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Affected Rules

[Rule G-3](#), [Rule G-16](#),
[Rule G-27](#)

MSRB Provides Additional Regulatory Relief During COVID-19 Pandemic

Overview

The Municipal Securities Rulemaking Board (MSRB) filed a proposed rule change with the U.S. Securities and Exchange Commission (“SEC” or “Commission”) to provide additional regulatory relief on a temporary basis to brokers, dealers and municipal securities dealers (“dealers”) and municipal advisors (collectively, “regulated entities”) in light of the operational challenges that continue due to the sustained coronavirus (COVID-19) pandemic.¹

In an effort to afford regulated entities an opportunity to better manage and allocate resources, the proposed rule change will (i) allow internal inspections of dealers to be conducted remotely, subject to certain conditions, for calendar year 2020 and calendar year 2021, without an on-site visit to the office or location; (ii) provide a temporary extension of time for registered securities associations² and appropriate regulatory agencies³ (collectively, “examining authorities”) to initiate periodic examinations of dealers; (iii) further extend the period of time for

¹ The MSRB provided temporary relief to regulated entities earlier this year. See Release No. 34-88694 (April 20, 2020), 85 FR 23088 (April 24, 2020) (File No. SR-MSRB-2020-01) (“April relief”); and Release No. 34-88986 (June 1, 2020), 85 FR 34661 (June 5, 2020).

² Section 15B(c)(7) of the Securities Exchange Act of 1934 (“Exchange Act”) provides that periodic examinations of municipal securities brokers and municipal securities dealers shall be conducted by a registered securities association, in the case of municipal securities brokers and municipal securities dealers that are members of such association. The Financial Industry Regulatory Authority (FINRA) is currently the only registered securities association. See 15 U.S.C. 78o-4(c)(7).

³ Pursuant to Section 15B(c)(7) of the Exchange Act, municipal securities brokers and municipal securities dealers who are not members of a registered securities association shall be examined by their appropriate regulatory agency. The term “appropriate regulatory agency” when used with respect to municipal securities dealers means, in part, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB) and the Federal Deposit Insurance Corporation (FDIC). See 15 U.S.C. 78c(a)(34)(A). The Commission also has the authority to examine all registered municipal securities dealers. See 15 U.S.C. 78q(b)(1).



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individuals who meet the definition of a municipal advisor principal⁴ to pass the Municipal Advisor Principal Qualification Examination (“Series 54 examination”); and (iv) make a technical amendment to Supplementary Material .12 under Rule G-3 to update a cross-reference.

The proposed rule change was filed for immediate effectiveness on December 2, 2020. The MSRB is publishing this notice to outline the temporary relief.

Summary of Temporary Relief

The temporary relief provided by the MSRB is outlined below and does not extend beyond the identified rules and requirements. The MSRB will continue to monitor the operational issues and challenges that regulated entities may be facing due to the continuing pandemic.

Temporary, Conditional Relief to Permit Dealers to Conduct Remote Office Inspections in Calendar Years 2020 and 2021⁵

The proposed rule change amends Supplementary Material .01, Temporary Relief for Completing Office Inspections, of MSRB Rule G-27, to permit dealers to conduct inspections of municipal offices of supervisory jurisdiction, branch offices or non-branch locations remotely, subject to certain conditions, for the calendar year 2020 and 2021, without the need to conduct an on-site visit to such offices or locations.⁶ While dealers do not need to conduct an on-site visit, inspections due to be completed in calendar 2020 must still be completed by the previously extended compliance date of

⁴ “Municipal advisor principal” is defined in Rule G-3(e)(1) to mean a natural person associated with a municipal advisor who is qualified as a municipal advisor representative and is directly engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor and is associated persons.

⁵ The proposed rule change to Supplementary Material .01 is analogous to FINRA’s rule change, which was filed on November 6, 2020 and was effective upon filing. See Release No. 34-90454 (November 18, 2020), 85 FR 75097 (November 24, 2020) (File No. SR-FINRA-2020.04).

⁶ Consistent with Rule G-27(g)(ii)(A)(7), a temporary location established in response to the implementation of a business continuity plan is not deemed a municipal branch office for purposes of complying with inspection obligations.

March 31, 2021; and inspections that a dealer must complete in calendar year 2021 must be completed by December 31, 2021.⁷

If a dealer plans to conduct remote inspections, one of the conditions, as outlined in Supplementary Material .01(b) under Rule G-27, is that the dealer must amend or supplement its written supervisory procedures (“WSPs”) to provide for remote inspections that are reasonably designed to assist in detecting and preventing violations of, and achieving compliance with, applicable securities laws and regulations, and with applicable Board rules. Reasonably designed procedures for conducting remote inspections of offices or locations should include, among other things: (1) a description of the methodology, including technologies permitted by the dealer, that may be used to conduct remote inspections; and (2) the use of other risk-based systems employed generally by the dealer to identify and prioritize for review those areas that pose the greatest risk of potential violations of applicable securities laws and regulations, and of applicable Board rules.

