Business Day for G-34 purposes beyond the current hours would cause a significant staffing challenge to those regional dealers. Therefore, SIFMA recommends

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keeping the current RTRS business hours for G-34 purposes and revisiting this issue in a few years.

#### **IV. Dissemination of NIIDS Items on EMMA**

The Notice proposes displaying on EMMA certain data submitted by underwriters to NIIDS, such as the Time of Formal Award and the Time of First Execution. SIFMA supports the dissemination of these NIIDS fields on EMMA. Certainly other fields of information may also be useful to investors, including the paying agent and/or registrar information.<sup>4</sup> Underwriters are required to input a voluminous amount of data into specific fields in NIIDS, and SIFMA cautions the MSRB against expanding the amount of information that is displayed on EMMA from NIIDS to a point where critical information that investors are looking for is obscured by minutia required for accurate securities processing. SIFMA does encourage those that would benefit from the full NIIDS feed of information to contact DTCC about receiving the feed directly from them.

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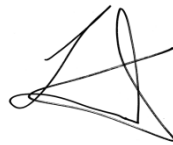
<sup>4</sup> Paying agent and/or registrar information may be particularly helpful to investors in the case of securities that have been conditionally called. The paying agent or registrar would be the appropriate party for an investor to query whether the call had been completed or rescinded.

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\* \* \*

We again wish to thank the MSRB for its efforts to streamline information submission requirements, and for the opportunity to comment on this Notice. We would be pleased to discuss any of these comments in greater detail, or to provide any other assistance that would be helpful. If you have any questions, please do not hesitate to contact the undersigned at (212) 313-1130.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'L. Norwood', written over a faint, light-colored signature line.

Leslie M. Norwood  
Managing Director and  
Associate General Counsel

cc: ***Municipal Securities Rulemaking Board***  
Lynnette Kelly, Executive Director  
Peg Henry, General Counsel, Market Regulation  
Ernesto A. Lanza, Deputy Executive Director and Chief Legal Officer

## **Comment on Notice 2012-19**

from frank alessandro, TD Securities (USA) LLC

on Tuesday, May 08, 2012

Comment:

I welcome the effort to have one centralized system and one pass in establishing the information necessary to satisfy the regulations. I believe the 2 hour window is tough enough (especially for smaller shops) that are limited in staff. I think shortening this will add undue pressure and serve little in the end for transparency.

Note: Proposed new language is underlined. Proposed deletions are enclosed in brackets

**Rule G-8: Books and Records to Be Made by Brokers, Dealers and Municipal Securities Dealers**

(a) *Description of Books and Records Required to be Made.* Except as otherwise specifically indicated in this rule, every broker, dealer and municipal securities dealer shall make and keep current the following books and records, to the extent applicable to the business of such broker, dealer or municipal securities dealer:

(i) - (xii) No change.

(xiii) Records Concerning Disclosures in Connection With Primary Offerings Pursuant to Rule G-32. A record:

(A) - (B) No change.

(C) of all documents, notices and information required to be submitted to the Board by the broker, dealer or municipal securities dealer, in the capacity of underwriter in a primary offering of municipal securities (or, in the event a syndicate or similar account has been formed for the purpose of underwriting the issue, the managing underwriter), under Rule G-32(b), to the extent that any such information is not included in the information submitted through NIIDS (as defined in Rule G-34(a)(ii)(C)(3)(b)) in satisfaction of the requirements of Rule G-32(b) and maintained pursuant to subsection (a)(xxiii) of this rule.

(xiv) No change.

(xv) Records Concerning Delivery of Official Statements, Advance Refunding Documents and Forms G-36(OS) and G-36(ARD) to the Board or its Designee Pursuant to Former Rule G-36. In connection with each primary offering of municipal securities subject to former Rule G-36 for which a broker, dealer or municipal securities dealer acted as an underwriter (or, in the event a syndicate or similar account has been formed for the purpose of underwriting the issue, the managing underwriter) and was required under the provisions of former Rule G-36 to send to the Board an official statement **prior to June 1, 2009**, [preceding the effective date of Rule G-32, on disclosures in connection with primary offerings,] such underwriter shall maintain, to the extent not maintained pursuant to subsection (a)(xiii) of this Rule G-8:

(A) - (B) No change.

