

SECURITIES AND EXCHANGE COMMISSION
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June 26, 2007

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change to MSRB Rule G-14, Reports of Sales or Purchases Relating to Reporting of Transactions in Certain Special Trading Situations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 13, 2007, the Municipal Securities Rulemaking Board (“MSRB”) 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 substantially 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 is filing with the Commission a proposed rule change consisting of an amendment to and interpretation of its Rule G-14, Reports of Sales or Purchases. The proposed rule change would: (i) clarify transaction reporting requirements and require use of the existing M9c0 special condition indicator on trade reports of three types of transactions arising in certain special trading situations that do not represent typical arm’s-length transactions negotiated in the secondary market; (ii) provide an end-of-day exception from real-time transaction reporting for trade reports containing the M2c0 or M9c0 special condition indicator; and (iii) create two new special condition indicators for

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

purposes of reporting certain inter-dealer transactions “late.” The MSRB proposes an effective date for this proposed rule change of January 2, 2008. The text of the proposed rule change is available on the MSRB’s Web site (<http://www.msrb.org>), at the MSRB’s principal office, and at the Commission’s Public Reference Room.

II. SELF-REGULATORY ORGANIZATION'S STATEMENT OF THE PURPOSE OF, AND STATUTORY BASIS FOR, THE PROPOSED RULE CHANGE

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The MSRB Real-Time Transaction Reporting System (RTRS) serves the dual purposes of price transparency and market surveillance. Because a comprehensive database of transactions is needed for the surveillance function of RTRS, MSRB Rule G-14, with limited exceptions, requires dealers to report all of their purchase-sale transactions to RTRS. All reported transactions are entered into the RTRS surveillance database used by market regulators and enforcement agencies. However, not all of these reported transactions are equally useful for price transparency. To address this problem, RTRS was designed so that a dealer can code a specific transaction report with a “special condition indicator” to designate the transaction as being subject to a special condition. Depending on the

special condition that is indicated, RTRS either can suppress dissemination of the transparency report to prevent publication of a potentially misleading price or take other action.

TRANSACTIONS EXECUTED WITH SPECIAL PRICING CONDITIONS

The MSRB has identified three trading scenarios that have generated questions from dealers and users of the MSRB price transparency products. Each of the three trading scenarios described below represents a situation where the transaction executed is not a typical arm's-length transaction negotiated in the secondary market and thus may be a misleading indicator of the market value of the security. To clarify transaction reporting requirements and to prevent publication of potentially misleading prices, the proposed rule change would require dealers to report the transactions identified in the trading scenarios with the existing M9c0³ special condition indicator. Transactions reported with this special condition indicator would be entered into the surveillance database but suppressed from price dissemination to ensure that transparency products do not include prices that might be confusing or misleading.

Customer Repurchase Agreement Transactions

Some dealers have programs allowing customers to finance municipal securities positions with repurchase agreements ("repos"). Typically, a bona fide repo consists of two transactions whereby a dealer will sell securities to a

³ In addition to the special trading situations identified in the proposed rule change, the existing M9c0 special condition indicator, "away from market – other reason," is required to be included on a trade report if the transaction price differs substantially from the market price for multiple reasons or for a reason not covered by another special condition indicator.

customer and agree to repurchase the securities on a future date at a pre-determined price that will produce an agreed-upon rate of return. Since both the sale and purchase transactions resulting from a customer repo do not represent a typical arm's-length transaction negotiated in the secondary market, the proposed rule change would clarify that both the sale and purchase transactions resulting from a repo would be required to be reported with the M9c0 special condition indicator.

