

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71616; File No. SR-MSRB-2013-09)

February 26, 2014

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1, Consisting of Amendments to MSRB Rules A-12, on Initial Fee, G-14, on Reports of Sales or Purchases, and the Facility for Real-Time Transaction Reporting and Price Dissemination (“RTRS Facility”); Deletion of Rules A-14, on Annual Fee, A-15, on Notification to the Board of Change in Status or Change of Name or Address, and G-40, on Electronic Mail Contacts; Deletion of References to RTRS Testing Requirements under G-14(b)(v), G-14(c), on RTRS Procedures, and in the RTRS Facility; Elimination of MSRB Forms RTRS and G-40, and Adoption of a Single, Consolidated Electronic Registration Form, New Form A-12

I. Introduction

On December 24, 2013, the Municipal Securities Rulemaking Board (the “MSRB” or “Board”) filed with the Securities and Exchange Commission (“Commission” or “SEC”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change consisting of amendments to MSRB Rules A-12, on initial fee, G-14, on reports of sales or purchases, and the Facility for Real-Time Transaction Reporting and Price Dissemination (“RTRS Facility”); deletion of Rules A-14, on annual fee, A-15, on notification to the Board of change in status or change of name or address, and G-40, on electronic mail contacts; deletion of references to RTRS Testing Requirements under G-14(b)(v), G-14(c), on RTRS Procedures, and in the RTRS Facility; elimination of MSRB Forms RTRS and G-40, and adoption of a single, consolidated electronic registration form, new Form A-12. On January 7, 2014, the Board submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1, was published for comment in the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Federal Register on January 14, 2014.³ The Commission received one comment letter on the proposed rule change.⁴ This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The MSRB proposes to amend Rule A-12 to create new registration procedures for MSRB-regulated brokers, dealers and municipal securities dealers (“dealers”), and municipal advisors, which procedures would be incorporated into a new Form A-12. The MSRB states in the Notice that the proposed rule change would consolidate the MSRB registration process in Rule A-12 and delete the rule language under Rules A-14, A-15, and G-40, eliminate Forms RTRS and G-40, and amend Rule G-14(b)(iv).⁵

In addition to consolidating the MSRB registration process, the proposed rule change includes new changes to the existing registration process. For example, the proposed rule change would require registrants to provide contact information (name, title, phone number, address, and email address) for several new contact persons on Form A-12. The proposed rule change would provide a waiver of the annual fee for dealers and municipal advisors that register in the last month of MSRB’s fiscal year. The proposed rule change would impose a late fee on those regulated entities that fail to pay MSRB assessments in a timely manner. The proposed rule change would eliminate the requirement for registrants who submit transaction data to the MSRB to test their ability to interface with MSRB systems.

³ See Securities Exchange Act Release No. 71255 (January 8, 2014), 79 FR 2483 (“Notice”).

⁴ See letter to Elizabeth M. Murphy, Secretary, Commission, from Jeanine Rodgers Caruso, President, National Association of Independent Public Finance Advisors (“NAIPFA”), dated February 1, 2014 (“NAIPFA Letter”).

⁵ See Notice, supra note 3, at 2484.

Rule A-12

Rule A-12(a) would require each dealer, prior to engaging in municipal securities activities, and each municipal advisor, prior to engaging in municipal advisory activities, to register with the MSRB.⁶ Rule A-12(a) also would require registrants to notify, as appropriate, a registered securities association or appropriate regulatory agency⁷ of their intent to engage in municipal securities and/or municipal advisory activities and provide the MSRB, on their Form A-12, with a written statement evidencing such notification.⁸ Registration with the MSRB would be effective only after the MSRB notifies a registrant that its Form A-12 is complete and all fees have been received and processed.

Rule A-12(b) would provide for the amount and method of payment of the initial registration fee. New registrants would continue to be required to pay the initial fee of \$100 to the MSRB in the manner prescribed by the MSRB Registration Manual.⁹ Rule A-12(c) would

⁶ As noted by the MSRB, prior to registration with the MSRB, each dealer and municipal advisor must first register with and receive approval from the Commission. See Notice, supra note 3, at 2484.

