

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-90248; File No. SR-MSRB-2020-08)

October 22, 2020

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change to Amend MSRB Form G-32

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 13, 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, 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 Form G-32 to clarify that brokers, dealers, and municipal securities dealers (collectively, “dealers” and, individually, each a “dealer”) acting as underwriters in the primary offering of municipal securities are obligated to manually complete three data fields on amended Form G-32 when such fields are applicable to a primary offering (the “proposed rule change”). More specifically, the proposed rule change would clarify the method of completing amended Form G-32 for the following three data fields:

- Bank Qualified Flag – The proposed rule change would clarify that the “yes/no” flag on amended Form G-32 would, when applicable, need to be

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

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

manually completed by an underwriter to indicate whether a bank can deduct a portion of the interest cost of the carry for the municipal securities, in accordance with the applicable provisions of the code of the Internal Revenue Service (the “BQ Data Field”).

- Planned Amortization Class Bond (“PAC Bond”) Flag – The proposed rule change would clarify that the “yes/no” flag on amended Form G-32 would, when applicable, need to be manually completed to indicate whether the offering is an asset-backed bond payable with a fixed sinking fund schedule (the “PAC Bond Data Field”).
- Put End Date Entry – The proposed rule change would clarify that data fields on Form G-32 relating to whether the offering is puttable would, when applicable, need to be manually completed to indicate when a put end date is defined at the time of issuance (the “Put Date Field” and, collectively, with the BQ Data Field and the PAC Bond Data Field, the “Amended Manual Fields”).

The proposed rule change is intended to clarify File No. SR-MSRB-2019-07,<sup>3</sup> a prior rule filing that the MSRB submitted to the SEC on April 10, 2019 and that was subsequently approved by the SEC, as amended, on June 27, 2019 (the “Primary Offering Practices

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<sup>3</sup> File No. SR-MSRB-2019-07, available at <http://msrb.org/~media/Files/SEC-Filings/2019/MSRB-2019-07-Refiled-2.ashx?>.

Amendments”).<sup>4</sup> Among other changes,<sup>5</sup> the Primary Offering Practices Amendments authorized updates to Form G-32 that will add the BQ Data Field, the PAC Bond Data Field, the Put Date Field, as well as the 63 other new data fields,<sup>6</sup> upon their effective date of March 31, 2021 (collectively, these 66 fields are hereinafter referred to as the “New Data Fields,” and Form G-32 as modified with the New Data Fields is hereinafter referred to as “Amended Form G-32”).<sup>7</sup> Consistent with the Primary Offering Practices Amendments, the proposed rule change does not seek approval for the inclusion of the BQ Data Field, the PAC Bond Data Field, and the Put Date

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<sup>4</sup> Exchange Act Release No. 86219 (June 27, 2019), 84 FR 31961 (July 3, 2019) (File No. SR-MSRB-2019-07) (the “2019 SEC Approval Notice”), available at <http://www.msrb.org/~media/Files/SEC-Filings/2019/MSRB-2019-07-Fed-Reg-Approval.ashx?>.

<sup>5</sup> The Primary Offering Practices Amendments not only authorized amendments to Form G-32, but also authorized amendments to the text of MSRB Rule G-11, on primary offering practices, and MSRB Rule G-32, on disclosures in connection with primary offerings. See MSRB Notice 2019-15, available at <http://msrb.org/~media/Files/Regulatory-Notices/Announcements/2019-15.ashx??n=1>.

<sup>6</sup> See, e.g., File No. SR-MSRB-2019-07, at p. 7 (“The proposed rule change would add 57 data fields to Form G-32 to capture data that an underwriter already is required to input into NIIDS, as applicable, for NIIDS-eligible offerings.”). The other nine of the New Data Fields (i.e., the Manual Fields (as hereinafter defined)) are unique to Form G-32 in that they cannot be populated from New Issue Information Dissemination Service (“NIIDS”) fields, as corresponding NIIDS fields do not exist. NIIDS is an automated, electronic system that receives comprehensive new issue information on a market-wide basis for the purposes of establishing depository eligibility and immediately re-disseminating the information to information vendors supplying formatted municipal securities information for use in automated trade processing systems.

