

Proposed Rule Change by Municipal Securities Rulemaking Board  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/> Extension of Time Period for Commission Action <input type="checkbox"/> Date Expires <input type="text"/>			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

Amendments to and an interpretation of Rule G-14, on reports of sales or purchases, relating to reporting special condition indicators for certain special trading situations.

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name  Last Name   
 Title   
 E-mail   
 Telephone  Fax

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,  
Municipal Securities Rulemaking Board  
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date   
 By  Corporate Secretary  
 (Name)  (Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

## 1. Text of Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (“MSRB”) hereby files with the Securities and Exchange Commission (“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”). 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 arms-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 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 set forth below. New language is underlined; deletions are in brackets.

### Rule G-14 Reports of Sales or Purchases

(a) – (b) No change.

#### Rule G-14 RTRS Procedures

(a) General Procedures.

(i) No change.

(ii) Transactions effected with a Time of Trade during the hours of the RTRS Business Day shall be reported within 15 minutes of Time of Trade to an RTRS Portal except in the following situations:

(A) – (C) No Change.

(D) A dealer reporting an “away from market” trade as described in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions shall report such trade by the end of the day on which the trade is executed.

(E) A dealer reporting an inter-dealer “VRDO ineligible on trade date” as described in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions shall report such trade by the end of the day on which the trade becomes eligible for automated comparison by a clearing agency registered with the Commission.

(F) A dealer reporting an inter-dealer “resubmission of an RTTM cancel” as described in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions shall resubmit identical

information about the trade cancelled by the end of the RTRS Business Day following the day the trade was cancelled.

(iii) – (vi) No change.

(b) No change.

\* \* \*

#### Reporting of Transactions in Certain Special Trading Situations: Rule G-14

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, on transaction reporting, with limited exceptions, requires dealers to report all of their purchase-sale transactions to RTRS within fifteen minutes. All reported transactions are entered into the RTRS surveillance database used by market regulators and enforcement agencies. However, the special nature of some transactions effects their value for price transparency and the ability of dealers to meet the fifteen minute reporting deadline. To address these issues, 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.<sup>1</sup>

#### **TRANSACTIONS EXECUTED WITH SPECIAL PRICING CONDITIONS**

Three trading scenarios recently have generated questions from dealers and users of the MSRB price transparency products. Each of the three trading scenarios described below represents situations where the transaction executed is not a typical arms-length transaction negotiated in the secondary market and thus may be a misleading indicator of the market value of a security. To clarify transaction reporting requirements and to prevent publication of a potentially misleading price, dealers are required to report these transactions with the M9c0 special condition indicator.<sup>2</sup> Transactions reported with this special condition indicator are 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 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. Both the sale and purchase transactions resulting from a customer repo do not represent typical arms-length transactions negotiated in the secondary market and are therefore 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 arms-length transaction negotiated in the secondary market. 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 arms-length transactions negotiated in the secondary market. Such transactions are required to be reported using the M9c0 special condition indicator.<sup>3</sup>

### **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. To allow dealers to report these types of transactions without receiving a late error and to allow enforcement agencies to identify these trades as reported under special circumstances, the MSRB has added two new special condition indicators.<sup>4</sup> New special condition indicator Mc40 is used to identify certain inter-dealer transactions that are ineligible for comparison on trade date, and new special condition indicator Mc50 is used to identify resubmissions of certain uncomparing inter-dealer transactions that have been cancelled by RTTM. Described below are the procedures for reporting transactions arising in three inter-dealer transaction reporting scenarios using the new special condition indicators.

### 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 two inter-dealer trading scenarios described below are required to be reported using the 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. To report such transactions, both dealers that are party to the transaction are required 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 are required to include the new Mc40 special condition indicator that causes RTRS not to score either dealer late. Transactions reported using this procedure are disseminated without a special condition indicator and the trade reports 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.<sup>5</sup> Dealers also are required to include the new Mc40 special condition indicator that allows RTRS to identify these transactions so that enforcement agencies can be alerted to the fact that the trade reports were made under special circumstances using a special trade date and time. RTRS disseminates these trade reports without a special condition indicator and the trade report includes the trade date and time reflecting the next earliest “valid” values that can be submitted.<sup>6</sup>

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

The dealer that originally submitted information to RTTM is required 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

also is required to include the new Mc50 special condition indicator that causes RTRS to not score the resubmitting dealer late. The indicator may only be used by a dealer resubmitting the exact same trade information for the same trade.<sup>7</sup> For example, the contra-party that failed to submit its side to the trade accurately, thus preventing comparison of the transaction, is not allowed to use the indicator. RTRS disseminates trade reports made under this procedure without a special condition indicator once RTTM compares the trade and the trade report reflects the original trade date and time.