For purposes of this subsection (a)(xv), the term "former Rule G-36" means Rule G-36 of the Board in effect on May 31, 2009 [shall have the meaning set forth in Rule G-32(e)(iv) and the

term "effective date of Rule G-32" shall have the same meaning as the term "effective date of this rule" as set forth in Rule G-32(e)(iv)].

(xvi) - (xxii) No change.

(xxiii) *Records Concerning Compliance with Rule G-34(a)(ii)(C)*. A broker, dealer or municipal securities dealer that acts as an underwriter in a primary offering of municipal securities subject to Rule G-34(a)(ii)(C)(1) shall maintain:

(A) a record of the Time of Formal Award;

(B) a record of the Time of First Execution; and

(C) a record **of all information submitted to NIIDS (as defined in Rule G-34(a)(ii)(C)(3)(b)) as required elements for "Trade Eligibility" and** of the time the new issue received "Trade Eligibility" status in **NIIDS** [the new issue information dissemination system].

(xxiv) No change.

(b) - (g) No change.

\* \* \* \* \*

## **Rule G-14 RTRS Procedures**

(a) *General Procedures*.

(i) No change.

(ii) Transactions effected with a Time of Trade during the hours of the RTRS Business Day shall be reported within 15 minutes of Time of Trade to an RTRS Portal except in the following situations:

(A) No change.

(B) A dealer effecting trades in short-term instruments **maturing in** [under] nine months **or less**, [in effective maturity, including] variable rate instruments **that may be tendered for purchase at least as frequently as every nine months**, auction rate products **for which auctions are scheduled to occur at least as frequently as every nine months**, and commercial paper **maturing or rolling-over in nine months or less** shall report such trades by the end of the RTRS Business Day on which the trades were executed.

(C) - (E) No change.

(iii) - (vi) No change.

(b) - (d) No change.

\* \* \* \* \*

**Rule G-32: Disclosures in Connection with Primary Offerings**

(a) No change.

(b) *Underwriter Submissions to EMMA.*

(i) *Official Statements, Preliminary Official Statements, and Information Concerning Exempt Offerings.*

(A) *Form G-32 Information Submission.* Except as otherwise provided in paragraph (F) of this subsection (i), the underwriter of a primary offering of municipal securities shall **submit, in addition to any applicable documents and information required to be submitted pursuant to paragraphs (B) through (E) of this subsection (i), [initiate the submission of] Form G-32 information relating to the offering [on or prior to the date of first execution, and shall,] in a timely and accurate manner as follows:**], complete the submission of all information required to be submitted by Form G-32 relating to such offering at such times and in such manner as required under subsection (b)(vi) of this rule and as set forth in the EMMA Dataport Manual.]

**(1) NIIDS-Eligible Primary Offerings. For any primary offering of municipal securities that is a new issue eligible for submission of information to NIIDS under Rule G-34(a)(ii)(C), the underwriter of such offering shall submit all information required to be submitted under this paragraph (A) on Form G-32 relating to such offering at such times and in such manner as required under Rule G-34(a)(ii)(C), and the submission of such information under Rule G-34(a)(ii)(C) in a full and timely manner shall be deemed to be in compliance with the submission requirement of this subparagraph (b)(i)(A)(1); provided, however, that:**

**(a) Any items of information required to be included on Form G-32 but for which no corresponding data element then is available through NIIDS shall be submitted through EMMA on Form G-32 at such times and in such manner as required under subsection (b)(vi) of this rule and as set forth in the EMMA Dataport Manual; and**

**(b) Any corrections to data submitted pursuant to Rule G-34(a)(ii)(C) shall be made promptly and, to the extent feasible, in the manner originally submitted.**

**(2) Primary Offerings Ineligible for NIIDS. For any primary offering of municipal securities that is not a new issue eligible for submission of**



**information to NIIDS under Rule G-34(a)(ii)(C) or is exempt from such submission requirement under Rule G-34(d), the underwriter of such offering shall initiate the submission of Form G-32 information relating to the offering on or prior to the date of first execution, and shall complete the submission of all information required to be submitted by Form G-32 relating to such offering at such times and in such manner as required under subsection (b)(vi) of this rule and as set forth in the EMMA Dataport Manual.**

(B) – (E) No change.