<sup>7</sup> See File No. SR-MSRB-2020-01 (April 13, 2020), at pp. 6-7 (extending the compliance date for Amended Form G-32 to March 31, 2021 from the first announced compliance date of November 30, 2020), available at <http://msrb.org/~media/Files/SEC-Filings/2020/MSRB-2020-01-Revised.ashx?>; see also MSRB Notice 2019-21 (December 20, 2019) (setting an initial November 30, 2020 compliance date, which was subsequently extended by File No. SR-MSRB-2020-01), available at <http://msrb.org/~media/Files/Regulatory-Notices/Announcements/2019-21.ashx??n=1>.

Field on Amended Form G-32, but more narrowly seeks to describe the precise method by which underwriters must complete these previously approved fields.<sup>8</sup>

The MSRB believes that the proposed rule change is necessary and appropriate to more clearly define the compliance obligation of an underwriter when completing one of the Amended Manual Fields on Amended Form G-32, and, thereby, would promote greater regulatory transparency in the municipal securities market, as further described below. If the proposed rule change is approved,<sup>9</sup> the MSRB intends to maintain the existing compliance date for the New Data Fields of March 31, 2021 (the “compliance date”).<sup>10</sup>

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](http://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

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<sup>8</sup> This clarification would only be applicable to NIIDS-eligible offerings that are (1) bank qualified, (2) composed of PAC Bonds, or (3) puttable by a certain date at the time of issuance. In other words, underwriters of a NIIDS-eligible primary offering would be required to manually complete the Amended Manual Fields on Amended Form G-32 if and when applicable, and underwriters of non-NIIDS-eligible offerings would not be required to complete any of three Amended Manual Fields.

<sup>9</sup> As previously stated in the Primary Offering Practices Amendments, the MSRB will make both Amended Form G-32, as well as the updated EMMA Dataport Manual for Primary Market Submissions and the Specifications for Primary Market Submissions Service documents available to underwriters in advance of the compliance date. The MSRB will announce the availability of Amended Form G-32 and the updated manual and specification document by publishing a regulatory notice.

<sup>10</sup> See footnote seven supra for citations and references related to the March 31, 2021 compliance date.

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 is intended to put market participants on notice that, when applicable, the Amended Manual Fields will not be auto-populated on Amended Form G-32 with information input into the NIIDS, and, as a result, must be manually completed.

Background

Overview of Form G-32 Information Submission

Pursuant to Rule G-32, an “underwriter”<sup>11</sup> in a primary offering of municipal securities is required to electronically submit certain primary offering disclosure documents and related

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<sup>11</sup> Rule G-32(b)(vi)(B) requires the underwriter of a primary offering of municipal securities to make certain submissions to the MSRB by electronic completion of Form G-32 through EMMA Dataport. Rule G-32(c)(xii) defines the term “underwriter” to mean “a broker, dealer or municipal securities dealer that is an underwriter as defined in Securities Exchange Act Rule 15c2-12(f)(8), including but not limited to a broker, dealer or municipal securities dealer that acts as remarketing agent for a remarketing of municipal securities that constitutes a primary offering.” For purposes of completing Form G-32, the term underwriter, as defined by reference to Rule 15c2-12(f)(8), encompasses certain dealers acting as agents in the private placements of municipal securities offerings. See Exchange Act Release No. 26985 (June 28, 1989) (File No. S7-20-88), 54 FR 28799 (July 10, 1989), at 28809-28810 (discussing how the definition of underwriter in the final Rule 15c2-12 differed from the proposed definition in order to, “. . . clarify that a broker, dealer, or municipal securities dealer may be acting as an underwriter, for purposes of [Rule 15c2-12], in connection with a private offering.” (emphasis added)). Dealers acting as placement agents in the offering of municipal securities are reminded of their obligations under MSRB rules, including the completion of Form G-32 pursuant to Rule G-32.