Questions about this notice may be directed to Justin R. Pica, Uniform Practice Policy Advisor, or Sara K. Pranio, Uniform Practice Assistant.

<sup>1</sup> See Specifications for Real-Time Reporting of Municipal Securities Transactions Section 4.3.2.

<sup>2</sup> In addition to the special trading situations identified in this notice, the 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.

<sup>3</sup> 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 a transfer of securities to RTRS that is not a purchase-sale transaction in municipal securities.

<sup>4</sup> See [reference to MSRB Notice of SEC approval of proposed rule change SR-MSRB-2007-01]

<sup>5</sup> 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).

<sup>6</sup> Using this procedure will result in transactions reported with a trade date and time that differs from what is recorded in a dealer’s books and records. Dealers are reminded that books and records are required to reflect the date and time of trade execution.

<sup>7</sup> 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.

(b) Not applicable.

(c) Not applicable.

## **2. Procedures of the Self-Regulatory Organization**

The proposed rule change was adopted by the MSRB at its April 19-20, 2007 meeting. Questions concerning this filing may be directed to Justin R. Pica, Uniform Practice Policy Advisor, at (703) 797-6600.

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

### **(a) 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 arms-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 M9c0 special condition indicator.<sup>1</sup> Transactions

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<sup>1</sup> 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.

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 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 arms-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 arms-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 arms-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.<sup>2</sup>

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<sup>2</sup> 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

## **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 new special condition indicator Mc40 to identify certain inter-dealer transactions that are ineligible for comparison on trade date, and new special condition indicator Mc50 to identify resubmissions of certain uncomparing inter-dealer transactions that have been cancelled by RTTM. These new special condition indicators would allow dealers to report these types of transactions without receiving a late error and allow enforcement agencies to identify these trades as reported under special circumstances.

### 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

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on transaction reporting do not require a dealer to report the transfer of securities to RTRS that does not represent a purchase-sale transaction.

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.<sup>3</sup> 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 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.<sup>4</sup> 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**

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<sup>3</sup> 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).

<sup>4</sup> 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.

Currently, the two special condition indicators used to identify “away from market” trade reports, M2c0<sup>5</sup> and M9c0, do not provide dealers with an extension to the fifteen minute transaction reporting deadline. The purpose of fifteen minute reporting is 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.

(b) Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (the “Act”), 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.

**4. Self-Regulatory Organization’s Statement on Burden on Competition**

The MSRB does not believe the proposed rule change will impose any burden on competition since it would apply equally to all brokers, dealers and municipal securities dealers.

**5. Self-Regulatory Organization’s Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others.**

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<sup>5</sup> 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.

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 change<sup>6</sup> (“July 2006 draft procedures”).<sup>7</sup> 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.<sup>8</sup>

The MSRB received comments on the July 2006 draft procedures from the following two commentators:<sup>9</sup>

The Bond Market Association (“TBMA”)<sup>10</sup>  
First Southwest Company (“First Southwest”)

#### 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

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<sup>6</sup> See MSRB Notice 2006-20 (July 31, 2006).

<sup>7</sup> 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.

<sup>8</sup> 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).

<sup>9</sup> A copy of the notice requesting comment on the July 2006 draft procedures and comment letters is included as Exhibit 2.

<sup>10</sup> TBMA has since merged with the Securities Industry Association and is now the Securities Industry and Financial Markets Association (“SIFMA”).

be detrimental to price transparency since they may contain potentially misleading prices.<sup>11</sup>

#### 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 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 a 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 to 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.

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<sup>11</sup> TBMA also stated that reporting certain “away from market” transactions would over-state 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.

**6. Extension of Time Period of Commission Action**

The MSRB declines to consent to an extension of the time period specified in Section 19(b)(2) of the Act.

**7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2).**

Not applicable.