The requirement to conduct inspections of offices and locations is one part of the dealer’s overall obligation to establish and maintain a reasonably designed supervisory system. As provided in Supplementary Material .01(c) under Rule G-27, a dealer must continue with its ongoing review of the activities and functions occurring at all offices and locations, whether or not the dealer conducts inspections remotely. Where a dealer’s remote inspection of an office or location identifies any signs of irregularities or misconduct, (i.e., “red flags”), the dealer may need to impose additional supervisory procedures for that office or location. Such monitoring may include potentially a subsequent physical on-site visit on an announced or unannounced basis, when the dealer’s operational difficulties associated with COVID-19 subside, taking into account national or locality restrictions, as appropriate, and the other business challenges a dealer is facing in light of the public health and safety concerns, make such on-site visit(s) feasible using reasonable best efforts.

Finally, in addition to the documentation requirements under Rule G-27(d)(2), a dealer that chooses to conduct remote inspections in calendar years 2020 and 2021 must make and maintain centralized records for each of calendar year 2020 and calendar year 2021 that identify (a) all offices or locations that were inspected remotely and (b) any offices or locations for

⁷ The temporary relief provided by this Supplementary Material .01 does not extend past December 31, 2021. If the MSRB were to extend the duration of the temporary relief past December 31, 2021, the MSRB would need to submit a separate proposed rule filing to the SEC.

which the dealer determined to impose additional supervisory procedures or more frequent monitoring. These records must also identify the additional supervisory procedures or more frequent monitoring that the dealer imposed as a result of the remote inspection, as applicable.

Further Extension of Time to Complete Certain Professional Qualification Standards

The proposed rule change amends Supplementary Material .09, Temporary Relief for Municipal Advisor Principals, of Rule G-3 to further extend the date by which a person acting in the capacity of a municipal advisor principal is required to become duly qualified with the Series 54 examination to November 12, 2021.⁸ This affords municipal advisors and individuals functioning as municipal advisor principals a full year from the sunseting of the original grace-period,⁹ to continue to engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons, so long as such persons are qualified with the Series 50 examination.

The proposed rule change also includes a technical amendment to Supplementary Material .12, Temporary Relief for Municipal Advisor Continuing Education Requirements, of Rule G-3 to correct a cross-reference under the provision from (i)(ii)(B)(2) to (i)(ii)(B).

⁸ In the April relief, the MSRB provided temporary relief for dealers by permitting any individual qualified to function in the capacity as a municipal securities principal, municipal fund securities limited principal or a municipal securities sales principal additional time to engage in the principal activity before passing the applicable principal-level qualification examination. The April relief extended the requirement to 120 days from the time the MSRB announces that Prometric testing centers have resumed sufficient access to its testing centers. See Rules G-3(b)(ii)(D), G-3(b)(iv)(B)(4) and G 3(c)(ii)(D). The MSRB stated in the April relief that it would publish a notice on its website announcing when Prometric resumes operations in its testing centers, so regulated entities are on notice of when the 120-day period begins to toll. See April relief at *supra* note 1. The MSRB notes dealer firms are still covered under the April relief because, given the exigent circumstances surrounding the sustained pandemic, the MSRB has not yet announced when the obligation to take and pass the applicable principal qualification examination must be completed.

⁹ The MSRB had previously stated, to facilitate the transition to the new exam requirement, the MSRB was providing a one-year grace period, sunsetting on November 12, 2020, during which individuals qualified with the Municipal Advisor Representative Qualification Examination (“Series 50 examination”) would be able to take the Series 54 examination while continuing to engage in principal-level activities. See Release No. 34-84630 (Nov. 20, 2018), 83 FR 60927 (Nov. 27, 2018) (File No. SR-MSRB-2018-07).

Extension of Time for the Periodic Regulatory Compliance Examination

The proposed rule change adopts Supplementary Material .01 of MSRB Rule G-16, on periodic compliance examination. MSRB Rule G-16 provides that each dealer must be examined on a periodic basis by the appropriate examining authority.¹⁰ Supplementary Material .01, Temporary Relief for Completing Periodic Compliance Examinations, would deem any compliance examination initiated between January 1, 2020 and March 31, 2021 to have occurred in calendar year 2020. This temporary extension allows dealers to manage operational challenges during the pandemic and likewise affords examining authorities an opportunity to better manage and allocate resources.

Questions about this notice may be directed to Gail Marshall, Chief Regulatory Officer, at 202-838-1361; Bri Joiner, Director, Regulatory Compliance at 202-838-1347 or Lisa Wilhelmy, Assistant Director, Office of Regulatory Policy and Compliance, at 202-838-1436.

December 2, 2020

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Text of Amendments¹¹

Rule G-3: Professional Qualification Requirements

(a) – (i) No change.

Supplementary Materials .01 - .08 No change.

