

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-85752; File No. SR-MSRB-2019-09)

April 30, 2019

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Eliminate MSRB Rule G-29, on Availability of Board Rules

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 19, 2019 the Municipal Securities Rulemaking Board (“MSRB”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been 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 filed with the Commission a proposed rule change seeking to eliminate MSRB Rule G-29, requiring that each broker, dealer and municipal securities dealer shall keep in each office in which any of the activities set forth in rule G-3(a)(i)<sup>3</sup> of the Board are conducted,

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> MSRB Rule G-3(a)(i) regarding professional qualification requirements provides:

(a) Municipal Securities Representative, Municipal Securities Sales Limited Representative and Limited Representative - Investment Company and Variable Contracts Products.

(i) Definitions.

(A) The term “municipal securities representative” means a natural person associated with a broker, dealer or municipal securities dealer, other than a person

a copy of all rules of the Board as from time to time in effect and shall make such rules available for examination by customers promptly upon request (the “proposed rule change” or “amendment”).

The MSRB has designated the proposed rule change for immediate effectiveness and will be effective upon filing pursuant to Section 19(b)(3)(A) of the Act<sup>4</sup> and Rule 19b-4(f)(6) thereunder.<sup>5</sup> The operative date of the proposed rule change will not be less than 30 days from the date of filing and will be announced in an MSRB Notice to be published on the MSRB’s website within 30 days of the date of this filing.

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whose functions are solely clerical or ministerial, whose activities include one or more of the following:

- (1) underwriting, trading or sales of municipal securities;
- (2) financial advisory or consultant services for issuers in connection with the issuance of municipal securities;
- (3) research or investment advice with respect to municipal securities; or
- (4) any other activities which involve communication, directly or indirectly, with public investors in municipal securities;

provided, however, that the activities enumerated in subparagraphs (3) and (4) above shall be limited to such activities as they relate to the activities enumerated in subparagraphs (1) and (2) above.

(B) The term “municipal securities sales limited representative” means a municipal securities representative whose activities with respect to municipal securities are limited exclusively to sales to and purchases from customers of municipal securities.

(C) The term “limited representative – investment company and variable contracts products” means a municipal securities representative whose activities with respect to municipal securities are limited exclusively to sales to and purchases from customers of municipal fund securities.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6).

The text of the proposed rule change is available on the MSRB's website at [www.msrb.org/Rules-and-Interpretations/SEC-Filings/2019-Filings.aspx](http://www.msrb.org/Rules-and-Interpretations/SEC-Filings/2019-Filings.aspx), at the MSRB's principal office, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

Background

Rule G-29 generally requires dealers to keep a copy of all MSRB rules in offices that conduct any of the municipal securities activities defined in Rule G-3(a)(i) and make them available for examination by their customers upon request. The rule was designed to facilitate compliance with MSRB rules and protect investors by ensuring municipal securities professionals<sup>6</sup> and their customers have access to MSRB rules, including timely updates.<sup>7</sup> The

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<sup>6</sup> As used therein, "municipal securities professional" means persons participating in the activities described in MSRB Rule G-3. See also note 3.

<sup>7</sup> See Notice of Approval of Fair Practice Rules, [1977-1987 Transfer Binder] Municipal Securities Rulemaking Board Manual (CCH) ¶10,090 at 10,494 (Oct. 24, 1978).

rule was originally adopted by the Board in 1977,<sup>8</sup> and has been amended and interpreted, periodically as market practices evolved and other regulatory developments occurred, to ensure the rule remained current and achieved its goal of providing ready access to important MSRB rule information.

For example, when the MSRB published its rulebook electronically, the Board issued interpretive guidance noting that dealers could comply with Rule G-29 by giving customers access to the rules either in printed form, or electronically via the MSRB internet website ([www.msrb.org](http://www.msrb.org)) or using third party software products.<sup>9</sup> This guidance also reminded dealers that MSRB Rule G-27, on supervision, requires a dealer to supervise the conduct of its municipal securities business and the municipal securities activities of its associated persons to ensure compliance with Rule G-29, including how the dealer provides its offices with the most current version of the rules once they are in effect so that its municipal securities professionals are alerted to new developments. A short time later, the Board issued a notice highlighting the SEC's guidance regarding the delivery of electronic information.<sup>10</sup> The notice again notes that

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<sup>8</sup> See File No. SR-MSRB-77-12 (Sept. 20, 1977). The SEC approved Rule G-29 in Release No. 34-15247 (Oct. 19, 1978), 43 FR 50525 (Oct. 30, 1978).

