

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60725, File No. SR-MSRB-2009-12)

September 28, 2009

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to Amendments to Rule G-11(i) (Settlement of Syndicate or Similar Account), Rule G-11(j) (Payment of Designations), and Rule G-12(i) (Settlement of Joint or Similar Account)

On August 6, 2009, the Municipal Securities Rulemaking Board (“MSRB”), filed with the Securities and Exchange Commission (“Commission” or “SEC”), 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 to amend Rule G-11(i) (settlement of syndicate or similar account), Rule G-11(j) (payment of designations), and Rule G-12(i) (settlement of joint or similar account). The proposed rule change was published for comment in the Federal Register on August 18, 2009.³ The Commission received one comment letter about the proposed rule change.⁴ On September 22, 2009, the MSRB filed a response to the comment letter.⁵ This order approves the proposed rule change.

The proposed rule change would accelerate the settlement of syndicate accounts and secondary market trading accounts, and the payment of designations, by shortening

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 60487 (Aug. 12, 2009), 74 FR 41771 (August 18, 2009) (“Commission’s Notice”).

⁴ See letter from Michael Decker and Mike Nicholas, Co-Chief Executive Officers, Regional Bond Dealers Association (“RBDA”), dated September 8, 2009.

⁵ See letter from Margaret C. Henry, Associate General Counsel, MSRB, to Elizabeth M. Murphy, Secretary, SEC, dated September 22, 2009 (“Response Letter”).

certain time periods within the rules. These proposals are designed to reduce the exposure of syndicate and secondary market trading account members to the risk of potential deterioration in the credit of the syndicate or account manager during the pendency of account settlements. For the proposed amendments to Rule G-11, the MSRB requested that the amendments become effective for new issues of municipal securities for which the Time of Formal Award (as defined in Rule G-34(a)(ii)(C)(1)(a)) is more than 30 calendar days after the date the amendments are approved by the SEC. For the proposed amendments to Rule G-12, the MSRB requested that the amendments become effective for secondary market trading accounts formed more than 30 days after the date the amendments are approved by the SEC. A full description of the proposal is contained in the Commission's Notice.

As previously noted, the Commission received one comment letter relating to the proposed rule change.⁶ The RBDA generally supported the spirit of the MSRB's proposal and applauded the MSRB for acting to reduce risks faced by syndicate members, but expressed concern about the proposed amendments to Rule G-11(j). The RBDA supported the proposal to amend Rule G-11(i) to reduce the time period for closing syndicate accounts to 30 calendar days following the date the issuer delivers the securities to the syndicate and also supported the proposed amendment to Rule G-12(i) to reduce the time to close joint or similar accounts – secondary market trading accounts – to 30 calendar days following the date all securities have been delivered by the account manager to the account members. However, the RBDA believes that the proposed amendments to Rule G-11(j) related to payments of designations imposing a deadline of

⁶ See supra note 4.

two business days for submissions of designations and 10 calendar days for payments of designations is too short and would create undue burdens for both syndicate members and managers. The RBDA recommended that the MSRB maintain the current 30-day deadline for the payments of designations.

The MSRB stated in its Response Letter that the proposed amendments to Rule G-11(j) are intended to reduce the exposure of co-managers to the credit risk of the senior manager. The MSRB noted that in most underwriting syndicates, a large percentage of the syndicate profits are distributed as payments for designations. The MSRB believes that the shorter time periods are reasonable and that any administrative burdens associated with the changes are more than outweighed by the significant reduction in credit risk to co-managers, especially in the case of smaller firms. Accordingly, the MSRB did not propose to modify the proposal.

The Commission has carefully considered the proposed rule change, the comment letter received, and the MSRB's response to the comment letter and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB⁷ and, in particular, the requirements of Section 15B(b)(2)(C) of the Act⁸ and the rules and regulations thereunder. 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

⁷ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78o-4(b)(2)(C).

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.⁹ In particular, the Commission finds that the proposed rule change is consistent with the Act because it will further the free and open market in municipal securities by reducing the exposure of dealers to the potential deterioration of the credit of syndicate managers during the period prior to settlement of syndicate accounts and by providing a comparable rule for the settlement of secondary market trading accounts. The proposed amendments will become effective on the dates requested by the MSRB.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁰ that

⁹ Id.

¹⁰ 15 U.S.C. 78s(b)(2).

the proposed rule change (SR-MSRB-2009-12), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Florence E. Harmon
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).