

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-52555, File No. SR-MSRB-2005-02)

October 3, 2005

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to Amendments to MSRB Rule G-20, on Gifts and Gratuities, and MSRB Rule G-8, on Recordkeeping

On January 13, 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”),¹ and Rule 19b-4 thereunder,² a proposed rule change consisting of amendments to Rule G-20, on gifts and gratuities, and the related recordkeeping requirements of Rule G-8. The proposed rule change was published for comment in the Federal Register on August 24, 2005.³ The Commission received one comment letter regarding the proposal.⁴ On September 26, 2005, the MSRB filed a response to the comment letter from Griffin, Kubik.⁵ This order approves the proposed rule change.

The proposed rule change would more fully conform Rule G-20 to NASD requirements relating to gifts and gratuities, and add new provisions governing non-cash

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 52290 (August 18, 2005), 70 FR 49696 (August 24, 2005) (the “Commission’s Notice”).

⁴ See letter to Jonathan G. Katz, Secretary, Commission, from Robert J. Stracks, Counsel to Griffin, Kubik, Stephens & Thompson, Inc. (“Griffin, Kubik”), dated September 13, 2005 (“Griffin, Kubik’s Letter”).

⁵ See letter from Jill C. Finder, Assistant General Counsel, MSRB, to Martha M. Haines, Chief, Office of Municipal Securities, Commission, dated September 22, 2005 (“MSRB’s Response Letter”).

compensation and sales incentives in connection with municipal fund securities and other primary offerings of municipal securities, based on NASD requirements for non-cash compensation and sales incentives. A full description of the proposal is contained in the Commission's Notice.

Griffin, Kubik stated in its comment letter that they agree with the MSRB that the regulation of gifts and gratuities ought to be consistent across those regulators governing the conduct of broker-dealers. Nonetheless, Griffin, Kubik's Letter states that they believe that adoption of any changes to Rule G-20 is premature because they understand that the NASD, the New York Stock Exchange, Inc. ("NYSE") and other regulators are currently considering the question of appropriate rules and standards for gifts and because the status of the NASD's current rule and interpretation is less than clear. The Commission's Notice noted that the NYSE has a pending rule filing with the Commission on gifts and gratuities that is currently being reviewed, and that the MSRB has agreed to consider filing further amendments to Rule G-20 or other rules, as necessary, to make its rules on gifts and gratuities consistent with future rule changes made by other self-regulatory organizations (SROs) overseen by the Commission.

The MSRB's Response Letter stated that the MSRB determined that provisions comparable to current NASD requirements governing gifts and gratuities and the payment of non-cash compensation are appropriate for dealers effecting transactions in municipal securities. The MSRB's Response Letter also stated that, as the commentator noted, the MSRB has undertaken to make its rules on gifts and gratuities consistent with other self-regulatory organizations where appropriate for the municipal securities market.

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 MSRB⁶ and, in particular, the requirements of Section 15B(b)(2)(C) of the Act and the rules and regulations thereunder.⁷ 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.⁸ In particular, the Commission finds that the proposed rule change is consistent with the Act because it will provide for more consistent treatment across the securities markets regarding gifts, gratuities, non-cash compensation and sales incentives, thereby facilitating dealer understanding of, and compliance with, these requirements.

⁶ 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).

⁷ 15 U.S.C. 78o-4(b)(2)(C).

⁸ Id.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-MSRB-2005-02) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Jonathan G. Katz
Secretary

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ 17 CFR 200.30-3(a)(12).