information, including the data elements set forth on Form G-32.<sup>12</sup> This submission is completed through the MSRB’s Electronic Municipal Market Access Dataport system (“EMMA Dataport”).<sup>13</sup> An underwriter’s submission of Form G-32 in EMMA Dataport is commonly, but not always,<sup>14</sup> preceded by the underwriter’s (1) procurement of CUSIP numbers from CUSIP Global Services, (2) registration of the municipal securities for depository eligibility with the Depository Trust and Clearing Corporation (“DTCC”), and (3) submission of certain information about the characteristics of the offering to NIIDS, all generally pursuant to MSRB Rule G-34, on CUSIP numbers, new issue, and market information requirements.<sup>15</sup> As described in the Primary Offering Practices Amendments and prior amendments approved in 2012,<sup>16</sup> Form G-32

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<sup>12</sup> See Rule G-32(b)(i)(A) (stating that, except as otherwise noted, “the underwriter of a primary offering of municipal securities shall submit . . . Form G-32 information relating to the offering in a timely and accurate manner . . .”); see also Rule G-32(b)(vi)(B) (“All submissions of information required under [Rule G-32] shall be made by means of Form G-32 submitted electronically to EMMA in such format and manner, and including such items of information provided at such times, as specified herein, in Form G-32 and in the EMMA Dataport Manual.”).

<sup>13</sup> EMMA® is a registered trademark of the MSRB. EMMA Dataport is the information utility through which submissions of documents and related information are made to the MSRB and its market transparency programs, like the EMMA website. Specific to Form G-32, an underwriter or its designated agent may make submissions through EMMA Dataport.

<sup>14</sup> For example, certain primary offerings of municipal securities, such as non-NIIDS-eligible offerings, are not subject to the CUSIP requirements of Rule G-34. See Rule G-34(a)(i).

<sup>15</sup> See, e.g., Rule G-34(a)(ii) regarding the application for depository eligibility and dissemination of new issue information and the exclusion of certain issues as set forth in that subsection.

<sup>16</sup> In 2012, the MSRB proposed and the SEC approved amendments that integrated the submission of certain matching data elements to NIIDS with Form G-32. See MSRB Notice 2012-64 (Dec. 24, 2012) and related citations therein (describing how File No. SR-MSRB-2012-08 amended Rule G-32 to provide that an underwriter’s obligation to submit data about a new issue under that rule is fulfilled through submission of such data through NIIDS).

incorporates matching data fields relating to certain of the information submitted to NIIDS and CUSIP Global Services and, thereby, facilitates the MSRB's collection of market information utilized in various rulemaking and transparency activities.

Discussion of the Primary Offering Practices Amendments and Amended Form G-32

The Primary Offering Practices Amendments described each of the New Data Fields as falling into one of two categories: (1) data fields that generally would be auto-populated with information previously entered by an underwriter in NIIDS (collectively, the "Auto-Populated Fields")<sup>17</sup> and (2) data fields that would be unique to Amended Form G-32 and, when applicable, would need to be completed with manual data entry because they could not be auto-populated with matching NIIDS information (collectively, the "Manual Fields"). The filing identified 57 Auto-Populated Fields and nine Manual Fields.<sup>18</sup>

The three Amended Manual Fields that are the subject of this proposed rule change were originally categorized as part of the 57 Auto-Populated Fields, because the MSRB understood, at that time, that there was a corresponding data field match in NIIDS that would allow for the PAC

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<sup>17</sup> File No. SR-MSRB-2019-07, at p. 16 ("The [Primary Offering Practices Amendments] would amend Form G-32 to include 57 additional data fields that would be auto-populated with datapoints already required to be input into NIIDS, as applicable, for NIIDS-eligible offerings. As previously noted [therein], these data fields are currently available to regulators and certain other industry participants that have access to NIIDS. However, adding the data fields to Form G-32 would ensure the MSRB's continued access to important primary offering information, and enhance its ability to oversee the accuracy and distribution of the information provided.").