(F) *Exemption for Certain Commercial Paper Offerings or Remarketings.* The underwriter of a primary offering of municipal securities that consists of commercial paper not subject to Securities Exchange Act Rule 15c2-12 by virtue of paragraph (d)(1)(ii) thereof or of a remarketing of municipal securities not subject to **paragraphs (b)(1) through (b)(4) of** Securities Exchange Act Rule 15c2-12 by virtue of paragraph **(d)(5)** [(d)(1)(iii)] thereof shall not be required to comply with the requirements of paragraph (A) of this subsection (i) or to submit the official statement or any preliminary official statement to EMMA if:

(1) - (2) No change.

(ii) – (vi) No change.

(c) No change.

(d) *Definitions.* For purposes of this rule, the following terms have the following meanings:

(i) - (xiii) No change.

**(xiv)** [(xiii)] The term “obligated person” shall mean an obligated person defined in Securities Exchange Act Rule 15c2-12(f)(10).

**(xv) The term “NIIDS” shall have the meaning set forth in Rule G-34(a)(ii)(C)(3)(b).**

[(e) Transitional Provisions.]

[(i) Notwithstanding the provisions of former Rule G-36, an underwriter that would have been required under the provisions of former Rule G-36(b)(i) or (c)(i) to send to the Board, within the five business day period preceding the effective date of this rule, an official statement for a primary offering of municipal securities shall be deemed to have complied with former Rule G-36 if the underwriter:]

[(A) submits the official statement to EMMA in a designated electronic format, together with such items of information necessary for initiation of a Form G-32

information submission under subparagraph (vi)(C)(1)(a) of this rule, by the business day following the effective date of this rule; and]

[(B) completes the Form G-32 information submission as required under subparagraph (vi)(C)(1)(b) of this rule by the later of (1) the business day following the effective date of this rule or (2) the closing date, except to the extent that the provisions of subsection (b)(i) otherwise require a submission after the later of such two dates.]

[(ii) Notwithstanding the provisions of former Rule G-36, an underwriter that would have been required under the provisions of former Rule G-36(b)(ii) or (c)(ii) to send to the Board, within the five business day period preceding the effective date of this rule, an advance refunding document in connection with a primary offering of municipal securities that advance refunds an outstanding issue shall be deemed to have complied with former Rule G-36 if the underwriter submits the advance refunding document to EMMA in a designated electronic format, together with a completed Form G-32 information submission as required under subparagraph (vi)(C)(2) of this rule, by the later of (1) the business day following the effective date of this rule or (2) five business days after the closing date.]

[(iii) Notwithstanding the provisions of former Rule G-36, an underwriter that would have been required under the provisions of former Rule G-36(d) to send to the Board, within the five business day period preceding the effective date of this rule, an amendment to an official statement shall be deemed to have complied with former Rule G-36 if the underwriter submits the amendment to EMMA in a designated electronic format, together with a completed Form G-32 information submission as required under subparagraph (vi)(C)(3) of this rule, by the business day following the effective date of this rule.]

[(iv) The Board may require an underwriter that sends an official statement, advance refunding document or amendment thereto in paper form to the Board within the five business day period preceding the effective date of this rule that is received by the Board on or after the effective date of this rule to resubmit such document to EMMA in a designated electronic format within two business days after notice by the Board to the underwriter.]

[(v) The Board shall not be required to accept a submission of an official statement, advance refunding document or amendment thereto in paper form sent by an underwriter to the Board on or after the effective date of this rule.]

[(vi) For purposes of this section (e), the term “effective date of this rule” means June 1, 2009 and the term “former Rule G-36” means Rule G-36 of the Board in effect on the day prior to the effective date of this rule.]

\* \* \* \* \*

### **Rule G-34: CUSIP Numbers, New Issue, and Market Information Requirements**

(a) *New Issue Securities.*

(i) Assignment **and Affixture** of CUSIP Numbers.

(A) - (D) No change.

**(E) The underwriter, prior to the delivery of a new issue of municipal securities to any other person, shall affix to, or arrange to have affixed to, the securities certificates of such new issue the CUSIP number assigned to such new issue. If more than one CUSIP number is assigned to the new issue, each such number shall be affixed to the securities certificates of that part of the issue to which such number relates.**

(ii) Application for Depository Eligibility[, CUSIP Number Affixture] and **Dissemination of New Issue Information** [Initial Communications]. Each underwriter shall carry out the following functions:

(A) No change.