**8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**9. Exhibits**

1. Federal Register Notice
2. Notice requesting comment on the July 2006 draft procedures and comment letters

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34- ; File No. **SR-MSRB-2007-01**]

**SELF-REGULATORY ORGANIZATIONS**

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 (the “Act”), 15 U.S.C. 78s(b)(1), and Rule 19b-4, 17 C.F.R. 240.19b-4, notice is hereby given that on June 13, 2007, the Municipal Securities Rulemaking Board (“MSRB”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in items I, II, and III below, which items have been 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 arms-

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 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 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 arms-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 M9c0<sup>1</sup> 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.

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<sup>1</sup> 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 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 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 arms-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 arms-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 arms-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.<sup>2</sup>

### **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

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<sup>2</sup> 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.

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.

#### 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.<sup>3</sup> 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

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<sup>3</sup> 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).

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 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.<sup>4</sup> 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

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<sup>4</sup> 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.

market” trade reports, M2c0<sup>5</sup> and M9c0, do not provide dealers with an extension to the fifteen minute transaction reporting deadline. The purpose of fifteen minute reporting is 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 Exchange Act, 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.

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<sup>5</sup> 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.

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 the proposed rule change will impose any burden on competition since it would apply equally to all brokers, dealers and municipal securities dealers.

**C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change by 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 change<sup>6</sup> ("July 2006 draft procedures").<sup>7</sup> 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

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<sup>6</sup> See MSRB Notice 2006-20 (July 31, 2006).

<sup>7</sup> 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.

procedure was included in the proposed rule change to address a special trading situation that arose on April 6, 2007, Good Friday.<sup>8</sup>

The MSRB received comments on the July 2006 draft procedures from the following two commentators:<sup>9</sup>

The Bond Market Association (“TBMA”)<sup>10</sup>

First Southwest Company (“First Southwest”)

#### 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

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<sup>8</sup> 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).

<sup>9</sup> A copy of the notice requesting comment on the July 2006 draft procedures and comment letters is included as Exhibit 2.

<sup>10</sup> TBMA has since merged with the Securities Industry Association and is now the Securities Industry and Financial Markets Association (“SIFMA”).

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.<sup>11</sup>

#### 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 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

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<sup>11</sup> TBMA also stated that reporting certain “away from market” transactions would over-state 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.

trades. The MSRB notes that dealers are required to only provide either a dollar price or yield on customer transactions in a 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 to 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**

The MSRB proposes an effective date for the proposed rule change of January 2, 2008. 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.

#### **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 Exchange 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](mailto: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, Station Place, 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. 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 within **[insert date twenty-one days from publication in the Federal Register]**.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Nancy M. Morris

Secretary

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<sup>12</sup> 17 CFR 200.30-3(a)(12).



## MSRB NOTICE 2006-20 (JULY 31, 2006)

### REQUEST FOR COMMENT ON DRAFT PROCEDURES FOR REPORTING SPECIAL CONDITION INDICATORS FOR CERTAIN SPECIAL TRADING SITUATIONS

[Home Page](#) | [Back](#)

The MSRB is requesting comment on proposed revisions to the transaction reporting procedures used by brokers, dealers and municipal securities dealers ("dealers") for certain special trading situations. The proposed revisions would: (i) clarify transaction reporting requirements and require use of the existing "away from market" special condition indicator on trade reports of four types of transactions typically executed at special prices; (ii) create two new special condition indicators for purposes of reporting certain inter-dealer transactions "late;" and (iii) provide an end-of-day exception from real-time transaction reporting for trade reports identified as "away from market."

The proposed revisions to transaction reporting procedures are described below and include draft amendments to Rule G-14 RTRS Procedures and draft technical specifications (click here to access the draft technical specifications). Comments should be submitted no later than September 15, 2006 and may be directed to Justin R. Pica, Uniform Practice Specialist. Written comments will be available for public inspection.

#### BACKGROUND

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

#### TRANSACTIONS EXECUTED WITH SPECIAL PRICING CONDITIONS

The MSRB has identified four trading scenarios that have generated questions from dealers and users of the MSRB price transparency products. Each of the four trading scenarios described below represents situations where the transaction executed is not a typical arms-length transaction negotiated in the secondary market (which is typically a better indicator of the market value of a security). The draft procedures would require dealers to report the transactions identified in the trading scenarios with the existing *M9cc* "away from market" special condition indicator.[1] 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.