<sup>18</sup> See File No. SR-MSRB-2019-07, at pp. 7-8 ("The [Primary Offering Practices Amendments] would add 57 data fields to Form G-32 to capture data that an underwriter already is required to input into NIIDS, as applicable, for NIIDS-eligible offerings. . . . In addition to the data fields auto-populated by NIIDS submissions, the [Primary Offering Practices Amendments] also would add nine data fields to Form G-32 for manual completion by underwriters in NIIDS-eligible offerings.").

Bond Data Field, the BQ Data Field, and the Put Date Field, respectively, to be auto-populated in EMMA Dataport when applicable. The MSRB now understands that, although DTCC’s NIIDS system may allow for an underwriter to input information corresponding to the Amended Manual Fields, presently, this information is not data DTCC disseminates to the MSRB’s EMMA Dataport. Consequently, under the current design of DTCC’s system, the MSRB does not receive the electronic inputs necessary to auto-populate these three fields on Amended Form G-32.

Description of Underwriter’s Obligation to Verify and Complete Amended Form G-32

The Primary Offering Practices Amendments did not amend the existing obligation of an underwriter to complete Form G-32 in a timely and accurate manner.<sup>19</sup> The obligation is applicable to both the Manual Fields as well as the Auto-Populated Fields.<sup>20</sup> The Primary Offering Practices Amendments relatedly addressed scenarios in which the underwriter’s ability to complete the Auto-Populated Fields of Amended Form G-32 timely and accurately may be made more burdensome by the unavailability of NIIDS data, erroneous auto-population, and related circumstances.<sup>21</sup> In this way, the Primary Offering Practices Amendments require an

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<sup>19</sup> See Rule G-32(b)(i)(A) and Rule G-32(b)(vi)(C).

<sup>20</sup> See, e.g., File No. SR-MSRB-2019-07, at p. 6 (“ . . . the underwriter in primary offerings of municipal securities is required, pursuant to Rule G-32, to submit electronically to the EMMA Dataport, in a timely and accurate manner, certain primary offering disclosure documents and related information, including the data elements set forth on Form G-32.”)

<sup>21</sup> See *id.*, at p. 7, n. 14 (“While the MSRB is currently not aware of any reason NIIDS would become unavailable, the inability to auto-populate information from NIIDS would not negate the requirement that information be provided pursuant to MSRB Rule G-32.” (emphasis added)); see also *id.*, p. 7, n. 13 (“While NIIDS provides the system for submitting the information, its use does not obviate the requirement that information submitted pursuant to Rule G-34 be timely, comprehensive and accurate.” (emphasis added) (internal citation omitted)), and *id.*, at pp. 6-7 (“Information required to be included on Form G-32 and for which no corresponding data element is available through NIIDS must be submitted manually through the EMMA Dataport on Form G-32 (i.e., it

underwriter to accurately and timely complete each of the applicable data fields of Amended Form G-32 (including the Amended Manual Fields), regardless of the lack of NIIDS auto-population or other data auto-population errors. The proposed rule change does not alter this obligation, but merely seeks to highlight its application in light of the lack of auto-population of the Amended Manual Fields.<sup>22</sup>

### Proposed Rule Change

The SEC's approval of the Primary Offering Practices Amendments authorized the MSRB to include the three Amended Manual Fields (i.e., the PAC Bond Data Field, the BQ Data Field, and the Put Date Field) on Amended Form G-32.<sup>23</sup> However, as previously noted, the Primary Offering Practices Amendments described the Amended Manual Fields as generally being "auto-populated" from the data an underwriter inputs into NIIDS. The MSRB is filing the proposed rule change to clarify this description. The MSRB anticipates that the lack of auto-population could cause confusion among market participants, particularly in instances where an underwriter has previously completed the NIIDS submission (either directly in NIIDS or indirectly through a third-party interface) and may believe there is no obligation to ensure

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would not be auto-populated from NIIDS) pursuant to Rule G-32(b)(i)(A)(1)(a).” (emphasis added) (internal citation omitted)).