<sup>9</sup> See Rule G-29 Interpretive Notice — Availability of Board Rules, May 20, 1998, MSRB Reports, Vol. 18, No. 2 (August 1998) at 37. This notice was also updated, effective January 1, 2014, to reflect the discontinuation of the MSRB's printed version of the MSRB Rule Book.

<sup>10</sup> On May 9, 1996, the Commission issued a Release expressing its views on the use of electronic media for delivery of information by, among others, brokers and dealers. The Commission stated that brokers, dealers and others may satisfy their delivery obligations under federal securities laws by using electronic media as an alternative to paper-based media within the framework established in the 1995 SEC Release on the use of electronic media for delivery purposes. Securities Act Release No. 7288, Exchange Act Release No. 37182 (May 9, 1996), 61 FR 24644 (May 15, 1996).

electronic media may be used by dealers in satisfying their obligations under MSRB rules, including Rule G-29.<sup>11</sup>

Most recently, as part of its retrospective rule review, the Board considered whether amendments to the rule were needed to address changing practices in the municipal securities market. In doing so, the Board recognized that while its interpretive guidance somewhat modernized how dealers could continue to comply with Rule G-29 (i.e., providing for access to MSRB Rules via electronic media), the rule was no longer necessary for purposes of ensuring municipal securities professionals and their customers have ready access to current MSRB rules, which formed the basis for the proposed rule change.<sup>12</sup>

#### Proposed Rule Change

The proposed rule change seeks to eliminate Rule G-29 and would contribute to the MSRB's continuing efforts to improve market efficiency by eliminating unnecessary regulatory requirements that no longer serve their original purpose of helping to prevent a market harm.

Because access to the internet is more widespread and often necessary to conduct municipal securities activities in today's markets, MSRB rules and relevant updates, including on the MSRB's internet website, are more accessible and readily available to both municipal securities professionals and their customers than provided for under Rule G-29. That is, investors are currently more likely to access MSRB rules electronically on their own, as opposed to requesting to review them under the provisions of the rule. In addition, while Rule G-29 generally requires that dealers make MSRB rules available to customers, upon request, the rule is somewhat limiting in that a customer's access to the information likely depends on whether a

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<sup>11</sup> See [Rule G-32 Interpretation — Notice Regarding Electronic Delivery and Receipt of Information by Brokers, Dealers and Municipal Securities Dealers, November 20, 1998](#).

<sup>12</sup> See [MSRB Informational Notice 2019-04](#).

customer knows they can access the information pursuant to the provisions under the rule. In other words, there currently is no requirement under Rule G-29 that dealers inform customers of their ability to request to review MSRB rules to which they are required to provide access. Additionally, there are other MSRB rules that promote ready access to MSRB rule information. For example, MSRB Rule G-10 generally requires, among other things, that once a year, dealers and municipal advisors, provide in writing (which may be electronic) to each customer, information on how to access the MSRB internet website, which provides access to all MSRB rules and updates. More specifically, under Rule G-10 customers and municipal advisory clients must be provided a statement that their dealers or municipal advisors are registered with the SEC and the MSRB, the MSRB's internet website address, and a statement about the availability of a brochure, posted on the MSRB's website, that describes the protections that may be provided by the MSRB's rules and how to file a complaint with an appropriate regulatory authority. The requirements set forth in Rule G-10 effectively remind customers and municipal advisory clients about the MSRB's website, which provides access to more than just the MSRB rule information specified under Rule G-29. For these reasons, the MSRB believes that the proposed rule change would have little effect on municipal securities professionals' or their customers' ability to access MSRB rules.

