undisturbed valid opposite-side interest where one side of a quote is rejected and not booked.[23] This proposal does not relieve a Market Maker of its continuous quoting, or firm quote, obligations pursuant to Rules 925.1NY and 970NY, respectively. For these reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NYSEMKT–2017–08) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06565 Filed 4–3–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80327; File No. SR–MSRB–2017–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change to Rule G–3, on Professional Qualification Requirements, and Rule G–8, on Books and Records, To Establish Continuing Education Requirements for Municipal Advisors and Accompanying Recordkeeping Requirements

March 29, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 22, 2017 the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''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 filed with the Commission a proposed rule change to amend MSRB Rule G–3, on professional qualification requirements, to establish continuing education requirements for municipal advisors; [3] and accompanying amendments to MSRB Rule G–8, on books and records to be made by brokers, dealers and municipal securities dealers (''dealers'') and municipal advisors; and the proposed rule change also makes minor technical changes to Rule G–3 to reflect the renumbering of sections and updates to cross-referenced provisions (collectively the ''proposed rule change''). The MSRB requests that the proposed rule change be approved with an implementation date of January 1, 2018. Municipal advisors would, therefore, have until December 31, 2018 to complete a needs analysis, develop a written training plan and deliver the appropriate training to comply with the annual training requirement for calendar year 2018.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2017-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

Now that the MSRB has launched the Municipal Advisor Representative Qualification Examination (Series 50),[4] in connection with its statutory mandate,[5] the MSRB seeks to amend Rule G–3(i) to prescribe continuing education requirements for municipal advisors. Section 15B(b) of the Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), specifically requires the MSRB to provide professional standards and continuing education requirements for municipal advisors. The goal of continuing education is to ensure that certain associated persons of municipal advisors stay abreast of issues that may affect their job responsibilities and of product and regulatory developments. The proposed rule change also would amend Rule G–8 to establish recordkeeping requirements related to the administration of a municipal advisor's continuing education program.

In addition, the proposed rule change would make technical changes to Rule G–3 to reflect the renumbering of sections and updates to cross-referenced provisions.

Background

In May 1993, due to the increasing complexity of the securities industry, a self-regulatory organization (''SRO'') task force [6] was formed by the industry's SROs, to study and develop recommendations regarding continuing education needs in the securities industry. In September 1993, the task force issued a report recommending a formal two-part continuing education program.[7] The task force also recommended that a permanent council on continuing education, composed of broker-dealers and SRO representatives, be formed to develop the content for the continuing education program and provide ongoing maintenance of the program. Pursuant to this recommendation, the Securities Industry/Regulatory Council on Continuing Education (''CE Council'') was formed. [8] The CE Council prepared

[23] *See id.*

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Municipal advisor would have the same meaning as in Section 15B(e)(4) of the Act, 17 CFR 240.15Ba1–1(d)(1)–(4) and other rules and regulations thereunder.

[4] On February 26, 2015, the MSRB received approval from the SEC amending Rule G–3 to establish two new registration classifications for municipal advisors: Municipal advisor representatives and municipal advisor principals; and to require each prospective municipal advisor representative and municipal advisor principal to take and pass the municipal advisor representative qualification examination. *See* Exchange Act Release No. 74384 (February 26, 2015), 80 FR 11706 (March 4, 2015) (SR–MSRB–2014–08).

[5] *See* 15 U.S.C. 78*o*–4(b)(2)(L)(ii) and (iii).

[6] The SROs in the task force included the MSRB, American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the National Association of Securities Dealers, Inc. (n/k/a the Financial Industry Regulatory Authority), the New York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

[7] Report and Recommendations of the Securities Industry Task Force on Continuing Education (September 1993).

[8] The CE Council is currently composed of up to 20-industry members from broker-dealers,

Continued

draft rules to implement the continuing education program, which the SROs filed as proposed enabling rules with the Commission.[9]

The MSRB was a member of the CE Council upon its formation and has remained a member since. Consistent with the CE Council's recommendation, the MSRB filed, and the SEC approved, amendments to Rule G–3 establishing a formal two-part continuing education program for registered persons, requiring uniform industry-wide periodic training in regulatory matters, and ongoing training programs conducted by firms to enhance their registered persons' securities knowledge and skills. Hence, continuing education requirements for securities industry participants are not a new regulatory development.