<sup>22</sup> Although an underwriter would have an obligation to manually complete the Amended Manual Fields on Amended Form G-32 consistent with these statements in the Primary Offering Practices Amendments regardless of this proposed rule change, the MSRB believes that the proposed rule change is warranted in this instance to provide greater regulatory transparency to the market and, particularly, to dealers who presently act, or may act in the future, as underwriters.

<sup>23</sup> As a threshold matter, underwriters of non-NIIDS-eligible offerings would not be required to complete the Amended Manual Fields and underwriters of NIIDS-eligible offerings would only be required to complete the Amended Manual Fields when applicable to a particular primary offering of municipal securities.

submission into EMMA Dataport.<sup>24</sup> Consequently, the MSRB seeks to mitigate potential confusion in advance of the compliance date and to highlight the obligation of an underwriter to complete the applicable fields on Amended Form G-32 in an accurate and timely manner, regardless of whether an applicable field is properly auto-populated from NIIDS or not.

## 2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Act,<sup>25</sup> which provides that the MSRB's rules shall:

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

The proposed rule change's clarification that underwriters are obligated to manually complete the three Amended Manual Fields on Amended Form G-32 would (1) promote just and equitable principles of trade, (2) foster cooperation and coordination with persons engaged in regulating and processing information with respect to transactions in municipal securities and municipal financial products, and (3) remove impediments to and perfect the mechanism of a

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<sup>24</sup> The MSRB believes this scenario is addressed by the Primary Offering Practices Amendments, and the filing's discussion regarding the unavailability of NIIDS. See supra Background - Description of Underwriter's Obligation to Verify and Complete Amended Form G-32 (discussing that an underwriter's obligation to fully complete Amended Form G-32 would not be "obviated" in instances where NIIDS is unavailable or the Amended Form G-32 is otherwise auto-populated with erroneous information). The obligation to provide complete and accurate data remains the responsibility of a dealer even when the dealer directly utilizes NIIDS or indirectly utilizes some other vendor.

<sup>25</sup> 15 U.S.C. 78o-4(b)(2)(C).

free and open market in municipal securities and municipal financial products, by providing greater transparency and certainty regarding the regulatory obligations of underwriters completing Amended Form G-32.

The proposed rule change would promote just and equitable principles of trade by resolving potential regulatory ambiguities and making clear that, when applicable to a primary offering, an underwriter is effectively required to ensure that all applicable fields are complete and accurate, which may require manually completing these three fields on Amended Form G-32. In this way, the proposed rule change's clarifications would broadly benefit any dealer who acts, or may act, as an underwriter of a primary offering of municipal securities.

Similarly, the proposed rule change would also foster cooperation and coordination with persons engaged in regulating and processing information with respect to transactions in municipal securities and municipal financial products. The MSRB believes that the benefits of the proposed rule change will not only accrue to dealer firms, but also to regulated-entity examiners, other regulators, and data vendors by mitigating potential ambiguity and confusion. Just as it would be beneficial to dealer firms to have a uniform clarified understanding of the regulatory obligations associated with Amended Form G-32, the proposed rule change would similarly benefit these other market participants by ensuring that the data submitted for Amended Form G-32 is complete and accurate regardless of whether the dealer directly interfaces with NIIDS or utilizes the interface of a third-party vendor.

