

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-52289, File No. SR-MSRB-2005-09)

August 18, 2005

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to Month-End Performance Data for Municipal Fund Securities under MSRB Rule G-21

On June 2, 2005, the Municipal Securities Rulemaking Board (“MSRB” or “Board”), filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change amending MSRB Rule G-21, on advertising, to establish requirements relating to the availability of performance data current to the most recent month-end in connection with advertisements by brokers, dealers and municipal securities dealers containing performance data for municipal fund securities. The proposed rule change was published for comment in the Federal Register on July 11, 2005.<sup>3</sup> The Commission received one comment letter regarding the proposal.<sup>4</sup> This order approves the proposed rule change.

The proposed rule change would amend Rule G-21 to require dealers to include in advertisements that contain performance data for municipal fund securities a phone number or Web address where investors may obtain performance data current to the most

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

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

<sup>3</sup> See Securities Exchange Act Release No. 51951 (June 30, 2005), 70 FR 39833 (July 11, 2005).

<sup>4</sup> See letter to Jonathan G. Katz, Secretary, Commission, from Tamara K. Salmon, Senior Associate Counsel, Investment Company Institute (“ICI”), dated July 25, 2005 (“ICI’s Letter”).

recent month-end, unless the data included in the advertisement is itself current to the most recent month-end. A full description of the proposal is contained in the Commission's Notice.<sup>5</sup> The MSRB proposes that dealers be required to comply with the proposed rule change for advertisements of municipal fund securities submitted or caused to be submitted for publication on or after December 1, 2005.<sup>6</sup>

ICI's Letter strongly supported the proposed amendments, which would bring advertising rules for municipal fund securities more in line with the requirements of Rule 482 adopted by the SEC under the Securities Act of 1933, as amended.<sup>7</sup> The ICI's Letter stated that greater uniformity with the advertising requirements applicable to mutual funds is appropriate because municipal fund securities and mutual funds share many common features, including the manner in which they are advertised to investors. The ICI's Letter also stated that uniform standards will facilitate the NASD's ability to conduct inspections because the NASD is charged with inspecting securities firms for compliance with both MSRB and SEC advertising rules.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB<sup>8</sup> and, in particular, the requirements of Section 15B(b)(2)(C) of the Act and the rules and

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<sup>5</sup> See supra note 3.

<sup>6</sup> This effective date conforms to the effective date for other changes made to Rule G-21 earlier this year. See Exchange Act Release No. 51736 (May 24, 2005), 70 FR 31551 (June 1, 2005).

<sup>7</sup> 15 U.S.C. 77a et seq.

<sup>8</sup> In approving this rule the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

regulations thereunder.<sup>9</sup> Section 15B(b)(2)(C) of the Act requires, among other things, that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.<sup>10</sup> In particular, the Commission finds that the proposed rule change will further investor protection by making information provided in advertisements of municipal fund securities more up-to-date and more comparable among different municipal fund securities investments and between municipal fund securities and registered mutual funds.

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<sup>9</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>10</sup> Id.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-MSRB-2005-09) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>11</sup> 15 U.S.C. 78s(b)(2).

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