Dealers are currently required, pursuant to Rule G–3(i), to maintain a continuing education program for their ''covered registered persons'' [10] after their initial qualification and registration. Rule G–3(i) also sets out the two-pronged approach to continuing education requirements consisting of a Regulatory Element and a Firm Element component. The Regulatory Element, which is developed by the CE Council, is a computer-based training program that focuses on compliance, regulatory, ethical and sales practice standards with the content derived from common industry rules and regulations, as well as widely accepted standards and practices within the industry. Under Rule G–3(i)(i)(A), covered registered persons are required to complete Regulatory Element training within 120 days of the second anniversary of their registration approval date, and every three years thereafter.[11]

The Firm Element is a firm-administered training program that requires dealers to annually evaluate and prioritize their training needs. The documentation evidencing such annual evaluation is commonly referred to as a needs analysis. A needs analysis generally reflects a firm's assessment of its unique training needs based on various factors, for example, the business activities the firm and its associated persons engage in, the level of industry experience the firm's associated persons have and any changes to applicable rules or regulations. Upon completion of a needs analysis, a dealer is required to develop a written training plan consistent with its analysis of the training priorities identified. Dealers must maintain records documenting the completion of the needs analysis, the content of the training programs and completion of the training by each of the firm's covered registered persons.[12]

Proposed Amendments to Rule G–3: Establishing Continuing Education Requirements for Municipal Advisors

As described in detail below, the MSRB is proposing amendments to Rule G–3 to establish continuing education requirements for municipal advisors. Like the Firm Element component for dealers, municipal advisors would be required to, at least annually, conduct a needs analysis that evaluates and prioritizes their specific training needs, develop a written training plan based on the needs identified in the analysis, and deliver training concerning municipal advisory activities designed to meet those training needs. However, the proposed requirements for municipal advisors would differ from the dealers' Firm Element requirements with respect to identifying those that are subject to the training and the content that must be covered in the training as part of the minimum standards for the annual training.

Under proposed Rule G–3(i)(ii), municipal advisors would be required to implement a continuing education training program for those individuals qualified as either a municipal advisor representative or as a municipal advisor principal (collectively, ''covered persons'').[13] The establishment of continuing education requirements for municipal advisors would assist in ensuring that all firms provide a minimum-level standard of training that is appropriate in the public interest and for the protection of investors and municipal entities or obligated persons.

Pursuant to proposed Rule G–3(i)(ii)(B)(1), a municipal advisor would be required to, at least annually, conduct a needs analysis that evaluates and prioritizes its training needs, develop a written training plan based on the needs analysis, and deliver training applicable to its municipal advisory activities. Additionally, in developing a written training plan, a municipal advisor must take into consideration the firm's size, organizational structure, scope of municipal advisory activities, as well as regulatory developments.

Proposed Rule G–3(i)(ii)(B)(2) would prescribe the minimum standards for continuing education training by requiring that each municipal advisor's training include, at a minimum, training on the applicable regulatory requirements and the fiduciary duty obligations owed to municipal entity clients. The minimum training on the applicable regulatory requirements would require a municipal advisor's continuing education program to include training on the regulatory requirements applicable to the municipal advisory activities its covered persons engage in. However, training on the fiduciary duty obligation owed to municipal entity clients is a minimum component of the continuing education training for all covered persons, even those that may not engage in municipal advisory activities on behalf of a municipal entity client. The fiduciary duty obligation owed to a municipal entity client is a keystone principal of the regulatory framework for municipal advisors that the MSRB believes every covered person engaged in municipal advisory activities should be familiar with. A municipal advisor would, nonetheless, still have the flexibility to determine the appropriate scope of training that its covered persons need on the fiduciary duty obligation based on the municipal advisory activities that its covered persons engage in.

Recognizing that the nature of municipal advisory activities engaged in by municipal advisors can be diverse, the proposed rule change would provide municipal advisors with sufficient flexibility to determine their firm-specific training needs and the content and scope of the training appropriate for their covered persons. For example, a municipal advisor that only provides advice to municipal entities on swap transactions would be permitted to design its annual training plan based upon the rules and practices applicable to its limited business model, so long as such training plan included the applicable regulatory requirements

representing a broad cross section of securities industry firms, and representatives from the MSRB and other SROs, as well as liaisons from the SEC and the North American Securities Administrators Association.

[9] *See* Exchange Act Release No. 35341 (February 8, 1995), 60 FR 8426 (February 14, 1995) (SR–MSRB–94–17, SR–AMEX–94–59, SR–CBOE–94–49, SR–CHX–94–27, SR–NASD–94–72, SR–NYSE–94–43, SR–PSE–94–35, and SR–PHLX–94–52).

[10] Under Rule G–3(i)(ii)(A), a ''covered registered person'' means ''any person registered with a broker, dealer or municipal securities dealer and qualified as a representative or principal in accordance with this rule or as a general securities principal and who regularly engages in or supervises municipal securities activities.''

[11] MSRB Rule G–3(i)(i)(A).

[12] MSRB Rule G–9(b)(viii)(C).

[13] Under Rule G–3(d)(i)(A), ''municipal advisor representative'' means ''a natural person associated with a municipal advisor who engages in municipal advisory activities on the municipal advisor's behalf.'' Under MSRB Rule G–3(e)(i), ''municipal advisor principal'' means ''a natural person associated with a municipal advisor who is qualified as a municipal advisor representative and is directly engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons.''

applicable to that limited business and a component regarding the fiduciary duty obligation owed to municipal entity clients. Moreover, municipal advisors would be able to determine the method for delivering such training. For example, a municipal advisor could determine that the most effective manner for delivering the training would be to require its covered persons to attend an applicable seminar by subject matter experts and/or to utilize an on-line training resource.