##### Auction Agent Instruction to Program Dealer

After an auction is conducted for municipal auction rate securities ("ARS") with multiple program dealers, the auction agent instructs transactions to be made between program dealers pursuant to the auction results. A program dealer whose clients, which may include both customers and non-program dealers, have sold securities will need to transfer the securities to another program dealer whose clients have bought securities. This allows program dealers to balance their client accounts with the auction results. The draft procedures clarify that program dealers would be required to report any transaction between program dealers pursuant to the instruction of an auction agent with the *M9cc* special condition indicator.[2]

##### Repo 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 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. The draft procedures clarify that both the sale and purchase transactions resulting from a repo would be required to be reported with the *M9cc* special condition indicator.[3]

#### UIT-Related Transactions

Dealers sponsoring Unit Investment Trust ("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, may not necessarily be at market price. The draft procedures would clarify that dealers are required to report the subsequent transfer of securities from the accumulation account to the UIT with the *M9cc* 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 draft procedures would clarify that dealers are required to report the transfers of securities into the derivative trust and the transfer of securities back to the customer upon liquidation of the trust using the *M9cc* special condition indicator.

### **INTER-DEALER TRANSACTIONS REPORTED LATE**

Inter-dealer transaction reporting is accomplished by both the purchasing and selling dealers submitting the trade to the National Securities Clearing Corporation (NSCC) automated comparison system (RTTM) following NSCC's procedures. RTTM forwards information about the transaction to RTRS. The two inter-dealer trade processing situations described below are the subject of dealer questions and currently result in dealers being charged with "late" reporting. The draft procedures would create a new special condition indicator for each scenario, allowing dealers to report these types of transactions without receiving a late error.

#### 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 the dealers 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 result in a late trade report.

The draft procedures 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 of trade that the original trade was executed. Both dealers would be required to include a special condition indicator that would cause RTRS not to score either dealer late. RTRS would disseminate the trade reports without an indicator and the trade report would reflect the original trade date and time.

#### 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 comparison with its contra-party.

The draft procedures would require the dealer that originally submitted information to RTTM to resubmit identical information 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 special

condition indicator that would cause RTRS not to score the dealer late. The indicator may only be used by a dealer resubmitting the exact same trade information for the same trade. For example, the contra-party that failed to submit its side to the trade accurately, thus preventing comparison of the transaction, may not use the indicator. RTRS would disseminate the trade without an indicator once it compares 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, *M9cc* and *M2cc*,<sup>[4]</sup> do not provide dealers with an extension to the fifteen minute transaction reporting deadline. The purpose of fifteen minute reporting is to provide real-time price transparency. Transactions that are not included on price transparency products 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 described in this notice require manual processing on behalf of dealers or use of different trade processing systems. Therefore, the MSRB proposes to provide an end-of-day exception from the fifteen minute transaction reporting deadline for any transaction that includes the *M9cc* or *M2cc* special condition indicator.

#### **REQUEST FOR COMMENT**

Comment is requested on the proposed revisions to the transaction reporting procedures. The following questions may be helpful to commentators and would assist the MSRB in considering its action on the proposal.

- The MSRB believes that a period of six months following the publication of final Specifications should be adequate for dealer programming and implementation of the proposals in this notice. The MSRB recognizes that the industry prefers to institute multiple RTRS system changes on a single implementation date because it is less costly and more efficient if such changes are effected collectively. Are there major technical or operational challenges to implementation of the proposals that would require a longer lead time?
- The MSRB is sensitive to dealer concerns regarding the number of special condition indicators. Using the existing generic *M9cc* special condition indicator on transactions executed at special prices has the advantage of not creating additional indicators. However, the generic indicator does not provide the MSRB with the flexibility of including such trade reports in price transparency products with a specific explanation of why the price may not be at market price. Would a new special condition indicator specific to any of the special trading situations described, which would give the MSRB the option to publish trade reports with the indicator, be useful to users of the price transparency products?

Questions about this notice may be directed to Justin Pica, Uniform Practice Specialist or Jay Jackson, Uniform Practice Assistant.

July 31, 2006

\* \* \*

Text of Draft Amendment\*

Rule G-14 RTRS Procedures

(a) General Procedures.

(i) No change.

(ii) Transactions effected with a Time of Trade during the hours of the RTRS Business Day shall be reported within 15 minutes of Time of Trade to an RTRS Portal except in the following situations:

(A) – (C) No Change.

