among other things, strike a fair balance between providing notice to associated persons of changes to their U4 where obtaining a signature may prove difficult and allowing firms to expeditiously update information. In addition, the Commission believes that it is appropriate for FINRA to make explicit in its rules a member's obligation to ensure that information in Form U4 regarding its associated persons is accurate, even though this requirement is explicit in FINRA's By-Laws. Ensuring that information in Web CRD is current and accurate enhances the usefulness of Web CRD.

The Commission believes that FINRA, in its Response Letter, adequately addressed the comments raised in the Schwab Letter. The Commission emphasizes that FINRA correctly noted that both firms and associated persons have a duty to keep information in Web CRD current, and both are responsible for ensuring that disclosure information is accurate; this proposal merely codifies this obligation. The Commission also agrees with FINRA that firms should try to ensure the accuracy and completeness of information submitted. This purpose should be served by the rule requiring a firm to use reasonable efforts to provide the associated person with a copy of the amended disclosure information post-filing, since the firm should have contact information for the associated person, whom it is responsible for regulating, and the associated person can ensure that the amended information is accurate.

For the reasons discussed above, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder.

## IV. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–FINRA–2009–019), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8010–01–P**

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–60359; File No. SR–MSRB–2009–08]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Guidance on Disclosure and Other Sales Practice Obligations to Individual and Other Retail Investors in Municipal Securities

July 21, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 14, 2009, 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 substantially prepared by the MSRB. The MSRB has designated the proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization pursuant to Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The MSRB has filed with the Commission a proposed rule change consisting of interpretive guidance on disclosure and other sales practice obligations of brokers, dealers and municipal securities dealers (''dealers'') relating to sales of municipal securities to individual and other retail investors. The text of the proposed rule change is available on the MSRB's Web site (*http://www.msrb.org*), 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 provides guidance to brokers, dealers and municipal securities dealers (''dealers'') of their sales practice obligations under MSRB rules as applied specifically to individual and other retail investors. Among other things, the proposed rule change updates guidance to dealers on (i) their obligations to disclose material information about issuers, their securities and credit/liquidity support for such securities in connection with the fulfillment of their disclosure obligations under MSRB Rule G–17, (ii) their obligations to use such material information in fulfilling their suitability obligations under MSRB Rule G–19, and (iii) their fair pricing obligations under MSRB Rules G–18 and G–30. The proposed rule change also applies previous guidance on bond insurance rating downgrades and wide-scale auction failures for municipal auction rate securities (''ARS''), to municipal securities transactions in general and specifically to transactions with individual and other retail investors in variable rate demand obligations (''VRDOs'').

Disclosure

The proposed rule change makes clear that dealers are responsible under Rule G–17 for disclosing to their customers, at or prior to the time of trade for any municipal securities transaction, all material information about the transaction known by the dealer, as well as material information about the security that is reasonably accessible to the market, including information available from established industry sources. Dealers must provide such disclosures notwithstanding the availability to investors of comprehensive information from the MSRB's Electronic Municipal Market Access system (EMMA) and other established industry sources. Dealers are expected to establish procedures reasonably designed to ensure that information known to the dealer is communicated internally or otherwise

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

made available to relevant personnel in a manner reasonably designed to ensure compliance with this disclosure obligation.

The proposed rule change provides that, in general, information is considered ''material'' if there is a substantial likelihood that its disclosure would have been considered important or significant by a reasonable investor. The duty to disclose material information to a customer in a municipal securities transaction includes the duty to give a complete description of the security, including a description of the features that likely would be considered significant by a reasonable investor and facts that are material to assessing the potential risks of the investment. For VRDOs, ARS or other securities for which interest payments may fluctuate, such material facts would include a description of the basis on which periodic interest rate resets are determined.

The proposed rule change provides that the following information will generally be material information required to be disclosed to investors in credit/liquidity enhanced securities, including but not limited to VRDOs, if known to the dealer or if reasonably available from established industry sources: (i) The credit rating of the issue or lack thereof; (ii) the underlying credit rating or lack thereof, (iii) the identity of any credit enhancer or liquidity provider; and (iv) the credit rating of the credit provider and liquidity provider, including potential rating actions (*e.g.,* downgrade). Additionally, material terms of the credit facility or liquidity facility should be disclosed (*e.g.,* any circumstances under which a standby bond purchase agreement (''SBPA'') would terminate without a mandatory tender). If the remarketing agent for a VRDO has customarily or from time-to-time taken tendered bonds into inventory to make it unnecessary to draw on the liquidity facility for unremarketed bonds (thereby in effect providing liquidity support), the fact that the remarketing agent is not contractually obligated to maintain such practice will generally be material information required to be disclosed to customers to which VRDOs are sold. This list is not exhaustive. Other information may also be material to investors in credit/liquidity enhanced securities.