Lastly, the MSRB believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products by promoting the successful completion of Amended Form G-32 by underwriters, which will allow the MSRB to more reliably collect information through the

Amended Manual Fields on Amended Form G-32. Specifically, and as indicated in the Primary Offering Practices Amendments,<sup>26</sup> the need to clarify that an underwriter must manually complete the Amended Manual Fields will result in more accurate information reported to the MSRB. This collection of accurate information would enhance the MSRB's regulatory transparency initiatives and facilitate the MSRB's own usage of data, which the MSRB believes helps remove impediments to and promote the mechanisms of a free and open market.

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

Section 15B(b)(2)(C) of the Exchange Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.<sup>27</sup> 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.<sup>28</sup> 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 Exchange Act.

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<sup>26</sup> See File No. SR-MSRB-2019-07, at p. 26 and related discussion ("Broadly speaking, the need for the two categories of proposed additional data fields on Form G-32 arises from the fact that the existing information not currently on Form G-32, but proposed to be included, would enhance the MSRB's regulatory transparency initiatives and facilitate the MSRB's own usage of data.").

<sup>27</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>28</sup> See Policy on the Use of Economic Analysis in MSRB Rulemaking, available at <http://msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx>. In evaluating whether there was a burden on competition, the Board was guided by its principles that required the Board to consider costs and benefits of a rule change, its impact on capital formation and the main reasonable alternative regulatory approach.

The proposed rule change would clarify that the three Amended Manual Fields effectively must be manually entered on Amended Form G-32. The Primary Offering Practices Amendments required the 57 Auto-Populated Fields that could be auto-populated from NIIDS on Form G-32 as well as the submission of nine additional data fields not previously in NIIDS on Form G-32, as applicable.<sup>29</sup> The MSRB stated that the proposed change to Rule G-32 and Form G-32 was needed to increase regulatory transparency in the primary offering process and secondary market trading, to ensure MSRB's continued access to important new issue information, to address possible information asymmetry that arises from certain market practices and to improve the overall efficiency of the market. The MSRB continues to believe in the necessity of collecting these data fields at the present.

The proposed rule change is necessary because the Amended Manual Fields are not being disseminated by DTCC's NIIDS service. While at the time of the Primary Offering Practices Amendments, the MSRB believed the fields were part of NIIDS, they were later verified as not being processed by DTCC and therefore are not available for usage at this time. Therefore, the proposed rule change would clarify that an underwriter of a NIIDS-eligible primary offering of municipal securities is obligated to manually complete the Amended Manual Fields on Amended Form G-32, but only when such fields are applicable to the new issue.<sup>30</sup> The MSRB believes that

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<sup>29</sup> These nine fields consist of: ability for minimum denomination to change, additional syndicate managers, call schedule, legal entity identifiers for credit enhancers and obligated persons, name of municipal advisor, name of obligated person, the dollar amount of CUSIP advance refunded, restrictions on the issue and retail order period by CUSIP number.

<sup>30</sup> As described in the Primary Offering Practices Amendments, except for the one data field that indicates the original minimum denomination of the offering, an underwriter of a non-NIIDS-eligible offering is exempt from the requirement to manually complete the other 56 data fields on Amended Form G-32 that the underwriter already is required to input into NIIDS. See, e.g., File No, SR-MSRB-2019-07, at p. 8 ("For non-NIIDS-

the proposed rule change is necessary to ensure that the MSRB would have reliable access to important primary offering information. Without requiring the manual completion of these fields on Amended Form G-32, the MSRB could not fully achieve the benefits that were intended from the Primary Offering Practices Amendments, including enhanced regulatory transparency and the option to disseminate the information in the future, from being fully realized.

### Benefits and Costs

The MSRB evaluates the baseline for the benefits and costs analysis to be the current state with the implementation of the 2019 Primary Offering Practices Amendments.

The information collected from these three fields would immediately enhance regulatory transparency, facilitate the MSRB's own usage of data, as well as help promote a more efficient secondary market for municipal securities should the MSRB choose to disseminate some or all of the information in the future. The proposed rule change would clarify underwriters' responsibilities, reduce their confusion, and ensure that the MSRB would have reliable access to vital primary offering information now and in the future without depending on third party data providers and utilities.