(D) A dealer effecting a trade with a special pricing condition as described in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions shall report such trades by the end of the day on which the trade is executed.

(E) A dealer reporting a "VRDO ineligible on trade date" as described in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions shall report such trades by the end of the day on which the trade becomes eligible for automated comparison by a clearing agency registered with the Commission.

(F) A dealer reporting a "resubmission of an RTTM cancel" as described in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions shall resubmit trade information identical to the trade information cancelled to the Message Portal or RTTM Web by the end of the RTRS Business Day following the day the trade was cancelled.

(iii) – (vi) No change.

(b) No change.

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[1] See *Specifications for Real-Time Reporting of Municipal Securities Transactions*, Section 4.3.2 and Appendix B.2. The MSRB also proposes a technical change in the draft procedures to rename the *M9cc* special condition indicator from "away from market" to "special price."

[2] The existing transaction reporting procedures are clear that a program dealer's transactions with customers and non-program dealers must be reported as "normal" purchase-sale transactions using the appropriate special condition indicator, as applicable.

[3] The MSRB has previously stated that it would amend the RTRS procedures to add a special condition indicator for these transactions. See "Rule G-14: Reporting of Transactions Arising from Repurchase Agreements," MSRB Notice 2004-19 (June 18, 2004).

[4] The *M2cc* special condition indicator, away from market (extraordinary settlement), is used to identify transactions where the price differs substantially 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. The MSRB also proposes a technical change in the draft procedures to rename the *M2cc* special condition indicator from "away from market (extraordinary settlement)" to "special price (extraordinary settlement)."

\* Underlining indicates additions.

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**Alphabetical List of Comment Letters on MSRB Notice 2006-20 (July 31, 2006)**

1. The Bond Market Association: Letter to Justin Pica, MSRB, from Leslie M. Norwood, Vice President and Assistant General Counsel (September 15, 2006)
2. First Southwest Company: Letter to Justin Pica, MSRB, from Richard A. DeLong, Senior Vice President, Municipal Trading and Underwriting (September 13, 2006)

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September 15, 2006

Mr. Justin Pica  
Uniform Practice Specialist  
Municipal Securities Rulemaking Board  
1900 Duke Street, Suite 600  
Alexandria, VA 22314

RE: MSRB Notice 2006-20: Draft Procedures for Reporting Special Condition Indicators for Certain Special Trading Situations

Dear Mr. Pica,

The Bond Market Association ("Association")<sup>1</sup> appreciates this opportunity to respond to the notice ("Notice") issued by the Municipal Securities Rulemaking Board ("MSRB") on July 31, 2006<sup>2</sup> in which the MSRB requests comment on draft procedures for reporting special condition indicators for certain special trading situations of transactions reported to the MSRB's Real-time Transaction Reporting System ("RTRS"). The stated intent of the proposal was to: (i) clarify transaction reporting requirements and require use of the existing "away from market" special condition indicator on trade reports of four types of transactions typically executed at special prices; (ii) create two new special condition indicators for purposes of reporting certain inter-dealer transactions "late"; and (iii) provide an end-of-day exception from real-time transaction reporting for trade reports identified as "away from market." The stated purposes of the MSRB's transaction reporting program for municipal securities are to serve the dual roles of providing price transparency and supporting market surveillance.<sup>3</sup> Many of the proposed changes below would create issues such as the double-counting of trades, reporting of trades which occur at an off-market price by design and the reporting of variable rate and auction rate securities which necessarily trade at par. These proposed changes do not enhance the

<sup>1</sup> The Association is a trade association that represents approximately 200 securities firms, banks and asset managers that underwrite, trade and invest in fixed-income securities in the United States and in international markets. Fixed income securities include U.S. government and federal agency securities, municipal bonds, corporate bonds, mortgage-backed and asset-backed securities, money market instruments and funding instruments such as repurchase agreements. More information about the Association and its members and activities is available on its website [www.bondmarkets.com](http://www.bondmarkets.com). The Association is expected to merge with the Securities Industry Association in November 2006. More information about the SIA and its members and activities is available on its website [www.sia.com](http://www.sia.com).

<sup>2</sup> MSRB Notice 2006-20.

<sup>3</sup> MSRB Notice 2003-23.