The MSRB notes that the minimum requirements for continuing education training, outlined under the proposed rule change, should not be viewed by municipal advisors as the full scope of the subject matter appropriate for municipal advisors' training programs. The minimum standard for training does not negate the need for each municipal advisor to consider whether, based on its needs analysis, additional training applicable to the municipal advisory activities it conducts are appropriate.

Proposed Rule G–3(i)(ii)(B)(3) would require a municipal advisor to administer its continuing education program in accordance with the annual evaluation and prioritization of its training needs and the written training plan developed as consistent with its needs analysis. Also, pursuant to this provision, a municipal advisor would be required to maintain records documenting the content of its training programs and a record that each of its covered persons identified completed the applicable training.

Under proposed Rule G–3(i)(ii)(C), a municipal advisor's covered persons (those individuals qualified as a municipal advisor representative or municipal advisor principal) would be required to participate in the firm's continuing education training programs. If consistent with its training plan, a municipal advisor could deliver training appropriate for all covered persons. In addition, a municipal advisor may determine that its training needs indicate that it should also deliver particular training for certain covered persons, for example, those covered persons that have been designated with supervisory responsibilities under Rule G–44, or those covered persons that have been engaged in municipal advisory activities for a short period of time.

Under proposed Rule G–3(i)(ii)(D), on specific training requirements, the appropriate examining authority may require a municipal advisor, individually or as part of a larger group, to provide specific training to its covered persons in such areas the appropriate examining authority deems appropriate.[14] Such a requirement may stipulate the class of covered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

In an effort to reduce regulatory overlap for dealer-municipal advisors,[15] the proposed rule change would allow a dealer-municipal advisor to deliver continuing education training that would satisfy its training needs for the firm's dealer and municipal advisor activities. More specifically, pursuant to Rule G–3(i)(ii)(E), as proposed, each dealer-municipal advisor would be permitted to develop a single written training plan, if that training plan is consistent with each needs analysis that was conducted of the firm's municipal advisory activities and municipal securities activities. In addition, the proposed rule provision would allow a municipal advisor to conduct training for its covered persons and covered registered persons, which would satisfy the continuing education requirements under Rules G–3(i)(i)(B) and G–3(i)(ii), if such training is consistent with the firm's written training plan(s) and that training meets the minimum standards for the training programs, as required under the rule.

Proposed Amendments to Rule G–8

The proposed amendments to Rule G–8 address the books and records that must be made and maintained by a municipal advisor to show compliance with recordkeeping requirements related to the administration of a municipal advisor's continuing education program. The Board adopted the approach of specifying, in some detail, the information to be reflected in various records. Specifically, the proposed amendments to Rule G–8(h) would require each municipal advisor to make and maintain records regarding the firm's completion of its needs analysis and the development of its corresponding written training plan. Moreover, with respect to each municipal advisor's written training plan, municipal advisors would be required to make and keep records documenting the content of the firm's training programs and a record evidencing completion of the training programs by each covered person.[16] Recordkeeping requirements are an important element of compliance and the proposed amendments to Rule G–8 are appropriately tailored to facilitate the examination of a municipal advisor's compliance with the continuing education requirements.

Technical Amendments

The MSRB is proposing minor technical amendments to add paragraph headers, and renumber and update rule cross-references to Rule G–3(i)(i) and Rule G–3(i)(ii). Rule G–3(i)(i) would be revised by adding the paragraph header ''Continuing Education Requirements for Brokers, Dealers, and Municipal Securities Dealers.'' Rule G–3(i)(i)(D) would be revised by adding the paragraph header ''Reassociation'' and renumbered Rule G–3(i)(i)(A)(4). Rule G–3(i)(i)(E) would be relocated to proposed subparagraph Rule G–3(i)(i)(A)(4). Rule G–3(i)(ii) would be re-lettered Rule G–3(i)(i)(B). Due to these changes, other paragraphs under Rule G–3(i) would be renumbered and re-lettered.

As noted above, the MSRB is seeking an implementation date for the proposed rule change of January 1, 2018. To comply with the annual training requirement for calendar year 2018, a municipal advisor would need to complete a needs analysis, develop a written training plan and deliver the appropriate training by December 31, 2018.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(A) of the Act,[17] which provides that the MSRB's rules shall:

> provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security, and no broker, dealer, municipal securities dealer, or municipal advisor shall provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, unless . . . such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meet such standards of training, experience, competence, and such other qualifications as

[14] For purposes of Rule G–3(i)(ii)(D), ''appropriate examining authority'' means ''a registered securities association with respect to a municipal advisor that is a member of such association, or the Commission, or the Commission's designee, with respect to any other municipal advisor.''