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eligible offerings, the underwriter would be required to manually complete the data field that indicates the original minimum denomination of the offering.”). In this way, the underwriter of a non-NIIDS-eligible offering is exempt from the requirement to complete the Amended Manual Fields. Nevertheless, of the nine data fields on Amended Form G-32 that are not already input into NIIDS, it should also be noted that such an underwriter of a non-NIIDS-eligible offering is additionally required to manually complete the data fields on Amended Form G-32 that indicate whether the minimum denomination for the issue has the ability to change and whether the primary offering is being made with restrictions. See id (“ . . . underwriters in non-NIIDS-eligible offerings would be required to manually complete the data fields that provide a ‘yes/no’ flag to indicate whether the minimum denomination for the issue has the ability to change and the ‘yes/no’ flag to indicate if the primary offering is being made with restrictions.”).

In the context of this amendment, the relevant costs for underwriters are those associated with manually providing information on Amended Form G-32 for Amended Manual Fields that cannot be auto-populated from NIIDS, including, among other things, updating their policies, procedures, training, and supervisory systems to ensure the Amended Manual Fields are so completed, as well as the time and expense associated with completing these three fields when, respectively, applicable to a primary offering of municipal securities. The additional cost imposed on certain market participants to input information manually onto Form G-32, when available, should be limited, which may include, for example, additional time for data entry onto MSRB's portal and to review information for accuracy. It is useful to consider each of the below elements individually:

- BQ Data Field – The proposed rule change would clarify that the “yes/no” flag on Amended Form G-32 would, when applicable, need to be manually completed by an underwriter to indicate whether a bank can deduct a portion of the interest cost of the carry for the position in accordance with the applicable provisions of the code of the Internal Revenue Service. The MSRB believes the costs associated with manual completion on Amended Form G-32 would be negligible.
- PAC Bond Data Field – The proposed rule change would clarify that the “yes/no” flag on Amended Form G-32 would, when applicable, need to be manually completed by an underwriter to indicate whether the offering is an asset-backed bond payable with a fixed sinking fund schedule. The MSRB believes the costs associated with manual entry on Amended Form G-32 would be negligible.
- Put Date Field – The proposed rule change would clarify that data fields relating to whether the offering is puttable on Form G-32 would, when applicable, need to

be manually completed by an underwriter to indicate when a put end date is defined at the time of issuance. Therefore, the costs associated with providing this information on Form G-32 primarily take the form of additional time needed to complete Form G-32. The MSRB believes that the time required to manually complete the information on Amended Form G-32 would not be significant.

In addition, the MSRB believes that the costs associated with the proposed rule change are relatively minor, in that the three Amended Manual Fields will be applicable to a relatively small fraction of the overall number of primary offerings in the municipal securities market. This should limit the actual burdens on underwriting firms of completing the Amended Manual Fields on Amended Form G-32. Moreover, given that firms are already updating policies and procedures related to the Primary Offering Practices Amendments, the MSRB believes that the costs of compliance associated with the proposed rule change can be mitigated by incorporating such costs into existing compliance efforts resulting from Amended Form G-32 and its New Data Fields.

Altogether, the MSRB believes that the benefits of the proposed rule change outweigh its costs, as underwriters and other market participants will benefit from the increased transparency and certainty regarding Amended Form G-32 and the MSRB regulatory efforts will benefit from the collection of accurate data from the Amended Manual Fields.<sup>31</sup>

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<sup>31</sup> Consistent with the Primary Offering Practices Amendments, the MSRB believes that the immediate increase in regulatory transparency and enhanced quality control, along with the potential long-term accrued benefits of disseminating the information, in the future, would outweigh the burden imposed on underwriters. See File No, SR-MSRB-2019-07, at p. 31.

