SECURITIES AND EXCHANGE COMMISSION


Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Provide Additional Regulatory Relief on a Temporary Basis to Dealers and Municipal Advisors Due to the Sustained Coronavirus (COVID–19) Pandemic

December 9, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (‘‘Act’’ or ‘‘Exchange Act’’) and Rule 19b–4 thereunder, notice is hereby given that on December 2, 2020 the Municipal Securities Rulemaking Board (‘‘MSRB’’ or ‘‘Board’’) filed with the Securities and Exchange Commission (‘‘SEC’’ or ‘‘Commission’’) the proposed rule change as described in Items I and II, 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 filed with the Commission a proposed rule change to (i) amend Supplementary Material .01, Temporary Relief for Completing Office Inspections, of MSRB Rule G–27, on supervision, to allow internal inspections of brokers, dealers and municipal securities dealers (collectively, ‘‘dealers’’) to be conducted remotely, subject to certain conditions, for calendar year 2020 and calendar year 2021, without an on-site visit to the office or location; (ii) amend MSRB Rule G–16, on periodic compliance examinations, to add Supplementary Material .01, Temporary Relief for Completing Periodic Compliance Examination, to provide a temporary extension of time for registered securities associations 3 and appropriate regulatory agencies 4 (collectively, ‘‘examining authorities’’) to initiate periodic examinations of dealers; (iii) amend Supplementary Material .09, Temporary Relief for Municipal Advisor Principal, of MSRB Rule G–3, on professional qualification requirements, to provide a further extension of time for those individuals who meet the definition of a municipal advisor principal 5 to become appropriately qualified by passing the Municipal Advisor Principal Qualification Examination (Series 54); and (iv) make a technical change to Supplementary Material .12, Temporary Relief for Municipal Advisor Continuing Education Requirements, of MSRB Rule G–3 to update a cross-reference (collectively the ‘‘proposed rule change’’).

The MSRB has designated the proposed rule change as constituting a ‘‘noncontroversial’’ rule change under Section 19(b)(3)(A) 6 of the Act and Rule 19b–4(f)(6) 7 thereunder, which renders the proposal effective upon receipt of this filing by the Commission and has requested that the Commission waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so that the MSRB can implement the proposed rule change immediately.

The text of the proposed rule change is available on the MSRB’s website at www.msrb.org/Rules-and-Interpretations/SEC-Filings/2020-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

In March of this year, the United States declared a national emergency in response to the coronavirus disease (‘‘COVID–19’’) pandemic. 8 In light of the operational challenges and disruptions to normal business functions as a result of COVID–19 pandemic, the MSRB filed a proposed rule change for immediate effectiveness with the SEC in April of this year that provided regulatory relief on a temporary basis to dealers and municipal advisors (collectively ‘‘regulated entities’’). The MSRB stated it would continue to monitor the impact of COVID–19 and work in close coordination with other financial regulators and governmental authorities. 9

The MSRB recognizes that a vast number of regulated entities are still operating under business continuity plans and continue to manage operations from alternate sites with employees working from diverse work locations and telework arrangements. The impacts of the COVID–19 pandemic persist and, in an effort to slow the spread of COVID–19, many states are continuing to impose stay-at-home orders, limitations on in-person interactions and travel restrictions. Due to the ongoing pandemic-related health and safety concerns and the operational challenges regulated entities continue to experience, the MSRB believes the additional tailored temporary relief provided in the proposed rule change is warranted.

Temporary Relief Under Rule G–27 To Allow Remote Inspections for Calendar Year 2020 and Calendar Year 2021

With respect to Rule G–27, the April relief extended the deadline until March 31, 2021 for dealers to complete their

8 See The White House, ‘‘Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak,’’ (March 13, 2020) https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/#:~:text=On%20March%2013%2C%202020%20%2C%20the%20President%20has%20declared%20a%20national%20emergency%20and%20the%20Secretary%20of%20Health%20and%20Human%20Services%20has%20declared%20a%20public%20health%20emergency%20concerning%20COVID–19%20outbreak%20with%20the%20potential%20for%20a%20patient%20with%20COVID–19%20at%20higher%20risk%20of%20complications%20to%20become%20the%20first%20case%20in%20the%20United%20States%20that%20is%20confirmed%20by%20the%20Centers%20for%20Disease%20Control%20and%20Prevention%20to%20be%20contracted%20outside%20of%20an%20investigation%20in%20China%20that%20confirmed%20COVID–19%20in%20January%20of%202020%20and%20to%20require%20the%20Secretary%20of%20Health%20and%20Human%20Services%20to%20take%20immediate%20actions%20in%20the%20interests%20of%20the%20nation%20and%20its%20people%20to%20combat%20the%20coronavirus%20disease%20in%20the%20United%20States.’’