[15] A member of the Financial Industry Regulatory Authority that is a municipal securities dealer and municipal advisor is commonly referred to as a ''dealer-municipal advisor.''

[16] Rule G–9(h) generally requires municipal advisors to preserve the books and records described in Rule G–8(h) for a period of not less than five years for purposes of consistency with SEC Rule 15Ba1–8 of the Act on books and records to be made and maintained by municipal advisors. *See* Exchange Act Release No. 73415 (October 23, 2014), 79 FR 64423 (October 29, 2014) (SR–MSRB–2014–06).

[17] 15 U.S.C. 78*o*–4(b)(2)(A).

the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons.

This provision provides the MSRB with authority to establish standards of training, experience, competence and other qualifications as the MSRB finds necessary. The MSRB believes that the proposed rule change is consistent with this provision of the Act in that the proposed rule change would provide for minimum levels of training for persons engaged in municipal advisory activities, which is in the public interest and for the protection of investors, municipal entities and obligated persons. The SEC noted that ''[the] new registration requirements and regulatory standards are intended to mitigate some of the problems observed with the conduct of some municipal advisors, including [. . .] advice rendered by financial advisors without adequate training or qualifications, and failure to place the duty of loyalty to their clients ahead of their own interests.'' [18] Requiring municipal advisors to provide continuing education, including minimum training on the fiduciary duty obligations owed to municipal entities, is consistent with and in furtherance of the stated objectives articulated in the Municipal Advisor Registration Final Rule. In addition, a continuing education requirement provides investors, municipal entities and obligated persons with the confidence that individuals who engage in municipal advisory activities and those who supervise municipal advisory activities are kept informed of regulatory developments that can occur after such individuals pass a qualification examination to engage in municipal advisory activities.

Additionally, the MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(L) of the Act,[19] which provides that the MSRB's rules shall, with respect to municipal advisors:

(i) Prescribe means reasonably designed to prevent acts, practices, and courses of business as are not consistent with a municipal advisor's fiduciary duty to its clients;

(ii) provide continuing education requirements for municipal advisors;

(iii) provide professional standards; and

(iv) not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.

As noted by the SEC in the Municipal Advisor Registration Final Rule, ''the municipal advisor regulatory regime should continue to enhance municipal entity and obligated person protections and incentivize municipal advisors not to engage in misconduct.'' [20] The proposed rule change would establish continuing education program requirements for municipal advisors. By establishing a formal, robust continuing education program, municipal advisors would ensure their covered persons are kept informed of issues that affect their job responsibilities and of regulatory developments, which is in furtherance of the protection of investors against fraud and misconduct.

The MSRB believes that, while the proposed rule change would lead to some associated costs, the costs would be a necessary and appropriate regulatory burden to ensure that individuals engaging in municipal advisory activities are adequately trained and maintain an adequate level of industry knowledge. Specifically, the MSRB believes that requiring municipal advisors to have a continuing education program serves to maintain the integrity of the municipal securities market and, specifically, preserve the public confidence, including the confidence of municipal entities and obligated persons, that those engaged in municipal advisory activities meet minimum standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate. A discussion of the economic analysis of the proposed rule change and its impact on municipal advisors is provided below.

Lastly, the MSRB also believes that the proposed rule change is consistent with Section 15B(b)(2)(G) of the Act,[21] which provides that the MSRB's rules shall prescribe records to be made and kept by municipal securities brokers, municipal securities dealers, and municipal advisors and the periods for which such records shall be preserved.

The proposed amendments to Rule G–8 would assist in ensuring that municipal advisors are complying with proposed Rule G–3 by extending the existing recordkeeping requirements applicable to municipal advisors to include making and maintaining records relating to their continuing education program. Establishing a requirement for municipal advisors to maintain records reflecting their continuing education programs would allow the appropriate examining authority that examines municipal advisors to better monitor and promote compliance with the proposed rule change.

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

Section 15B(b)(2)(C) of the Act [22] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The MSRB has considered the economic impact associated with the proposed rule change, including a comparison to reasonable alternative regulatory approaches, relative to the baseline. The MSRB does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The MSRB believes that the proposed rule change would produce benefits for users of municipal advisory services by ensuring compliance, by municipal advisors, with existing regulations and applicable laws that protect investors, municipal entities, and obligated persons. The proposed rule change would keep covered persons informed of issues and regulatory developments that affect their job responsibilities with respect to helping protect investors and municipal entities. Such requirements may reduce the risk that users of municipal advisory services would receive advice that results in harm or negative impact. Thus, the proposed rule change would help promote a larger pool of qualified municipal advisor professionals available for selection by users of municipal advisory services, resulting in the possibility of greater meaningful competition between providers of these services.

The MSRB recognizes that municipal advisors would incur programmatic costs associated with developing a continuing education program, delivering training and maintaining records of compliance with the continuing education requirements. These costs are likely to be highest when the rule's requirements are initially being implemented, but should diminish over time after these initial start-up costs are incurred. The effect on competition between municipal advisors may be impacted by these upfront costs as some firms, particularly

[18] *See* Exchange Act Release No. 70462 (September 20, 2013), 78 FR 67467 at 67469 (November 12, 2013) (''Municipal Advisor Registration Final Rule'').