### Effect on Competition, Efficiency, and Capital Formation

Since the proposed rule change would apply equally to all primary offerings and associated underwriters, it should not impose a burden on competition, efficiency, or capital formation. Moreover, since the proposed rule change is intended to increase regulatory transparency regarding the obligation of underwriters to manually complete the Amended Manual Fields, it may increase the efficiency of underwriters fulfilling their obligations under Rule G-32, as underwriters would be on notice of the lack of auto-population for these three fields on Amended Form G-32 and, thereby, avoid certain costs associated with resolving a potentially ambiguous regulatory obligation. In this way, the MSRB believes that underwriters are likely to avoid the potential for regulatory misinterpretation and confusion, which promotes a fairer and more efficient municipal securities market. The MSRB believes an efficient market would improve capital formation.

### Evaluation of Reasonable Alternatives

The MSRB has considered one alternative to collect this information from a third-party data vendor other than NIIDS, to the extent one exists. However, this would require the MSRB to negotiate with the third-party data vendor to obtain the information. In addition, reliance on third-party vendors could limit the MSRB's flexibility and latitude in its usage of the data, including potentially making the data available to the market in the future, thus hindering the goal of increased regulatory transparency.

Similarly, the MSRB considered filing alternatives to the proposed rule change that either eliminated the Amended Manual Fields from Amended Form G-32 or made the Amended Manual Fields on Amended Form G-32 optional. The MSRB decided the proposed rule change was superior to these alternatives because such alternatives would eliminate the benefit of the

MSRB receiving this data. While such proposals would eliminate many of the regulatory burdens associated with the proposed rule change, the MSRB believes that the benefits of the proposed rule change outweigh the costs associated with receiving accurate data from an underwriter on whether a primary offering is bank qualified, composed of PAC Bonds, or puttable by a certain date.<sup>32</sup> Importantly, given that NIIDS cannot be relied upon by the MSRB for accurate information in the identification of such offerings, the MSRB believes that the proposed rule change provides a unique source of reliable data on such offerings and so is highly beneficial.

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

The Board did not solicit nor receive written comments on the proposed rule change’s clarification that underwriters are obligated to manually complete the three Amended Manual Fields on amended Form G-32.<sup>33</sup>

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<sup>32</sup> The MSRB believes that such filing would not eliminate all burdens on firms that act as underwriters, as, for example, underwriting firms would have to amend their policies and procedures in relation to such filings.

<sup>33</sup> As previously noted, the proposed rule change seeks to clarify amendments to Amended Form G-32, resulting from the authorization and approval by the SEC of the MSRB’s Primary Offering Practices Amendments. Comments to the Primary Offering Practices Amendments were previously summarized by the MSRB and can be found in the rulemaking transcript associated with File No. SR-MSRB-2019-07. See File No. SR-MSRB-2019-07, at p. 32; see also comment letter from Margaret R. Blake, Associate General Counsel, MSRB (June 6, 2019) (summarizing and responding to comment letters to the Primary Offering Practices Amendments) (the “Blake Letter”), available at <https://www.sec.gov/comments/sr-msrb-2019-07/srmsrb201907-5639704-185629.pdf>. As noted in the Blake Letter, “[c]ommenters did not raise concerns regarding the proposed addition of 57 data fields on Form G-32 that would be auto-populated from NIIDS[,]” but commenters did express, “. . . concern regarding the proposed addition of the nine data fields for manual completion in NIIDS-eligible offerings, noting that the addition of these fields would create an additional burden on underwriters and introduce the risk of error in data entry.” Blake Letter, p. 5. In this way, the MSRB believes comments to the Primary Offering Practices Amendments in support of the inclusion of the three Amended Manual Fields on Amended Form G-32 are not germane to the proposed rule change, because, among other reasons, the proposed rule change raises novel issues.

### 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:

- (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](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2020-08 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-2020-08. 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 am and 3:00 pm. 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-2020-08 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, pursuant to delegated authority.<sup>34</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>34</sup> 17 CFR 200.30-3(a)(12).