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stated goals of the MSRB's transaction reporting system by increasing price transparency. Additionally, the audit and surveillance of these transactions and related transfers of securities have been adequately handled by the current examination processes of the regulators.

1. *Transactions Executed with Special Pricing Conditions*

Many of the proposed changes to the Specifications for Real-time Reporting of Municipal Securities Transactions require the reporting of transaction types that until now were not required to be reported to RTRS. Requiring the reporting of these transactions, particularly with special, and likely manual, processing needs such as the addition of the special condition indicator, will take dealers a significant amount of time and resources to implement. The expansion of the use of the special condition indicator, M9cc, in these transactions will allow the MSRB to suppress dissemination of the transparency report on these transactions and thereby prevent publication of a misleading price or otherwise mark the transactions as "off market price." The Association, however, fails to see the benefit of requiring the reporting of these trades and forcing dealers to expend resources to implement these changes, taking into account that there is no benefit to the users of RTRS information looking for information on price transparency due to the fact that the MSRB will suppress dissemination of any transaction with this flag. It is also important to note that the costs of implementing these changes are not solely internal to the dealer, but also result in an increase in transaction assessments dealers will be required to pay the MSRB pursuant to Rule A-13(c) due to additional types of transactions required to be reported to RTRS.

a. *Auction Agent Instruction to Program Dealer*

After an auction is conducted for municipal auction rate securities ("ARS") with multiple program dealers, the auction agent instructs transactions to be made between program dealers pursuant to the auction results. Such transfers of securities are made merely to allow the program dealers collectively to balance their client accounts, taking into account the auction results. A program dealer whose clients have sold securities will need to transfer the securities to another program dealer whose clients have bought securities. It is the view of the Association that more investigation is required by the MSRB regarding auction rate securities processing before requiring the reporting of any transaction between program dealers pursuant to the instruction of an auction agent, particularly transactions with a special condition indicator.

Dealers are handling these transfers currently two ways. Some dealers believe that the transfer between the two program dealers is a mere delivery of securities, not reflective of a purchase-sale transaction. These dealers do not process these transfers through the National Securities Clearing Corporation (NSCC) automated comparison system

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(RTTM), but instead clear such transfers through DTCC. The rationale of such treatment is that the reporting of such transfers of securities would overstate the volume of transactions occurring in the relevant security. Other dealers send all transfers and transactions of auction rate securities to RTTM for trade matching. Some dealers mark those transactions for RTTM only (/DEST01) and others mark the transactions for reporting through to RTRS (/DEST01/DEST02). For uniformity sake, we propose that those dealers that do send auction rate securities transactions to RTTM do so for RTTM purposes only (/DEST01). Depending on arrangements with a particular auction agent, auction results are commonly received by the dealer from the auction agent without an indication of whether a particular movement of securities from one program dealer to another is as a result of a bona fide purchase-sale transaction or the mere movement of securities to balance client accounts. This lack of information from the auction agent makes adding a special condition indicator impossible. Additionally, the volume of auction rate securities transfers is so great that even if these transfers were identifiable, flagging certain transactions with special indicators would be operationally impossible (because it would require manual addition of the indicators in a currently automated process). Finally, transactions of auction rate securities as a result of an auction are always at par, thus the only information gleaned from the reporting of these transactions is the volume of the market. The Association believes that changing reporting systems for these securities would require dealers to expend significant resources resulting in no benefit to the users of RTRS information for price transparency information.

*b. Repo Transactions*

Some dealers have programs allowing customers to finance municipal securities positions through repurchase transactions and some dealers finance their own municipal securities inventory through general collateral repurchase transactions (both generally "repos"). Repos in the first context (customer financing) consist of two parts whereby a dealer will purchase securities from a customer and agree to resell the securities on a future date at a pre-determined price that will include an agreed-upon financing rate. Repos in the second context (dealer financing) consist of two parts whereby a dealer will sell securities to a customer and agree to repurchase the securities on a future date at a pre-determined price that will include an agreed-upon rate of return. Due to the structure of repo transactions and their nature as financing vehicles, typically neither of the two component transfers is executed at a current market price. The MSRB itself has recognized that repo transactions function as a financing agreement and the underlying transactions are not necessarily at market prices.<sup>4</sup>

In the scenario of dealers financing their own municipal securities inventory through general collateral repos, it is important to note that these transactions are sometimes

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<sup>4</sup> See "Rule G-14: Reporting of Transactions Arising From Repurchase Agreements," MSRB Notice 2004-19 (June 18, 2004).