[19] 15 U.S.C. 78*o*–4(b)(2)(L).

[20] *See* Municipal Advisor Registration Final Rule, *supra* note 14, at 67611.

[21] 15 U.S.C. 78*o*–4(b)(2)(G).

[22] 15 U.S.C. 78*o*–4(b)(2)(C).

larger firms, may be better able to bear these costs than other firms.

To mitigate these costs, the proposal was modified, based on public comments, to offer flexibility to municipal advisors in how they implement the requirements of the proposed rule change. The proposed rule change allows flexibility for developing continuing education training based on firm size, organizational structure, and scope of business activities. In addition, the proposed rule change has been modified to also allow for the development of a single training plan that is consistent with each needs analysis conducted by a dealer-municipal advisor. Moreover, dealer-municipal advisors can incorporate identified, firm-specific training needs, with respect to their municipal advisory activities, into their existing training programs, as long as any offered training is consistent with the written training plan(s).

The MSRB understands that most small municipal advisors may not employ full-time staff for the purpose of developing and implementing continuing education training. However, the MSRB believes that the proposed rule change, which provides sufficient flexibility regarding how the requirement is met, does not demand that municipal advisors hire additional staff. Moreover, third parties, including the MSRB, may provide training resources that would be available to municipal advisors at a relatively low cost. To the extent that the costs associated with the proposed rule change may cause some municipal advisors to exit the market or to consolidate with other firms, the MSRB believes these effects are unlikely to materially impact competition for the provision of municipal advisory services.

The MSRB considered alternatives, including the development of a mandatory training program, similar to the Regulatory Element requirement for dealers, and a more prescriptive continuing education requirement.[23] However, at this time, the MSRB does not believe that such proposals are necessary and that the current proposed rule change achieves the proper balance between the likely benefits associated with the proposed rule change and the likely costs associated with implementing the requirements of the proposed rule change.

The MSRB considered the economic impact of the proposed rule change and has addressed comments relevant to the impact in additional sections of the filing.

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

The MSRB solicited comment on establishing continuing education requirements for municipal advisors in a Request for Comment [24] and received 11 comment letters in response to the draft amendments.[25] A copy of MSRB Notice 2016–24 is attached as Exhibit 2a; a list of the comment letters received in response is attached as Exhibit 2b; and copies of the comment letters are attached as Exhibit 2c. Below is a summary of the comments and the MSRB's responses are provided.

Support for the Proposed Rule Change

In response to MSRB Notice 2016–24, commenters generally expressed support for the establishment of continuing education requirements for municipal advisors.[26] PFM commented that they ''[welcome] the implementation of continuing education requirements for municipal advisors because [they] believe there are inherent benefits of ongoing continuing education which would assist municipal advisors in expanding their knowledge and promoting compliance with applicable regulations necessary within the current regulatory environment.'' FSI stated that it supports the proposed rule change because, as proposed, such amendments would ''establish a flexible, principles-based rule that is harmonized with current FINRA [continuing education] requirements.'' FSI also commended the MSRB for ''choosing a flexible and less prescriptive approach to this rule making.'' PRAG commented that ''continuing education is a necessary part of the regulatory framework.'' Similarly, NAMA commented ''[c]ontinuing education requirements are imperative to ensuring that MAs are held to a professional standard that strengthens their professional responsibilities to municipal entities.''

Although supportive, a few commenters suggested the need for clarification on aspects of the proposal and additional guidance with respect to the implementation of any continuing education requirements.[27]

Implementation of the Proposed Rule Change

Certain commenters asserted that the proposal is premature and recommended that the MSRB delay implementing continuing education requirements for municipal advisors.[28] NAMA recommended that the MSRB ''step back and complete an analysis on the impact that the implementation of all of the new rules and qualification standards have on MAs, and then determine the scope of continuing education standards.'' Lamont Financial noted that a phased in implementation period ''would be the only appropriate way to make the rule effective.'' According to PFM, the MSRB should consider ''[t]he institution of a reasonable [phased] in period that considers additional requirements for municipal advisor principals which more likely consists of at least a two-year timeframe for implementing the proposed continuing education requirements.'' PRAG expressed a similar sentiment, stating that the ''implementation of continuing education requirements [should] be delayed until the 'grace period' for the Series 50 exam has passed and implementation of the Series 54 exam has occurred.''

The MSRB is supportive of a delayed implementation period. The MSRB believes that implementing the continuing education requirements after the one-year grace period for the Municipal Advisor Representative Qualification Examination (Series 50) [29]

[23] MSRB Regulatory Notice 2016–24, Request for Comment on Draft Provisions to Establish a Continuing Education Requirement for Municipal Advisors (''draft amendments'') (September 30, 2016)

[24] *See* MSRB Regulatory Notice 2016–24, *supra* note 23.