Finally, as previously discussed, MSRB guidance makes clear that MSRB Rule G-27, on supervision, requires each dealer to supervise the conduct of its municipal securities activities to ensure compliance with Rule G-29. It is the MSRB's understanding that dealers typically comply with Rule G-29 by virtue of providing access to the internet in offices conducting municipal securities activities but may lack the required supervisory procedures detailing the process by

which they ensure compliance with the rule.<sup>13</sup> Thus, the MSRB believes that the proposed rule change will not only eliminate unnecessary rule provisions but will also reduce supervisory burdens for dealers, without hampering access to MSRB rule information for customers or municipal securities professionals' ability to comply with regulatory requirements.

## 2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(C) of the Act,<sup>14</sup> which provides that the MSRB's rules shall:

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

Specifically, the proposed rule change would remove regulatory burdens on dealers by recognizing that there is no longer a market harm that the rule seeks to prevent. By eliminating a rule that no longer resolves a market harm, the proposed rule change removes impediments to and perfects the mechanism of a free and open market by more appropriately responding to actual market practices, reducing regulatory burdens and thus focusing on compliance with a more appropriate and beneficial process by which MSRB rule information is made available and accessed consistent with current practices. Eliminating Rule G-29 also has no effect on investor

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<sup>13</sup> The MSRB intends to include in the notice announcing the operative date of the elimination of Rule G-29 a statement that, to the extent any MSRB guidance references Rule G-29, that guidance, as it concerns Rule G-29 and any related supervisory requirements, will no longer be applicable.

<sup>14</sup> 15 U.S.C. 78o-4(b)(2)(C).

protection because MSRB rule information remains readily available to municipal securities professionals and their customers.

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

Section 15B(b)(2)(C) of the Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.<sup>15</sup> The MSRB notes that its policy on economic analysis limits its applications regarding rules for which the Board seeks immediate effectiveness.<sup>16</sup> As previously discussed, the MSRB does not believe the proposed rule change would result in delayed access to MSRB rule information for customers or hamper municipal securities professionals' ability to comply with regulatory requirements but instead reduces a burden for dealers that is no longer deemed necessary.

The MSRB also considered the alternative of modernizing Rule G-29 but, given the ease with which the MSRB rulebook can be accessed electronically, the fact investors receive annual disclosures, including the location of the MSRB's internet website, under Rule G-10, and the widespread availability and use of the internet by both investors and those conducting municipal

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<sup>15</sup> Id.

<sup>16</sup> The scope of the Board's policy on the use of economic analysis in rulemaking provides that:

[t]his Policy addresses rulemaking activities of the MSRB that culminate, or are expected to culminate, in a filing of a proposed rule change with the SEC under Section 19(b) of the Exchange Act, other than a proposed rule change that the MSRB reasonably believes would qualify for immediate effectiveness under Section 19(b)(3)(A) of the Exchange Act if filed as such (e.g., fee filing or facility filing) or as otherwise provided under the exception process of this Policy.

Policy on the Use of Economic Analysis in MSRB Rulemaking, available at <http://msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx>. For those rule changes which the MSRB seeks immediate effectiveness, the MSRB usually focuses exclusively its examination on the burden of competition on regulated entities.

securities activities, the MSRB currently believes the existence of Rule G-29 would continue to result in unnecessary supervisory burdens, while providing limited benefits to municipal securities professionals or customers.

The MSRB also believes that the costs associated with compliance with the regulatory requirements and elimination of Rule G-29 are negligible, given the MSRB rulebook is accessible on its website at no cost, and internet services are universally available in municipal securities offices. However, the proposed rule change would nevertheless reduce costs for dealers as they would no longer be required to continue to maintain supervisory procedures and conduct supervisory reviews to ensure compliance with existing Rule G-29.

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

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act<sup>17</sup> and Rule 19b-4(f)(6)<sup>18</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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<sup>17</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

#### IV. Solicitation of Comments

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

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2019-09 on the subject line.

##### Paper Comments:

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

All submissions should refer to File Number SR-MSRB-2019-09. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change. Persons submitting comments are

cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-2019-09 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, pursuant to delegated authority.<sup>19</sup>

Eduardo A. Aleman  
Deputy Secretary

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<sup>19</sup> 17 CFR 200.30-3(a)(12).