⁷ According to the MSRB, the term “appropriate regulatory agency,” as used in proposed Rule A-12(a), means the Comptroller of the Currency, Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or SEC as defined in 15 U.S.C. 78c(a)(34)(A).

⁸ This requirement would only be applicable to dealers or municipal advisors first registering on or after April 28, 2014. As stated in the Notice, registrants would have the flexibility to submit any form of documentation, such as a letter on company letterhead, evidencing notice to a registered securities association or appropriate regulatory agency, as applicable, of their intent to engage in municipal securities and/or municipal advisory activities.

⁹ The MSRB represents that the MSRB Registration Manual would not contain any substantive requirements not contained in MSRB rules or fairly and reasonably implied from those rules. See Notice, supra note 3, at 2485. The Commission notes that, if the MSRB Registration Manual contains any substantive requirements not provided in MSRB rules, the MSRB Registration Manual would have to be filed with, or filed with and approved by, the Commission.

provide that the annual registration fee would continue to be \$500 and would be paid in accordance with the method described in the MSRB Registration Manual. The annual fee would continue to be due by October 31 each year, but proposed Rule A-12 would provide that a regulated entity that registers in September and pays an annual fee at the time of registration need not pay the annual fee for the following fiscal year, beginning October 1.

Rule A-12(d) would establish late fees for any assessment due under Rules A-12 or A-13. Any registrant that fails to pay any fee due under Rules A-12 or A-13 (underwriting, transaction or technology fee) would be assessed a monthly late fee computed based on the overdue balance and the prime rate plus an additional \$25 per month, until paid.

Rule A-12(e) would permit registrants to use the designation “MSRB registered” when referencing their registrant status.

Rule A-12(f), rather than the current requirement to provide only a primary electronic mail contact, would require the provision of a primary regulatory contact, master account administrator, billing contact, compliance contact, and primary data quality contact. MSRB registrants could also provide an optional regulatory contact, data quality contact and technical contact. For dealers, the primary regulatory contact would be required to be a registered principal. It would be the responsibility of the primary regulatory contact to receive official communications from the MSRB, similar to the role of the primary electronic mail contact under current Rule G-40.

Rule A-12(g) would require dealers, prior to registering with the MSRB, to provide trade reporting information so that their trade reports can be processed correctly, or notify the MSRB that they are exempt from the trade reporting requirements.

Rule A-12(h) would require dealers and municipal advisors to comply, within 15 days or such longer period as may be agreed to by the requesting authority, with any request from the MSRB, a registered securities association or other appropriate regulatory authority, for information required as a function of their registration with the MSRB.

Sections (i)-(k) of proposed Rule A-12 would establish the requirements for completing, updating, and annually affirming the information on new electronic Form A-12, as further described below under “Form A-12.” The proposed rule provides for an annual affirmation process, similar to the current process under Rule G-40(c), which would require registrants to review, update and affirm the information on Form A-12 during the first seventeen business days of each calendar year. Similar to the current requirement in Rule A-15, registrants would be required to update Form A-12, within 30 days, if any information on the form becomes inaccurate or the firm ceases to be engaged in municipal securities or municipal advisory activities either voluntarily or involuntarily through a regulatory or judicial bar, suspension or otherwise. Registrants that involuntarily cease to be engaged in municipal securities or municipal advisory activities would be required to provide a written explanation, on their Form A-12, of the circumstances that lead to, and resulted in, the involuntary cessation of such activities. Finally, regulated entities would be required to inform the MSRB of the types of municipal securities and municipal advisory activities engaged in by such firms. Currently, the MSRB collects similar information from municipal advisor registrants on Form G-40, and from dealers on Form RTRS. Finally, MSRB registrants would be able to withdraw their registration, either fully or partially, by amending Form A-12.

Section (l) of Rule A-12 refers to the MSRB Registration Manual as the source of specifications for the reporting of information required under Rule A-12, the instructions for

submitting Form A-12, and other information relevant to payments and reporting under Rule A-12.