**(B) Prior to acting as underwriter for a new issue of municipal securities eligible for submission to NIIDS:**

**(1) each broker, dealer or municipal securities dealer must register to use NIIDS with DTCC and shall test its capability to use NIIDS by successfully submitting two test new issues using the NIIDS Web Interface; and**

**(2) each broker, dealer or municipal securities dealer that plans to establish computer-to-computer connections with NIIDS (either directly or through a vendor) shall test its capability to use NIIDS by successfully submitting two test new issues using computer-to-computer connections.**

[(B) The underwriter, prior to the delivery of such securities to any other person, shall affix to, or arrange to have affixed to, the securities certificates of such new issue the CUSIP number assigned to such new issue. If more than one CUSIP number is assigned to the new issue, each such number shall be affixed to the securities certificates of that part of the issue to which such number relates.]

(C) The underwriter of a new issue of municipal securities shall communicate information about the new issue in accordance with the requirements of this paragraph (a)(ii)(C) to ensure that other brokers, dealers and municipal securities dealers have timely access to information necessary to report, compare, confirm, and settle transactions in the new issue and to ensure that registered securities clearing agencies receive information necessary to provide comparison, clearance and depository services for the new issue; provided, however, that this paragraph (a)(ii)(C) shall not apply to [short-term instruments under nine months in effective maturity, including variable rate instruments, auction rate products, and] commercial paper.

(1) The underwriter shall ensure that the following information is submitted to **NIIDS** [a new issue information dissemination system] in the manner described in the written procedures for system users and that changes **or corrections** to submitted information are made as soon as possible:

(a) the Time of Formal Award.

**(i)** For purposes of this paragraph (a)(ii)(C), the "Time of Formal Award" means:[,]

**(A)** for competitive issues, the later of the time the issuer announces the award or the time the issuer notifies the underwriter of the award, and[,]

**(B)** for negotiated issues, the later of the time the contract to purchase the securities from the issuer is executed or the time the issuer notifies the underwriter of its execution.

**(ii)** If the underwriter and issuer have agreed in advance on a Time of Formal Award, that time may be submitted to **NIIDS** [the new issue information dissemination system] in advance of the actual Time of Formal Award.

(b) the Time of First Execution.

**(i)** For purposes of this paragraph (a)(ii)(C), the "Time of First Execution" means the time the underwriter plans to execute its first transactions in the new issue.

**(ii)** The underwriter shall designate a Time of First Execution that is:

**(A) for new issues consisting of variable rate instruments for which transactions occurring on the first day of trading are expected to settle on a same-day or next-day basis, any time after all information required by paragraph (a)(ii)(C) has been transmitted to NIIDS; or**

**(B) for all other new issues, no less than two Business Hours [hours] after all information required by paragraph (a)(ii)(C) has been transmitted to NIIDS; [the new issue information dissemination system.] provided that the Time of First Execution may be designated as 9:00 A.M. Eastern Time or later on the RTRS Business**

**Day following the day on which all information required by paragraph (a)(ii)(C) has been transmitted to NIIDS without regard to whether two Business Hours have elapsed.**

(c) All other information identified as required for “Trade Eligibility” in **NIIDS** [the new issue information dissemination system].

(2) The underwriter shall ensure that all information identified in this paragraph (a)(ii)(C) is **transmitted to NIIDS** [provided] no later than two **Business Hours after** [hours of] the Time of Formal Award. For purposes of this paragraph (a)(ii)(C):[.]

**(a) “Business Hours”** [the hours counted in determining the responsibilities of an underwriter] shall include only the hours **from** [of] 9:00 A.M. **to** [and] 5:00 P.M. Eastern Time on an RTRS Business Day.

**(b) “RTRS Business Day” shall have the meaning set forth** [as defined] in Rule G-14 RTRS Procedures section (d)(ii).

(3) **For purposes of paragraphs (B) and (C) of this subsection (a)(ii):**

**(a) “DTCC” means The Depository Trust and Clearing Corporation.** [The term “new issue information dissemination system” means an automated, electronic system operated by] a securities clearing agency registered with the [Securities and Exchange] Commission providing depository services for municipal securities.

**(b) “NIIDS” means the New Issue Information Dissemination Service, an automated, electronic system operated by DTCC as part of its underwriting eligibility request platform, UW Source,** that receives comprehensive new issue information **for municipal securities** on a market-wide basis for the purposes of establishing depository eligibility and immediately re-disseminating such information to information vendors supplying formatted municipal securities information for use in automated trade processing systems.