UIT-Related Transactions

Dealers sponsoring Unit Investment Trusts ("UIT") or similar programs sometimes purchase securities through several transactions and deposit such securities into an "accumulation" account. After the accumulation account contains the necessary securities for the UIT, the dealer transfers the securities from the accumulation account into the UIT. Purchases of securities for an accumulation account are presumably done at market value and are required to be reported normally. The transfer of securities out of the accumulation account and into the UIT, however, does not represent a typical arm's-length transaction negotiated in the secondary market. The proposed rule change would clarify that dealers are required to report the subsequent transfer of securities from the accumulation account to the UIT with the M9c0 special condition indicator.

TOB Program-Related Transactions

Dealers sponsoring tender option bond programs ("TOB Programs") for customers sometimes transfer securities previously sold to a customer into a derivative trust from which derivative products are created. If the customer sells

the securities held in the derivative trust, the trust is liquidated, and the securities are reconstituted from the derivative products and transferred back to the customer. The transfer of securities into the derivative trust and the transfer of securities back to the customer upon liquidation of the trust do not represent typical arm's-length transactions negotiated in the secondary market. The proposed rule change would clarify that dealers are required to report the transfer of securities into the derivative trust and the transfer of securities back to the customer upon liquidation of the trust using the M9c0 special condition indicator.⁴

INTER-DEALER TRANSACTIONS REPORTED LATE

Inter-dealer transaction reporting is accomplished by both the purchasing and selling dealers submitting the trade to the Depository Trust and Clearing Corporation's (DTCC) automated comparison system (RTTM) following DTCC's procedures. RTTM forwards information about the transaction to RTRS. The inter-dealer trade processing situations described below are the subject of dealer questions and currently result in dealers being charged with "late" reporting or reporting of a trade date and time that differs from the date and time of trade execution. The proposed rule change would create a new special condition indicator for each scenario, allowing dealers to report these types of transactions without receiving a late error and allowing enforcement agencies to identify these trades as reported under special circumstances.

⁴ In some cases, the transfer of securities into the derivative trust and the transfer of securities back to the customer upon liquidation of the trust do not represent purchase-sale transactions due to the terms of the trust agreement. MSRB rules on transaction reporting do not require a dealer to report the transfer of securities to RTRS that does not represent a purchase-sale transaction.

Inter-Dealer Ineligible on Trade Date

Certain inter-dealer transactions are not able to be submitted to RTTM on trade date or with the accurate trade date either because all information necessary for comparison is not available or because the trade date is not a “valid” trade date in RTTM. The proposed rule change identifies two of these inter-dealer trading scenarios and prescribes a procedure for reporting such transactions using a new Mc40 special condition indicator.

VRDO Ineligible on Trade Date

On occasion, inter-dealer secondary market transactions are effected in variable rate demand obligations (VRDOs) in which the interest rate reset date occurs between trade date and the time of settlement. Since dealers in this scenario cannot calculate accrued interest or final money on trade date, they cannot process the trade through RTTM until the interest rate reset has occurred. Reporting the trade after the interest rate reset occurs would currently result in a late trade report. The proposed rule change would require both dealers that are party to the transaction to report the transaction by the end of the day that the interest rate reset occurs, including the trade date and time that the original trade was executed. Both dealers would be required to include a new Mc40 special condition indicator that would cause RTRS not to score either dealer late. RTRS would disseminate the trade reports without a special condition indicator and the trade report would reflect the original trade date and time.

Invalid RTTM Trade Dates

Dealers sometimes execute inter-dealer transactions on weekends and on certain holidays that are not valid RTTM trade dates. Such trades cannot be reported to RTRS using the actual trade date if they occur on a weekend or holiday. To accomplish automated comparison and transaction reporting of such transactions, dealers are required to submit these inter-dealer transactions to RTTM no later than fifteen minutes after the start of the next RTRS Business Day and to include a trade date and time that represents the next earliest “valid” values that can be submitted.⁵ Dealers also would be required to include a new Mc40 special condition indicator that would allow RTRS to identify these transactions so that enforcement agencies would be alerted to the fact that the trade reports were made under special circumstances using a special trade date and time. RTRS would disseminate the trade reports without a special condition indicator and the trade report would include the trade date and time reflecting the next earliest “valid” values that can be submitted.