[25] *See* Email from G. Letti, Breena LLC, dated September 30, 2016 (''Breena''); Email from Garth Schulz, Castle Advisory Company LLC, dated September 30, 2016 (''Castle Advisory''); Letter from Jeff White, Principal, Columbia Capital Management, LLC, dated November 11, 2016 (''Columbia Capital''); Letter from David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute, dated November 14, 2016 (''FSI''); Letter from Robert A. Lamb, President, Lamont Financial Services Corporation, dated October 21, 2016 (''Lamont Financial''); Email from Lawrence Goldberg, dated September 30, 2016(''Goldberg''); Letter from Susan Gaffney, Executive Director, National Association of Municipal Advisors, dated November 14, 2016 (''NAMA''); Letter from Leo Karwejna, Managing Director and Chief Compliance Officer, PFM Group, dated November 14, 2016 (''PFM''); Letter from Marianne F. Edmonds, Senior Managing Director, Public Resources Advisory Group, dated November 14, 2016 (''PRAG''); Email from Jonathan Roberts, Roberts Consulting, LLC, dated October 14, 2016 (''Roberts''); Letter from Donna DiMaria, Chairman of the Board of Directors, Third Party Marketers Association, dated November 17, 2016 (''3PM'').

[26] 3PM, Breena, Castle Advisory, Columbia Capital, FSI, Lamont Financial, NAMA, PFM and PRAG.

[27] NAMA, PFM and PRAG.

[28] Lamont, NAMA and PRAG.

[29] The one-year grace period for the Series 50 examination ends on September 12, 2017. The one-year grace period allows municipal advisor professionals to continue to engage in or supervise

Continued

affords municipal advisors time to continue to more fully digest current regulatory requirements and for municipal advisor professionals to take and pass the Series 50 exam. The MSRB does not believe, however, that it is necessary to delay the implementation of continuing education requirements until the development of the Municipal Advisor Principal Qualification Examination (Series 54), as any municipal advisor must first be qualified as a municipal advisor representative. Moreover, the goal of the continuing education requirement is to enhance the knowledge, skill, and professionalism of covered persons by ensuring that all covered persons receive regular training, and in an acceptable depth, applicable to a firm's municipal advisory activities. As noted earlier in the filing, the MSRB has requested an implementation date of January 1, 2018. As a result, municipal advisors would have until December 31, 2018, to conduct the first required annual training in compliance with the rule.

Commercial Training Materials

Some commenters expressed concerns regarding the lack of commercially available materials specifically designed to use in delivering continuing education training for municipal advisors.[30] Columbia Capital indicated, ''it is not likely that third-parties will develop CE content that is broad enough to encompass the full breadth of the MA's role with respect to governmental issuers and obligated parties.'' Moreover, according to Columbia Capital, ''most MA firms will be left to develop their own CE programs—an outcome that could be onerous for small firms.'' PRAG noted it is ''not confident that [third-party] providers will step into this space and have concern [sic] about both the cost and time required for the development of appropriate materials.'' Lamont Financial stated, ''the Board may be out over its skis in considering [the] rule at this point because the development of commercial training resources for municipal advisors has not been significant to date.''

Conversely, 3PM stated that ''several of the industry's CE providers began offering MA training modules as part of their firm-element product offerings over a year ago.'' Columbia Capital noted, ''[w]e have historically provided ongoing continuing education for our MA professionals in-house using a mix of formal and informal training/education methods. We also leverage free and low-cost resources provided by third-parties—state GFOA conferences, web-based seminars from organizations like the Council of Development Finance Agencies, etc.—to supplement our advisors' continuing education.'' Lamont Financial acknowledged that the MSRB is a resource for training materials and expressed that ''the Board should continue to develop materials that will help educate professionals in the field.'' Lamont Financial also added that ''[c]ertain national associations, such as NAMA, may be a good source for providing continuing education to municipal advisors.''

As proposed, the continuing education requirements for municipal advisors preserve flexibility as to the content and delivery method for continuing education training. The proposed rule change does not prescribe content requirements for the training that municipal advisors must provide, beyond addressing the regulatory requirements and, specifically, the fiduciary duty obligation to a firm's municipal entity clients. Instead, the proposed rule change affords municipal advisors the flexibility to identify and deliver continuing education training in the most convenient and effective manner possible based on their business model. A municipal advisor's training program may utilize multiple methods of delivery, such as seminars, computer-based training, webcasts, or dissemination of information requiring written acknowledgement that the materials have been received and read. Moreover, industry trade associations may be a good source of continuing education training materials, in addition to podcasts, webinars and educational materials developed by the MSRB. Accordingly, the MSRB does not believe the lack of commercially-available content would cause an undue burden on municipal advisors.[31]

Conducting a Needs Analysis and Developing a Written Training Plan

Two commenters noted the proposal would benefit from additional clarity and details regarding completing a needs analysis, including the core subjects to be covered, and on developing a written training plan.[32] NAMA suggested that the MSRB could provide such details and expectations, with respect to the development of a needs analysis, by providing representative sample needs analyses or additional guidance. NAMA also stated, more specifically, further guidance would benefit municipal advisors with respect to:

- How firms should identify and evaluate applicable training needs, including those related to the fiduciary duty standard and regulatory issues that arise with respect to current practices for clients, as well as anticipated or forthcoming responsibilities for clients;
- What content should be included in a written training plan;
- Acceptable delivery mechanisms for meeting continuing education requirements; and
- How to document that training was completed.

