

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-60121, File No. SR-MSRB-2009-05)

June 16, 2009

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to the Subscription Service for Continuing Disclosure Documents Through the Electronic Municipal Market Access System (EMMA[®])

On April 22, 2009, the Municipal Securities Rulemaking Board (“MSRB”), filed with the Securities and Exchange Commission (“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 to establish a real-time subscription to the document collection of the continuing disclosure service of the MSRB’s Electronic Municipal Market Access system (“EMMA”). The proposed rule change was published for comment in the Federal Register on May 13, 2009.³ The Commission received no comment letters about the proposal. This order approves the proposed rule change.

The Commission has previously approved the establishment of the continuing disclosure service of EMMA, which will commence operation on July 1, 2009.⁴ The proposed rule change consists of a proposal to establish a real-time subscription to the continuing disclosure document collection. The real-time data stream subscription to the EMMA continuing disclosure service to be provided through a Web service would be

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 59881 (May 7, 2009), 74 FR 22615 (May 13, 2009) (“Commission’s Notice”).

⁴ See Securities Exchange Act Release No. 59061 (December 5, 2008), 73 FR 75778 (December 12, 2008) (File No. SR-MSRB-2008-05) (approving the continuing disclosure service of EMMA with an effective date of July 1, 2009).

made available for an annual fee of \$45,000.⁵ The continuing disclosure subscription service would make available to subscribers all continuing disclosure documents and related information provided by submitters through the EMMA submission process that is posted on the EMMA portal. Such documents and information would be made available to subscribers simultaneously with the posting thereof on the EMMA portal.

The MSRB would make the continuing disclosure subscription service available on an equal and non-discriminatory basis. In addition, the MSRB would not impose any limitations on or additional charges for redistribution of such documents by subscribers to their customers, clients or other end-users. Subscribers would be subject to all of the terms of the subscription agreement to be entered into between the MSRB and each subscriber, including proprietary rights of third parties in information provided by such third parties that is made available through the subscription. The MSRB would not be responsible for the content of the information or documents submitted by submitters distributed to subscribers through the continuing disclosure subscription service. The MSRB has requested approval of the proposed rule change on or prior to July 1, 2009. A full description of the proposal is contained in the Commission's Notice.

The Commission has carefully considered the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and

⁵ The proposed subscription price would cover a portion of the administrative, technical and operating costs of the EMMA continuing disclosure subscription service but would not cover all costs of such subscription service or of the EMMA continuing disclosure service. The MSRB has proposed establishing the subscription price at a fair and reasonable level consistent with the MSRB's objective that subscriptions be made available on terms that promote the broad dissemination of documents and data throughout the marketplace.

regulations thereunder applicable to the MSRB⁶ and, in particular, the requirements of Section 15B(b)(2)(C) of the Act⁷ 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 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 EMMA continuing disclosure subscription service would serve as a mechanism by which the MSRB works toward removing impediments to and helping to perfect the mechanisms of a free and open market in municipal securities. The subscription service would make the indexed comprehensive collection of continuing disclosure documents of the EMMA continuing disclosure service available to marketplace participants for re-dissemination and for use in creating value-added products and services. Such re-dissemination and third-party use would provide market participants, including investors and the general public, additional avenues for obtaining these key disclosures and would make additional tools available in making well-informed investment decisions. Broad access to continuing disclosure documents through the subscription service, in addition to the

⁶ 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).

⁷ 15 U.S.C. 78o-4(b)(2)(C).

⁸ Id.

public access available through the EMMA Web portal, should further assist in preventing fraudulent and manipulative acts and practices by improving the opportunity for public investors to access material information about issuers, their securities and the prices at which such securities trade.

Furthermore, broader re-dissemination and third-party use of continuing disclosure documents should promote a more fair and efficient municipal securities market in which transactions are effected on the basis of material information available to all parties to such transactions, which should allow for fairer pricing of transactions based on a more complete understanding of the terms of the securities (including any changes thereto), changes in circumstances of issuers and obligated persons, and the potential investment risks arising therefrom.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁹ that the

⁹ 15 U.S.C. 78s(b)(2).

proposed rule change (SR-MSRB-2009-05), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon
Deputy Secretary

¹⁰ 17 CFR 200.30-3(a)(12).