The proposed rule change reminds dealers that they are not relieved of their suitability obligations under MSRB Rule G–19 or their fair pricing obligations to their customers under MSRB Rules G–18 and G–30 simply by disclosing material information to the customer. The information known by a dealer in connection with a municipal security, together with the information available from established industry sources, generally should inform the dealer, to the extent applicable, in undertaking the necessary analyses and determinations needed to meet these other customer protection obligations.

Suitability

Under the proposed rule change, dealers are obligated to make a suitability determination arising under Rule G–19 in connection with a recommended transaction. This requires a meaningful analysis, taking into consideration the information obtained about the investor and the security, which establishes the reasonable grounds for believing that the recommendation is suitable. Such suitability determinations are required regardless of the apparent safety of a particular security or issuer or the apparent wealth or sophistication of a particular investor. Suitability determinations should be based on the appropriately weighted factors that are relevant in any particular set of facts and circumstances, and those factors may vary from transaction to transaction. Factors to be considered include, but are not limited to, the investor's financial profile, tax status, investment objectives (including portfolio concentration/diversification), and the specific characteristics and risks of the municipal security recommended to the investor.

In the proposed rule change, the MSRB notes that Section (c) of Exchange Act Rule 15c2–12 provides that it is impermissible for a dealer to recommend the purchase or sale of a municipal security unless the dealer has procedures in place that provide reasonable assurance that it will receive prompt notice of the specified material events that are subject to the continuing disclosure obligations of the rule. A dealer would be expected to have reviewed any applicable continuing disclosures made available through EMMA or other established industry sources and to have taken such disclosures into account in undertaking its suitability determination.

The proposed rule change provides guidance specifically with regard to credit-enhanced securities. Facts relating to the credit rating of the credit enhancer may affect suitability determinations, particularly for investors who have conveyed to the dealer investment objectives relating to credit quality of investments. In the case of recommended VRDOs or any other securities that are viewed as providing significant liquidity to investors, a dealer must consider both the liquidity characteristics of the security and the investor's need for a liquid investment when making a suitability determination. Facts relating to the short-term credit rating, if any, of a letter of credit or SBPA provider, or of any other third-party liquidity facility provider, generally would affect suitability determinations in such securities. To the extent that an investor seeks to invest in VRDOs due to their liquidity characteristics, a suitability analysis also generally would require a dealer, in recommending a VRDO to an individual investor, to consider carefully the circumstances, if any, under which the liquidity feature may no longer be effectively available to the customer.

With respect to new products introduced into the municipal securities market, the proposed rule change reminds dealers that they must review the relevant disclosure documents to become familiar with the specific characteristics of the product, including the tax features, prior to recommending such products to their customers.

Pricing

The proposed rule change provides that, as a general matter, in addition to information about prices of transactions effected by dealers and other market participants in a particular municipal security, material information about a security available through EMMA or other established industry sources may also be among the relevant factors that the dealer should consider in connection with ensuring fair pricing of its transactions with investors. Among other things, dealers would be expected to have reviewed any applicable continuing disclosures made available through EMMA or other established industry sources and to have taken such disclosures into account in determining a fair and reasonable transaction price. In addition, dealers should consider the effect of ratings on the value of the securities involved in customer transactions, and should specifically consider the effect of information from rating agencies, both with respect to actual or potential changes in the underlying rating of a security and with respect to actual or potential changes in the rating of any third-party credit enhancement applicable to the security.

Dealers are reminded that an issuer's use of a retail order period based on a perception that the retail order period will improve pricing of the new issue for the issuer does not create a safe harbor for dealers to engage in pricing that violates the fair pricing obligation

under Rule G–30. Large differences between institutional and individual prices that exceed the price/yield variance that normally applies to transactions of different sizes in the primary market provide evidence that the duty of fair pricing to individual clients may not have been met.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Act,[5] 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, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will further investor protection by strengthening and clarifying dealers' customer protection obligations relating to sales of municipal securities to individual and other retail customers, including but not limited to the duty to provide material information to customers investing in municipal securities and to use material information in fulfilling their suitability obligations and their fair pricing obligations.

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

The MSRB does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended, since it would apply equally to all dealers.

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

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

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[6] and Rule 19b–4(f)(1) thereunder,[7] in that the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.[8]

**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 e-mail to *rule-comments@sec.gov*. Please include File Number SR–MSRB–2009–08 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–2009–08. 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 Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2009–08 and should be submitted on or before August 17, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8010–01–P**

[5] 15 U.S.C. 78o–4(b)(2)(C).

[6] 15 U.S.C. 78s(b)(3)(A)(i).

[7] 17 CFR 240.19b–4(f)(1).

[8] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[9] 17 CFR 200.30–3(a)(12).

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections and a new collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Director for Reports Clearance to the addresses or fax numbers shown below.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, DCBFM, Attn: Director, Center for Reports Clearance, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–0454. E-mail address: *OPLM.RCO@ssa.gov*

I. The information collection below is pending at SSA. SSA will submit it to