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executed at the asset-class level, and not a specific CUSIP or security level. More specifically, in a general collateral repo trade a dealer will borrow money from a customer and agree to deliver them an equal amount, plus a margin, of municipal bonds or some other bilaterally agreed-upon asset class (such as corporate bonds, US Treasury Bonds, etc.). The repo interest rate for each different asset class is determined according to quality, market supply and market demand. The actual delivery typically settles through a tri-party agent. In this general collateral tri-party flow, the collateral is priced by external vendors contracted by the tri-party agent. Collateral allocation details are then sent back to dealers typically very late in the day. This makes it even more difficult systematically for dealers to report such transfers and makes such information even less meaningful for municipal securities price transparency purposes.

Additionally, repo transactions in most, if not all, broker dealers are entered into and processed through different systems and processes than typical municipal bond trades. For instance, repo component transactions are not processed through RTTM. Requiring reporting of municipal repo component transactions will require substantial operational changes at dealer institutions in order to properly report these transactions to the MSRB. Therefore, because requiring the reporting of repo transactions will be operationally burdensome and have no price transparency benefits for users of the RTRS information, repo transactions should not be required to be reported to RTRS.

It is interesting to note that, for purposes of TRACE reporting to the NASD on corporate bond transactions, bona fide properly documented repo transactions of TRACE-eligible bonds are not viewed as transactions in the secondary market for the purchase and sale of corporate bonds, but, rather, as financing transactions for members.<sup>5</sup> Thus, such transactions are not reportable to TRACE.

*c. UIT-Related Transactions*

Dealers sponsoring Unit Investment Trust ("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 typically done at a market rate and are reported normally. Transfers of securities out of the accumulation account and into the UIT, however, are not necessarily at market price. In these transactions the dealer is acting merely as a placement agent. The relevant information for RTRS price transparency users is the market price at which the securities were originally purchased. The transfer of securities from the accumulation account into the UIT is not a purchase-sale transaction, but is a mere delivery. Requiring the reporting of

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<sup>5</sup><http://www.nasd.com/RegulatorySystems/TRACE/FrequentlyAskedQuestions/RulesCompliance/index.htm#answer6>

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these transactions would also cause an overreporting of the volume of transactions that is occurring for that particular security.

*d. 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 draft procedures would state that dealers are required to report the transfers of securities into the derivative trust and the transfer of securities back to the customer upon liquidation of the trust using the special condition indicator, even though these transfers are not purchase-sale transactions and are mere deliveries of securities. The Association does not see any value for price transparency users of RTRS in reporting these transfers. Additionally, TOB Programs are typically run by different desks at dealer firms than those which handle typical municipal bond transactions and are thus not in the same processing flow as typical municipal bond transactions. These transfers are not submitted to NSCC for trade matching and settlement. The Association believes that TOB Program-related transactions should not be required to be reported to the MSRB because of their lack of value for price transparency purposes, particularly when the lack of price transparency value is weighed against the burdens of the systems changes that will need to be effected.

*2. Inter-dealer Transactions Reported Late*

Inter-dealer transaction reporting is accomplished by both the purchasing and selling dealers submitting the trade to the RTTM following NSCC’s procedures. RTTM forwards information about the transaction to RTRS. The two inter-dealer trade processing situations described below are the subject of dealer questions and currently result in dealers being charged with “late” reporting. The Association supports the proposed changes reflected in the draft procedures which would create a new special condition indicator for each scenario, allowing dealers to report these types of transactions without receiving a late-reporting error.

*a. 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 the dealers 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 result in a late trade report.

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The draft procedures 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 of trade that the original trade was executed. Both dealers would be required to include a special condition indicator that would cause RTRS not to score either dealer late. Although the Association supports the creation and use of a new special condition indicator to mark VRDO trades ineligible on trade date, the Association believes that the special condition indicator should be also available to be used on customer trades. This indicator should be available for customer trades as well, because even though the MSRB doesn't require final moneys to be calculated on trade date for customer trades, many trading systems do.

*b. 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 comparison with its contra-party. The draft procedures would require the dealer that originally submitted information to RTTM to resubmit identical information 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 special condition indicator that would cause RTRS not to score the dealer late.