calendar year 2020 inspections. However, in light of the health and safety concerns coupled with the continued restrictions on social interactions and travel, the April relief is no longer sufficient. To help proactively address the challenges resulting from the sustained pandemic, the MSRB is proposing to amend temporary Supplementary Material .01 under Rule G–27, on supervision, to provide dealers, subject to specified requirements therein, the ability to conduct the inspections of their offices and local offices, for calendar year 2020 and calendar year 2021 remotely without the need to conduct an onsite visit to such office or location.

The proposed amendment to Supplementary Material .01 would set forth that inspections are due to be completed by March 31, 2021 for calendar year 2020 and completed by December 31, 2021 for calendar year 2021, the requirement to amend or supplement written supervisory procedures for remote inspections, the use of remote inspections as part of an effective supervisory system, and documentation requirements. The MSRB believes affording dealers the option to conduct remote inspections is a prudent regulatory approach during these unprecedented times while continuing to serve the important investor protection objectives of the inspection requirements under these unique circumstances. The temporary proposed supplementary material makes clear that it is not intended to alter a dealer’s core responsibility, embodied in Rule G–27, to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to ensure compliance with Board rules and the applicable provisions of the Act and rules thereunder.

Temporary Relief Under Rule G–16 To Extend the Time To Complete Periodic Compliance Examinations

MSRB Rule G–16, on periodic compliance examination, provides that at least once every four calendar years, each dealer that is a member of a registered securities association, must be examined by such registered securities association (i.e., FINRA); and at least once every two calendar years, each municipal securities dealer that is a bank or subsidiary or department or division of a bank must be examined by the appropriate regulatory agency (i.e., OCC, FRB, or FDIC), in accordance with Section 15B(c)(7) of the Exchange Act for compliance with applicable rules of the Board and applicable provisions of the Act and rules and regulations of the Commission thereunder.

In an effort to provide examining authorities with an opportunity to better manage and allocate resources during these exigent circumstances; and in working with dealers as they manage operational challenges due to the pandemic, the MSRB is proposing to temporarily modify the date by which compliance examinations under Rule G–16 must be met. Specifically, the proposed rule change would deem any examination initiated between January 1, 2020 and March 31, 2021 to have occurred in calendar year 2020.

Time Extension for Inspections and Compliance Examinations

The proposed amendment to Supplementary Material .01 would set forth that inspections are due to be completed by March 31, 2021 for calendar year 2020 and completed by December 31, 2021 for calendar year 2021, the requirement to amend or supplement written supervisory procedures for remote inspections, the use of remote inspections as part of an effective supervisory system, and documentation requirements. The MSRB believes affording dealers the option to conduct remote inspections is a prudent regulatory approach during these unprecedented times while continuing to serve the important investor protection objectives of the inspection requirements under these unique circumstances. The temporary proposed supplementary material makes clear that it is not intended to alter a dealer’s core responsibility, embodied in Rule G–27, to establish and maintain a system to supervise the activities of each associated person that is reasonably designed to ensure compliance with Board rules and the applicable provisions of the Act and rules thereunder.

Temporary Relief Under Rule G–3 To Extend Time To Complete Professional Qualification Requirements and Technical Amendment

In connection with the MSRB’s April relief, the MSRB provided additional time to allow individuals to fulfill certain professional qualification standards under Rule G–3, on professional qualification requirements. At that time, due to the uncertainty regarding ongoing stay-at-home orders and social distance restrictions that could impact capacity at Prometric testing centers, the MSRB extended the date by which individuals are required to become qualified with the Series 54 examination from November 12, 2020 to March 31, 2021.

Technical Amendment

The proposed rule change also makes a technical amendment to Supplementary Material .01 under Rule G–3, providing for the temporary relief for municipal advisor continuing education requirements, by correcting the cross-reference under the provision from (i)(ii)(B) to (ii)(ii)(B).

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 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.