Resubmission of an RTTM Cancel

A dealer may submit an inter-dealer trade to RTTM and find that the contra-party fails to report its side of the trade. Such “uncompared” trades are not disseminated by RTRS on price transparency products. After two days, RTTM removes the uncompared trade report from its system and the dealer originally submitting the trade must resubmit the transaction in a second attempt to obtain a

⁵ The MSRB previously provided an example of a trade date and time that would be included on a trade report using this procedure. See “Reporting of Inter-Dealer Transactions That Occur Outside of RTRS Business Day Hours or on Invalid RTTM Trade Dates,” MSRB Notice 2007-12 (March 23, 2007).

comparison with its contra-party, which currently results in RTRS scoring the resubmitted trade report “late.”

The proposed rule change would require the dealer that originally submitted information to RTTM to resubmit identical information about the transaction in the second attempt to compare and report the trade by the end of the day after RTTM cancels the trade. The resubmitting dealer would include a new Mc50 special condition indicator that would cause RTRS not to score the resubmitting dealer late. The indicator may only be used by a dealer resubmitting the exact same trade information for the same trade.⁶ For example, the contra-party that failed to submit its side to the trade accurately, thus preventing comparison of the transaction, would not be able to use the indicator. RTRS would disseminate the trade without an indicator once RTTM compares the trade and the trade report would reflect the original trade date and time.

END-OF-DAY DEADLINE FOR “AWAY FROM MARKET” TRADE REPORTS

Currently, the two special condition indicators used to identify “away from market” trade reports, M2c0⁷ and M9c0, do not provide dealers with an extension to the fifteen minute transaction reporting deadline. The purpose of fifteen minute reporting is

⁶ The resubmitting dealer would not be required to resubmit the same reference number or preparation time on the resubmitted transaction; however, other information about the transaction, such as price, quantity, trade date and time, would be required to be identical to information included in the original trade submission.

⁷ The M2c0 special condition indicator, “away from market – extraordinary settlement,” is used to identify transactions where the price differs from the market price because the settlement was (a) for regular way trades, other than T+3, or (b) for new issue trades, other than the initial settlement date of the issue. The indicator is not used for new issue, extended settlement or cash/next-day trades at the market price.

to provide real-time price transparency. “Away from market” trade reports are not included on price transparency products and are not relevant to the transparency purpose of RTRS so there is not a need to have such transactions reported to RTRS in real-time. In addition, many special condition indicator situations require manual processing by dealers or use of different trade processing systems. Therefore, the proposed rule change includes an end-of-day exception from the fifteen minute transaction reporting deadline for any transaction that correctly includes the M2c0 or M9c0 special condition indicator.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,⁸ which provides that the MSRB’s rules shall:

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

The MSRB believes that the proposed rule change is consistent with the Act because it will allow the municipal securities industry to produce more accurate trade reporting and transparency and will enhance surveillance data used by enforcement agencies.

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

The MSRB does not believe that the proposed rule change will impose any burden

⁸ 15 U.S.C. 78o-4(b)(2)(C).

on competition that is not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers.

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

With the exception of the procedure for reporting inter-dealer transactions executed on invalid RTTM trade dates, on July 31, 2006 the MSRB published for comment an exposure draft of the proposed rule change⁹ (“July 2006 draft procedures”).¹⁰ While the MSRB did not request comment on use of the Mc40 special condition indicator on trade reports of inter-dealer transactions executed on invalid RTTM trade dates, this procedure was included in the proposed rule change to address a special trading situation that arose on April 6, 2007, Good Friday.¹¹

The MSRB received comments on the July 2006 draft procedures from the following two commentators:

The Bond Market Association (“TBMA”)¹²

First Southwest Company (“First Southwest”)

⁹ See MSRB Notice 2006-20 (July 31, 2006).