The Association applauds the MSRB for this recognition that dealers who have been properly resubmitting trades that failed to compare due to no fault of their own have been scored with late trade reports, and for this resolution to this issue through the creation of a new special condition indicator. We would like to work with the MSRB regarding the implementation of such an option.

*3. End-of-Day Deadline for "Away From Market" Trade Reports*

The Association is pleased that the MSRB is proposing to provide an end-of-day exception from the fifteen minute transaction reporting deadline for any transaction that includes the M9cc or M2cc special condition indicator. Currently, the two special condition indicators used to identify "away from market" trade reports, M9cc and M2cc, do not provide dealers with an extension to the fifteen minute transaction reporting deadline. The purpose of fifteen minute reporting is to provide real-time price transparency. Transactions that are not included on price transparency products are not relevant to the price 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

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situations described in this notice require manual processing on behalf of dealers or use of different trade processing systems.

4. *Response to MSRB's Specific Questions*

a. *Timing of Implementation*

The Association has stated in previous comment letters that it prefers to institute multiple RTRS system changes on a single implementation date because it is less costly and more efficient if such changes are effected collectively. We have previously stated that July 31, 2007 would be an appropriate date for the implementation of various RTRS changes because that was the anticipated date of the rollout of the DTCC New Issue Information Dissemination System (NIIDS) project. The Association believes that a period of at least nine months following the publication of final Specifications, as long as that date is not earlier than July 31, 2007, is needed to implement the proposals in this Notice regarding special condition indicators due to the technical and operational challenges to implementation of the proposal. The Association also believes it is important to note that many dealer firms have freezes on systems changes at various points throughout the year, and that common times for such freezes are year end (December into January) and June (for the annual rebalancing of certain market indices). These time frames would best be avoided as required implementation dates.

b. *Number of Indicators*

The Association appreciates the MSRB's recognition of the complexity that is added to trade reporting with more special condition indicators. The Association supports using the existing generic M9cc special condition indicator on transactions executed at special prices so that the creation of additional indicators is not necessary. Although we recognize that the generic indicator does not provide the MSRB with the flexibility of including such trade reports in price transparency products with a specific explanation of why the price may not be at market price, we believe that such information is not indicative of market conditions or otherwise helpful to users of the MSRB's price transparency products.

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We look forward to discussing these issues further with the MSRB Board and staff and appreciate your consideration of our comments on this proposal. Please contact the undersigned at 646.637.9230 or via email at [Lnorwood@bondmarkets.com](mailto:Lnorwood@bondmarkets.com) with any questions that you might have.

Sincerely,

/s/ Leslie M. Norwood

Leslie M. Norwood  
Vice President and  
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cc: ***Municipal Securities Rulemaking Board***  
Mr. Christopher Taylor, Municipal Securities Rulemaking Board  
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September 13, 2006

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**RE: MSRB NOTICE 2006-20 (JULY 31, 2006) – REQUEST FOR COMMENT ON DRAFT PROCEDURES FOR REPORTING SPECIAL CONDITION INDICATORS FOR CERTAIN SPECIAL TRADING SITUATIONS.**

Dear Mr. Pica:

First Southwest would like to thank the MSRB for the opportunity to respond to the "Request for Comment" MSRB Notice 2006-31 Procedures for Reporting Special Condition Indicators for Certain Special Trading Situations. Our comments relate specifically to the VRDO Ineligible on Trade Date issue contained within this proposal. The MSRB correctly identifies the problem associated with VRDO issues when a rate change occurs between trade date and settlement date. The trade cannot be reported through RTTM because the accrued interest can't be computed until the new rate is reset, resulting in a late trade.

The Board is requesting comments on a proposed revision to the trade reporting procedures requiring the trades to be reported at the end of the day on the rate reset date with a special condition indicator. While this would remedy the late trade issue, it would add to the burden of reporting trades with special indicators. Since the vast majority of VRDO trades occur at par, the reporting is of little value to the investing public. The trades that occur away from par could be reported with an away from market indicator, which would make them easier to identify, as this information would be useful to market participants. A complete exemption for VRDO issues that trade at par should be considered.

Sincerely yours,

A handwritten signature in black ink that reads 'Richard A. DeLong'.

Richard A DeLong  
Senior Vice President  
Municipal Trading and Underwriting