PFM requested that the MSRB ''provid[e] more specific guidance on required subjects with further interpretive guidance describing information to be covered on core concepts within the municipal industry.'' Additionally, PFM suggested that the MSRB publish core competency subject requirements on a range of various topics for purposes of ensuring ''a level of consistency in educational information so as to enhance the quality and standard of training received by all municipal advisors.''

The MSRB recognizes that additional guidance on conducting a needs analysis and how to implement a continuing education program may benefit municipal advisors, especially non-dealer municipal advisors. The MSRB intends, before the proposed rule change is implemented,[33] whether in collaboration with industry associations, or otherwise, to provide guidance to assist municipal advisors in understanding their obligations to develop a continuing education program. The guidance would not be designed to promote or establish a uniform training program, but rather to provide a common approach to assist municipal advisors in the development and implementation of a firm-specific training program. Municipal advisors should be aware that any guidance or approaches recommended for consideration would not create a safe harbor and that each municipal advisor would need to decide what measures

municipal advisory activities, without having passed the Series 50 examination, until the expiration of the grace period.

[30] Columbia Capital, Lamont Financial and PRAG.

[31] For example, as suggested by Lamont Financial, continuing education training would most likely occur through attendance at conferences or committee conference calls from membership in organizations like the National Society of Compliance Professionals or participation in organizations related to the business of the advisor.

[32] NAMA and PFM.

[33] The MSRB notes, to assist broker-dealers in complying with their continuing education program requirements, the CE Council publishes a *Guide to Firm Element Needs Analysis and Training Plan Development* that is available at *http://www.cecouncil.com/media/232538/guide_to_firm_element.pdf.*

should be taken in fulfilling its continuing education obligations based on the municipal advisory activities it engages in.

Additional Compliance Burdens and Duplicative Documentation Requirements

3PM expressed concerns that the requirement for dealer-municipal advisors to complete a separate needs analysis and separate written training plan for both its municipal advisory activities and municipal securities activities would be duplicative and did not sufficiently reduce regulatory overlap. 3PM stated, ''by requiring firms to complete separate needs analyses, written training plans and other documentation for its municipal advisory and broker dealer activities, is in fact creating, rather than reducing, regulatory overlap.'' According to 3PM, given that dealer-municipal advisors are examined by FINRA, there is ''[no] benefit to examiners in segregating [the details of a firm's] training that apply to [its] MA business from other areas being evaluated by FINRA.''

The MSRB acknowledges that, in some areas, additional regulatory efficiencies could be achieved for dealer-municipal advisors. With respect to dealer-municipal advisors conducting a separate needs analysis, accounting for both their municipal advisory activities, as well as, their dealer activities, the MSRB notes that, because firms' municipal advisory and municipal securities lines of businesses are subject to separate functions and regulatory regimes, such regulatory burden is appropriate. Dealer-municipal advisors must evidence that a separate needs analysis was conducted, by clearly delineating the needs analysis, for the separate business lines, within the dealer-municipal advisor's written training plan(s). However, the MSRB believes that permitting dealer-municipal advisors to develop a single written training plan that comprehensively details and satisfies the needs analysis for both the firm's municipal advisory activities and dealer activities could further reduce regulatory overlap. To that end, the proposed rule change, which differs slightly from the draft amendments initially proposed in the request for comment, would allow dealer-municipal advisors engaged in diverse lines of business or with complex organizational structures to choose to have separate plans coordinated to cover appropriate areas or incorporate all training requirements into a single plan.

Economic and Administrative Burdens

Some commenters raised the concern that the requirements are likely to be burdensome on small and single-person municipal advisors.[34] Commenters also believe there could be considerable financial cost related to the development of in-house training materials. PRAG stated, ''like other non-broker-dealer MA firms, [the firm] has had to develop compliance procedures, hire compliance personnel and divert time of existing personnel from other duties in order to document compliance with MSRB rules. The transition has been burdensome for us as it has been for all independent MA firms.'' Lamont Financial expressed, ''if each firm then has to develop its own materials, the cost in lost productive work time will be significant and the quality of any training will be dependent on the municipal advisor preparing the materials.'' Goldberg declared, the ''latest Request for Comments suggest overregulation [and] increasing interference with [and] restriction of business conduct.'' Similarly, NAMA stated, ''the MSRB should recognize the multiple roles a principal in a small MA firm or a sole-practitioner MA has to their clients and under the rulemaking regime already imposed by the MSRB.'' NAMA further adds, ''[t]he additional requirements of continuing education for all MAs and especially sole practitioners and smaller firms, should be considered along with the already existing regulatory burdens of the MSRB rulebook, and not create an overwhelming economic or administrative burden on these professionals.''