¹⁰ The July 2006 draft procedures also covered use of the M9c0 special condition indicator on certain transfers of securities between program dealers of an auction rate security pursuant to the instructions of an auction agent. This procedure is not included in the proposed rule change as it is still under consideration by the MSRB.

¹¹ See “Reporting of Inter-Dealer Transactions That Occur Outside of RTRS Business Day Hours or on Invalid RTTM Trade Dates,” MSRB Notice 2007-12 (March 23, 2007).

¹² TBMA has since merged with the Securities Industry Association and is now the Securities Industry and Financial Markets Association (“SIFMA”).

Use of “Away from Market – Other Reason” Special Condition Indicator

TBMA urged that transactions identified as “away from market” not be reported to RTRS. The MSRB notes that RTRS serves the dual purposes of price transparency and market surveillance. The proposed rule change would ensure that such “away from market” transactions are entered into the surveillance database but suppressed from price dissemination. These transactions would be part of a database for the purpose of market surveillance for use by market regulators and enforcement agencies (NASD, SEC and other regulators).

The proposed rule change is consistent with TBMA’s statement that reporting of these “away from market” trades with a special condition indicator provides no value to transparency. Such trades are not helpful for price transparency; in fact, if these “away from market” trades were reported without a special condition indicator, the trades could be detrimental to price transparency since they may contain potentially misleading prices.¹³

End-Of-Day Exception for “Away from Market” Trade Reports

The July 2006 draft procedures proposed an end-of-day exception from real-time transaction reporting for transactions reported with an “away from market” special condition indicator. TBMA and First Southwest commented that requiring the reporting of the transactions with a special condition indicator would require special and possibly manual processing to add the indicator. The MSRB

¹³ TBMA also stated that reporting certain “away from market” transactions would overstate the volume of transactions occurring in that particular security. However, by identifying the trade with the M9c0 special condition indicator, the trade would be suppressed from publication so there would be no over-reporting of volume in any published transparency product.

agrees with this statement and retained in the proposed rule change an end-of-day exception to the 15 minute reporting deadline for the special trading scenarios in the proposed rule change that was included in the July 2006 draft procedures.

Inter-Dealer Transactions Reported “Late”

TBMA supported the proposal in the July 2006 draft procedures that both dealers that are party to a transaction in a variable rate security where the interest rate reset occurs between the trade date and settlement date identify the transaction with a special condition indicator so as to cause RTRS not to score either dealer late. TBMA recommended making this indicator available for customer trades as well as inter-dealer trades. The MSRB notes that dealers are required to only provide either a dollar price or yield on customer transactions in variable rate securities; therefore dealers are able to report customer transactions in variable rate securities even if final money is not able to be calculated at the time the trade report is made. First Southwest recognized that the proposed treatment of inter-dealer variable rate transactions would remedy the late trade issue and approves of this proposal. TBMA supported the MSRB proposal that the dealer originally submitting information to RTTM not be scored late on an uncompleted trade in its second attempt to compare and report the trade using a special condition indicator.

Timing of Implementation

MSRB recommended in the July 2006 draft procedures, and TBMA supported, that multiple RTRS system changes be accomplished on a single implementation date because it is less costly and more efficient when changes are implemented collectively. The proposed rule change includes a proposed effective

date of January 2, 2008 to coincide with changes many dealers already will need to make at the end of 2007 to prepare for the expiration of the three-hour exception from real-time transaction reporting that is currently available on certain transactions in when, as and if issued securities.

III. DATE OF EFFECTIVENESS OF THE PROPOSED RULE CHANGE AND TIMING FOR COMMISSION ACTION

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date 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 such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

The MSRB proposes that the proposed rule change become effective January 2, 2008.

IV. SOLICITATION OF COMMENTS

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MSRB-2007-01 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MSRB-2007-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

submissions should refer to File Number SR-MSRB-2007-01 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Florence E. Harmon
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).