Form A-12

As stated in the Notice, the new Form A-12 would be required to be submitted electronically by each registrant through a web portal located on the MSRB's website. Form A-12 would require the submission of the following categories of information: registration categories; general firm information (i.e., firm identifiers; evidence of intent to engage in municipal securities and/or municipal advisory activities; business information; and form of organization); types of business activity; contact information for primary regulatory contact, master account administrator, billing contact, compliance contact, data quality contact, optional regulatory contact, optional data quality contact, and optional technical contact; and trade reporting (i.e., submission information, including the manner of reporting transactions to the MSRB; feedback information, including the method to receive and respond to transaction status and error feedback messages from the MSRB; and trade reporting identifiers). A full description of the information required to be submitted on Form A-12 is contained in the Notice.¹⁰

Rules A-14, A-15 and G-40

The MSRB proposes to delete the entire rule language for Rules A-14, A-15 and G-40.

Forms RTRS and G-40

The MSRB proposes to discontinue Forms RTRS and G-40.

Rule G-14(b)(iv)

As stated in the Notice, the proposed amendments to Rule G-14(b)(iv) would replace a requirement to provide a completed Form RTRS with a provision exempting dealers from all of

¹⁰ See Notice, supra note 3, at 2485-2487.

the requirements listed in Rule G-14(b), related to trade reporting, if the dealer does not effect any municipal securities transactions or if the dealer's transactions in municipal securities are limited to (1) transactions in securities without assigned CUSIP numbers, (2) transactions in municipal fund securities, or (3) inter-dealer transactions for principal movement of securities between dealers that are not inter-dealer transactions eligible for comparison in a clearing agency registered with the Commission.¹¹ Furthermore, the amended rule would require dealers to confirm that they qualified for the exemption as provided in proposed Rule A-12(g).¹²

Rule G-14(b)(v)

The MSRB proposes to delete the entire language from this section.

Rule G-14(c)

The MSRB proposes to delete the reference to testing procedures contained in the RTRS Users Manual.

A full description of the proposal is contained in the Notice. The MSRB requested an effective date for the proposed rule change of April 28, 2014.

III. Summary of Comments Received

As noted above, the Commission received one comment letter regarding the proposed rule change.¹³ In its comment letter, the commenter expressed general support for the proposed rule change.¹⁴

¹¹ MSRB Rule G-14(b)(vi).

¹² In connection with the proposed rules change, as a result of the proposed deletion of Form RTRS, the MSRB proposes deleting the following sentence in the description of the Facility for Real-Time Transaction Reporting and Price Dissemination (the "REAL-TIME TRANSACTION REPORTING SYSTEM" or "RTRS"): "The requirement for testing and submission of a "Form RTRS" with the name of a contact person is reflected in Rule G-14."

¹³ See NAIPFA Letter, supra note 4.

IV. Discussion and Commission Findings

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.¹⁵ Specifically, the Commission finds that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,¹⁶ 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 and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.”¹⁷

The Commission believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act because it helps to remove impediments to dealers and municipal advisors by streamlining the registration process for new registrants and reduce burdens on registrants who currently must complete multiple forms to register with the MSRB. As noted by the MSRB, the consolidation into a single rule of requirements currently located in multiple rules will help clarify and simplify the identification of regulatory requirements. Also as noted by the MSRB, the proposed rule change would allow the MSRB to collect information on the business activities of registrants, which may assist the MSRB and other appropriate regulatory authorities in regulating dealers and municipal advisors.

¹⁴ See id.

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

¹⁶ 15 U.S.C. 78o-4(b)(2)(C).

¹⁷ Id.

V. Conclusion

For the foregoing reasons, 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, and in particular, Section 15B(b)(2)(C) of the Act.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (SR-MSRB-2013-09), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission pursuant to delegated authority.¹⁹

Kevin M. O'Neill
Deputy Secretary

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17 CFR 200.30-3(a)(12).