(D) The underwriter of **any** [a] new issue of municipal securities **consisting** of [short-term instruments under nine months in effective maturity, including variable rate instruments, auction rate products, and] commercial paper[.] shall, as promptly as possible, announce each item of information listed below in a manner reasonably designed to reach market participants that may trade the new issue. All information shall be announced no later than the time of the first execution of a transaction in the new issue by the underwriter.

(1) - (2) No change.

(E) No change.

(iii) No change.

(b) - (d) No change.

[(e) *NIIDS Registration and Testing Requirements.* NIIDS is an automated, electronic system that receives comprehensive new issue information on a market-wide basis for the purposes of establishing depository eligibility and immediately re-disseminating such information to information vendors supplying formatted municipal securities information for use in automated trade processing systems. It is operated by Depository Trust and Clearing Corporation (DTCC), a securities clearing agency registered with the Securities and Exchange Commission providing depository services for municipal securities.]

[(i) *NIIDS Registration.* Prior to acting as underwriter for a new issue of municipal securities with nine months or greater effective maturity, each broker, dealer or municipal securities dealer must register to use NIIDS with DTCC.]

[(ii) *NIIDS Testing.*]

[(A) *NIIDS Web Interface.* Prior to acting as underwriter for a new issue of municipal securities with nine months or greater effective maturity, each broker, dealer or municipal securities dealer shall test its capability to use NIIDS by successfully submitting two test new issues using the NIIDS Web Interface.]

[(B) *NIIDS Autofeed Interface.* Prior to acting as underwriter for a new issue of municipal securities with nine months or greater effective maturity, each broker, dealer or municipal securities dealer that plans to establish computer-to-computer connections with NIIDS (either directly or through a vendor) shall test its capability to use NIIDS by successfully submitting two test new issues using computer-to-computer connections.]

[(iii) *NIIDS Start-Up.* Each broker, dealer or municipal security dealer that has acted at any time after September 30, 2007 and plans to continue to act as an underwriter for a new issue of municipal securities with nine months or greater effective maturity shall complete the requirements of this section (d) by no later than September 15, 2008.]

\* \* \* \* \*

**Municipal Securities Rulemaking Board  
Electronic Municipal Market Access System — EMMA®**

The Electronic Municipal Market Access system (“EMMA”) is a facility of the Municipal Securities Rulemaking Board (“MSRB”) for receiving electronic submissions of municipal securities disclosure and other key documents and related information and for making such documents and information available to the public, at no charge on an Internet website (the

“EMMA portal”) or by paid subscription feed. The specific documents and information processed through EMMA are established through services filed with the Securities and Exchange Commission.

\* \* \* \* \*

## **EMMA PRIMARY MARKET DISCLOSURE SERVICE**

The EMMA primary market disclosure service, established as a service of EMMA, receives submissions of official statements (“OSs”), preliminary official statements (“POSs”) and related pre-sale documents (“POS-related documents”), advance refunding documents (“ARDs”), and any amendments thereto (collectively, “primary market documents”), together with related indexing information to allow the public to readily identify and access such documents, from brokers, dealers and municipal securities dealers (“dealers”), acting as underwriters, placement agents or remarketing agents for primary offerings of municipal securities (“underwriters”), and their agents pursuant to MSRB rules, and from issuers and their designated agents, at no charge to the submitter. Submissions may be made through a choice of an Internet-based electronic submission interface or electronic computer-to-computer streaming connections. The EMMA primary market disclosure service makes primary market documents available to the public, at no charge, on the Internet through the EMMA portal. The EMMA primary market disclosure service also makes primary market documents available by subscription for a fee.

### **Submissions to the EMMA Primary Market Disclosure Service**

*Designated Electronic Format for Documents.* No change.

*Method of Submission.* Documents and related indexing information **(to the extent that such indexing information is not otherwise submitted through the New Issue Information Dissemination Service (“NIIDS”) under MSRB rules)** may be submitted to the EMMA primary market disclosure service through a secure, password-protected, web-based electronic submitter interface or through a secure, authenticated computer-to-computer data connection with EMMA, at the election of the submitter. When making submissions using the web-based interface, related indexing information is entered into an on-line form or uploaded through an extensible markup language (XML) file, and documents are uploaded as PDF files. Computer-to-computer submissions utilize XML files for data and PDF files for documents. Appropriate schemas for on-line and computer-to-computer submissions are published on the EMMA portal and the MSRB website.

*Timing of Submissions.* No change.