When Prometric resumes operations in its testing centers, so regulated entities are on notice of when the 120-day period begins to toll. See supra note 9. The MSRB notes dealer firms are still covered under the April relief because, given the exigent circumstances surrounding the sustained pandemic, the MSRB has not yet announced when the obligation to take and pass the applicable principal examination must be completed.

15 The MSRB had previously stated, to facilitate the transition to the new exam requirement, the MSRB was providing a one-year grace period, sunsetting on November 12, 2020, during which individuals qualified with the Series 50 examination would be able to take the Series 54 examination while continuing to engage in principal-level activities. See Release No. 34–84630 (Nov. 20, 2018), 83 FR 60927 (Nov. 27, 2018) (File No. SR–MSRB–2018–07).


The proposed rule change is designed to provide regulated entities additional time to comply with certain obligations under MSRB rules for a temporary period of time; it does not relieve such entities from compliance with underlying obligations that directly serve to protect investors, municipal entities, obligated persons and the public interest or market transparency goals. In a time when faced with unique challenges resulting from the sustained pandemic, the proposed rule change will afford dealers, municipal advisors and the examining authorities the ability to safeguard the health and safety of their personnel and to more effectively allocate resources to serve and promote the protection of investors, municipal entities, obligated persons and the public interest. In addition, the proposed rule change will also alleviate some of the operational challenges these regulated entities may be experiencing, which will allow them to more effectively allocate resources to the provision of advice and the operations that facilitate 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.

Additionally, the proposed rule change is consistent with Section 15B(b)(2)(E) of the Exchange Act,18 which provides that the MSRB’s rules shall provide:

for the periodic examination in accordance with subsection (c)(7) of this section of municipal securities brokers, municipal securities dealers, and municipal advisors to determine compliance with applicable provisions of this title, the rules and regulations thereunder, and the rules of the Board. Such rules shall specify the minimum scope and frequency of such examinations and shall be designed to avoid unnecessary regulatory duplication or undue regulatory burdens for any such municipal securities broker, municipal securities dealer, or municipal advisor.

Given the potential period of the pandemic and resulting persistent challenges to business operations, the proposed rule change provides examining authorities, not only with the ability to appropriately allocate their resources, but with a degree of flexibility to be responsive to the challenges dealers may face and minimize, to the extent possible, undue regulatory burdens, while not substantively alter examining authorities’ obligations to examine for compliance with applicable rules of the Board and applicable provisions of the

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24 Id.


27 Id.

designate a shorter time if such action is consistent with the protection of investors and the public interest.\(^\text{29}\) The MSRB has requested that the Commission designate the proposed rule change operative upon filing,\(^\text{30}\) as specified in Rule 19b–4(f)(6)(iii),\(^\text{31}\) which would make the proposed rule change operative on December 2, 2020.

The MSRB notes that the proposed rule change does not relieve regulated entities from compliance with underlying obligations. Rather, the proposed rule change provides regulated entities with additional time and flexibility to comply with certain compliance obligations for a temporary period of time. Additionally, it grants examining authorities an extension of time to examine dealers without substantially altering the examining authorities’ obligations. The MSRB believes the proposed rule change will afford regulated entities the ability to more effectively allocate resources to serve and promote the protection of investors, municipal entities, obligated persons and the public interest during the sustained pandemic. Further the MSRB stated, that by alleviating operational challenges, the proposed rule change will allow regulated entities to focus resources on the provision of advice and operations that facilitate transactions in municipal securities and municipal financial products.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposed rule change does not relieve regulated entities from compliance with underlying obligations and will allow regulated entities to more effectively allocate resources during ongoing disruption to normal business functions as a result of the pandemic. Waiver of the 30-day operative period will alleviate operational challenges and facilitate the provision of advice and transactions in the municipal securities market in light of the ongoing impacts to in-person interactions, travel, health and safety presented by the pandemic. Accordingly, the Commission hereby waives the 30-day operative delay specified in Rule 19b–4(f)(6)(iii) and designates the proposed rule change to be operative upon filing.\(^\text{32}\)

At any time within 60 days of the filing of the proposed rule change, the Commission may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 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 email to rule-comments@sec.gov. Please include File Number SR–MSRB–2020–09 on the subject line.

Paper Comments
- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2020–09. This file number should be included on the subject line if email 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 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2020–09 and should be submitted on or before January 5, 2021.

For the Commission, pursuant to delegated authority.\(^\text{33}\)

J. Matthew DeLesDernier,
Assistant Secretary.

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