.09 Temporary Relief for Municipal Advisor Principal. Notwithstanding the requirements of subsection (e)(ii)(A)(2) of this rule, any person who is qualified as a municipal advisor representative pursuant to subsection (d)(ii)(A) of this rule may be designated a municipal advisor principal, as that term is defined under subsection (e)(i) of this rule, provided however that each such person shall be required to take and

¹⁰ Each municipal securities dealer that is a member of FINRA shall be examined at least once every four calendar years and each municipal securities dealer that is a bank, or subsidiary or department or division of a bank must be examined by the appropriate regulatory agency (*i.e.*, OCC, FRB or FDIC) at least once every two calendar years.

¹¹ Underlining indicates new language, strikethrough denotes deletions.

pass the Municipal Advisor Principal Qualification Examination on or before ~~March 31, 2021~~ November 12, 2021.

Supplementary Materials .10 - .11 No change.

.12 Temporary Relief for Municipal Advisor Continuing Education Requirements. Each municipal advisor shall be deemed to have satisfied its Continuing Education obligations for calendar year 2020 if the standards under ~~of subsection (i)(ii)(B)(2)~~ of this rule are completed on or before March 31, 2021.

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Rule G-16: Periodic Compliance Examination

No change.

Supplementary Material .01 Temporary Relief for Completing Periodic Compliance Examinations.

Notwithstanding the requirements of this rule, a periodic compliance examination of any broker, dealer and municipal securities dealer shall be deemed to have occurred in calendar year 2020 if the initiation of such examination(s) occurs any time between January 1, 2020 and March 31, 2021.

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Rule G-27: Supervision

(a) – (g) No change.

Supplementary Material .01 Temporary Relief for Completing Office Inspections to Allow Remote Inspections for Calendar Year 2020 and Calendar Year 2021.

(a) Each dealer obligated to complete an inspection of an office of municipal supervisory jurisdiction, branch office or non-branch location in calendar year 2020 and calendar year 2021 pursuant to, as applicable, subsection (d)(i)(A), (B) and (C) of this rule, shall be deemed to have satisfied such obligation if ~~the applicable inspection(s) are completed on or before March 31, 2021.~~ subject to the requirements of this Supplementary Material .01, may satisfy such obligation by conducting the applicable inspection(s) remotely without an on-site visit to such office(s) or location(s). In accordance with this Supplementary Material .01, the applicable inspection(s) for calendar year 2020 must be completed on or before March 31, 2021 and inspections for calendar year 2021 must be completed on or before December 31, 2021. The temporary relief provided by this Supplementary Material .01 does not extend to a dealer's inspection requirements beyond calendar year 2021 and such inspections must be conducted in accordance with subsection (d)(i)(A), (B) and (C) of this rule. Consistent with subsection (g)(ii)(A)(7) of this rule, a temporary

location established in response to the implementation of a business continuity plan is not deemed an office for purposes of complying with inspection obligations.

(b) Written Supervisory Procedures for Remote Inspections. Consistent with a dealer's obligation under subsection (c)(i) of this rule, a dealer that elects to conduct each of its calendar year 2020 or calendar year 2021 inspections remotely shall amend or supplement its written supervisory procedures as appropriate to provide for remote inspections that are reasonably designed to assist in detecting and preventing violations of, and achieving compliance with, applicable securities laws and regulations, and with applicable Board rules. Reasonably designed procedures for conducting remote inspections of offices or locations should include, among other things: (1) a description of the methodology, including technologies permitted by the dealer, that may be used to conduct remote inspections; and (2) the use of other risk-based systems employed generally by the dealer to identify and prioritize for review those areas that pose the greatest risk of potential violations of applicable securities laws and regulations, and of applicable Board rules.

(c) Effective Supervisory System. The requirement to conduct inspections of offices and locations is one part of the dealer's overall obligation to establish and maintain a supervisory system as prescribed under paragraph (b) of this rule and therefore, the dealer must continue with its ongoing review of the activities and functions occurring at all offices and locations, whether or not the dealer conducts inspections remotely. Where a dealer's remote inspection of an office or location identifies any signs of irregularities or misconduct (i.e., "red flags"), the dealer may need to impose additional supervisory procedures for that office or location or may need to provide for more frequent monitoring of that office or location. Such monitoring may include, potentially a subsequent physical on-site visit on an announced or unannounced basis, when the dealer's operational difficulties associated with COVID-19 subsides, taking into account national or locality restrictions, as appropriate, and the other business challenges a dealer is facing in light of the public health and safety concerns, make such on-site visit(s) feasible using reasonable best efforts.

(d) Documentation Requirement. In addition to the documentation requirements under subsection (d)(ii) of this rule, a dealer that elects to conduct each of its calendar year 2020 or calendar year 2021 inspections remotely, shall make and maintain a centralized record for each of calendar year 2020 and calendar year 2021 that separately identifies: (1) all offices or locations that had inspections that were conducted remotely; and (2) any offices or locations for which the dealer determined to impose additional supervisory procedures or more frequent monitoring, as provided for under paragraph (c) of this Supplementary Material .01. A dealer's documentation of the results of a remote inspection for an office or location must identify any additional supervisory procedures or more frequent monitoring for that office or location that were imposed as a result of the remote inspection.

Supplementary Materials .02 - .03 No change