*Document Types.* No change.

*Information to be Submitted.* No change.

*Submitters.* No change.

## **Public Availability of Primary Market Disclosure Documents**

No change.

## **EMMA CONTINUING DISCLOSURE SERVICE**

No change.

## **EMMA TRADE PRICE TRANSPARENCY SERVICE**

No change.

## **EMMA SHORT-TERM OBLIGATION RATE TRANSPARENCY SERVICE**

No change.

## **EMMA SUBSCRIPTION SERVICES**

### **EMMA Primary Market Disclosure Subscription Service**

The real-time data stream subscription to the EMMA primary market disclosure service through the EMMA subscription web service will be available for an annual fee of \$20,000. The EMMA primary market disclosure subscription service makes available to subscribers all primary market disclosure documents, including official statements, preliminary official statements, advance refunding documents, and any amendments thereto, together with related indexing information provided by submitters through the EMMA submission process that is posted on the EMMA portal.<sup>1</sup> Such documents and information will be made available to subscribers simultaneously with the posting thereof on the EMMA portal. Underwriters and their agents submitting information and documents to EMMA may provide or modify such items for a particular submission in one or more sessions (“submission events”), and any such items provided or modified will be made available to subscribers upon posting to the EMMA portal.

Data elements with respect to the EMMA primary market disclosure service to be provided through the real-time data stream shall be set forth in the EMMA Primary Market Subscriber Manual posted on the EMMA portal. Each submission event will result in an XML data packet to be included in the subscription feed. Each submission event packet will include data organized in a hierarchical data relationship generally consisting of (to the extent applicable for a particular submission event) XML containers for submission data, offering data, issue data, security data, document data, file data, and limited offering contact data. These XML containers will contain some, all or none of the following types of data elements, as appropriate for each submission event being disseminated:

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<sup>1</sup> Subscribers to the EMMA primary market disclosure service will be able to access historical data for the most recent six months on a daily rolling basis. Older data is available for purchase in twelve consecutive complete month data sets pursuant to the EMMA primary market disclosure historical product.



<b>Submission Data:</b>	submission ID; submission type; submission status; submission transaction date/time
<b>Offering Data:</b>	offering type; underwriting spread (agency fee)/disclosure indicator; OS/POS availability status; related issue identifier
<b>Issue Data:</b>	issue type; security type; issuer name; issue description; state; closing date; dated dates; remarketing/commercial paper identifiers; continuing disclosure status; obligated person; annual filing deadline for financial information; <b><u>Time of Formal Award; Time of First Execution</u></b>
<b>Security Data:</b>	CUSIP number; maturity date; security-specific dated date; maturity principal amount; interest rate; initial offering price/yield; security status; partial underwriting data; refunded security CUSIP numbers
<b>Document Data:</b>	document ID; document type; document description; document posting dates; document status indicators; refunding/refunded issue identifiers
<b>File Data:</b>	file ID; file posting dates; file status indicators
<b>Limited Offering Contact Data:</b>	contact name; address; phone number; e-mail address

The EMMA Primary Market Subscriber Manual provides a complete, up-to-date listing of all data elements made available through the EMMA primary market disclosure subscription service, including any additions, deletions or modifications to disseminated data elements, detailed definitions of each data element, specific data format information, and information about technical data elements to support transmission and data-integrity processes between EMMA and subscribers.

Subscriptions will be provided through computer-to-computer data streams utilizing XML files for data and files in a designated electronic format (consisting of PDF files) for documents. Appropriate schemas and other technical specifications for accessing the web services through which the real-time data stream will be provided are set forth in the EMMA Primary Market Subscriber Manual posted on the EMMA portal.

The MSRB makes the EMMA primary market disclosure subscription service available on an equal and non-discriminatory basis. In addition, the MSRB does not impose any limitations on or additional charges for redistribution of such documents by subscribers to their customers, clients or other end-users. Subscribers shall be subject to all of the terms of the subscription agreement to be entered into between the MSRB and each subscriber, including proprietary rights of third parties in information provided by such third parties that is made available through the subscription. The MSRB is not responsible for the content of the information or documents

submitted by submitters that is distributed to subscribers of the EMMA primary market disclosure subscription service.

**EMMA Primary Market Disclosure Historical Product**

No change.

**EMMA Continuing Disclosure Subscription Service**

No change.

**EMMA Continuing Disclosure Historical Product**

No change.