As an initial matter, the MSRB acknowledges that the proposed rule change would require municipal advisors to devote some level of resources to the development of its continuing education program. However, requiring registration, testing and training of municipal advisors should further strengthen compliance with securities laws, rules and regulations. Moreover, the MSRB has considered whether the regulation is appropriately tailored and needed in furtherance of the protection of investors, municipal entities and the public interests. It is important to note that the proposed rule change does not require a municipal advisor to produce in-house training materials, but rather, provides flexibility recognizing there are less costly alternatives to developing in-house training materials, such as utilizing existing content available or content subsequently developed by third-party resources. Each municipal advisor also has the flexibility to determine its firm-specific training needs and the content of its training for its covered persons. Small municipal advisors and sole proprietorships with a narrowly focused municipal advisory business may find establishing a continuing education program is uniquely different and significantly less complex and narrower in scope than that of full-service firms. As the MSRB has noted in this filing, the content and method for delivery of continuing education training is determined by the municipal advisor.

Other Comments

Roberts noted that the nature of its municipal advisory business does not involve the engagement of municipal entity clients. That is, the municipal advisor only provides municipal advisory services to obligated person clients. Roberts expressed concerns regarding the application of the requirement for municipal advisors to provide continuing education training on a municipal advisor's fiduciary duty obligations. The commenter recommended that the MSRB revise the proposal to allow for an exception to the requirement, if it lacks applicability to the respective municipal advisor. The proposed rule change has been amended to reflect that the training is with respect to the fiduciary duty obligations of municipal advisors to municipal entity clients. The scope of municipal advisory business can be diverse; therefore, a municipal advisor may or may not engage in municipal advisory activities on behalf of a municipal entity client. However, this does not negate the fact that a municipal advisor, at some point, may pursue an undertaking that involves engaging in municipal advisory activities on behalf of a municipal entity client. Therefore, all municipal advisors are subject to the requirement to provide training on the fiduciary duty obligation; however, municipal advisors have the flexibility to determine the extent and scope of that training.

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 of up to 90 days (i) as the Commission may designate 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:

[34] Columbia Capital, Lamont Financial, NAMA and PRAG.

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

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

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–2017–02 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–2017–02. 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 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 Web site 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; 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–2017–02 and should be submitted on or before April 25, 2017.

For the Commission, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06562 Filed 4–3–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80331; File No. SR–IEX–2017–08]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Correct Typographical Errors in SR–IEX–2017–06

March 29, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 17, 2017, the Investors Exchange LLC filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to correct several typographical errors in Rule 11.190(g)(1)(A) and in the Purpose Section of SR–IEX–2017–06 describing the changes to IEX Rule 11.190(g)(1)(A) proposed therein. The Exchange has designated this proposal as non-controversial and has satisfied the requirements of Rule 19b–4(f)(6)(iii) under the Act.[6]

The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.com,* at the principal office of the Exchange, 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 self-regulatory organization 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 statement may be examined at the places specified in Item IV below. The self-regulatory organization 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 Exchange recently filed with the Commission an immediately effective proposed rule change to amend Rule 11.190(g) to modify the quote instability coefficients and quote instability threshold included in the quote instability calculation specified in subparagraph (g)(1) of Rule 11.190 for purposes of determining whether a crumbling quote exists. The rule filing was published on the Commission Web site on March 10, 2017.[7] Thereafter the Exchange identified that the formula contained in Rule 11.190(g)(1)(A) (the ''formula'') contains several minor typographical errors. First, the numerical references to the Quote Stability Coefficients contained in the formula were each represented as regular text rather than as subscript, as they are specified in subparagraph (a) of Rule 11.190(g)(1)(A). Second, the Quote Stability Variables NC and FC are incorrectly represented as NC–1 and FC–1 respectively in the formula. Exhibit 5 to this filing corrects both of these typographical errors. In addition, Exhibit 5 to SR–IEX–2017–06 contains inconsistent notations on text marked for deletion and retention whereby the same phrase is marked for deletion and also marked as retained and relocated in the following subparagraph. Specifically, the phrase ''the quote instability factor result from the quote stability calculation is greater than the defined quote instability threshold'' is not clearly shown as relocated. Exhibit 5 to this rule filing corrects this typographical error by showing the text of the relocated phrase as new text, notwithstanding that it was previously contained in the text of Rule

[35] 17 CFR 200.30–3(a)(12).

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

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 17 CFR 240.19b–4(f)(6)(iii).

[7] *See* Securities Exchange Act Release No. 34–80202; File No. SR–IEX–2017–06.