

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

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

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

**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	<input type="text" value="Justin"/>	Last Name	<input type="text" value="Pica"/>
Title	<input type="text" value="Director, Uniform Practice Policy"/>		
E-mail	<input type="text" value="jpica@msrb.org"/>		
Telephone	<input type="text" value="(703) 797-6600"/>	Fax	<input type="text" value="(703) 797-6700"/>

**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 officer.

Date

By  (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.

The Municipal Securities Rulemaking Board (“MSRB”) is filing this partial amendment to File No. SR-MSRB-2008-07, originally filed on November 18, 2008, with respect to a proposed rule change to establish a transparency system for municipal Auction Rate Securities (“ARS”) and municipal Variable Rate Demand Obligations (“VRDO”) (“Original Filing”). The Original Filing would: (i) implement an electronic system that would collect and disseminate ARS and VRDO information (the “Short-term Obligation Rate Transparency System Proposal”); (ii) provide free public access to information disseminated from the Short-term Obligation Rate Transparency (“SHORT”) System through the MSRB’s Electronic Municipal Market Access (EMMA) system (the “EMMA short-term obligation rate transparency service”); and (iii) amend Rule G-34, on CUSIP numbers and new issue requirements, to require brokers, dealers and municipal securities dealers (collectively “dealers”) to report, or ensure the reporting of, interest rate and descriptive information to the SHORT System about ARS and VRDO following an ARS auction or VRDO interest rate reset. The Original Filing included a proposed effective date of January 30, 2009. This partial amendment modifies the effective date for those parts of the Original Filing that relate solely to VRDO in response to comments received by the Securities and Exchange Commission (“Commission”) from commentators on Securities Exchange Act Release No. 58998 (November 21, 2008), 73 FR 72540 (November 28, 2008) (the “Commission Release”).<sup>1</sup> The language of the proposed amendments included in the Original Filing remains as filed.

### **Description of Amendment**

This partial amendment provides that the proposed amendments to Rule G-34 that relate to VRDO, consisting of subsection (c)(ii) of the proposed amendments to Rule G-34, that were originally proposed to become effective on January 30, 2009 would become effective on April 1, 2009. The proposed January 30, 2009 effective date for the proposed amendments to Rule G-34 that relate to ARS, consisting of subsection (c)(i) of the proposed amendments to Rule G-34, remains unchanged.

### **Discussion of Comments**

Commentators on the Commission Release generally support increasing transparency of ARS and VRDO. RBDA states “the SHORT System will provide the [VRDO] market with much-needed transparency and will be beneficial to [VRDO]

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<sup>1</sup> The Commission received letters from Michael Decker and Mike Nicholas, Co-Chief Executive Officers, Regional Bond Dealers Association (“RBDA”), to Florence E. Harmon, Acting Commission Secretary, dated December 29, 2008; Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (“SIFMA”), to Ms. Harmon, dated December 19, 2008; and Jeffrey A. Schuh, Vice President, Chief Compliance Officer, Wells Fargo Brokerage Services, LLC (“Wells Fargo”), to Ms. Harmon, dated December 18, 2008.

investors and other market participants.” SIFMA “supports the concept of collection and display of auction rate reset and remarketing rate reset information.”

### **Comments on Data Elements**

SIFMA provides several comments relating to specific items of information that would be required to be reported to the MSRB about VRDO under the proposed amendments to Rule G-34. SIFMA notes that very few VRDO have minimum rates and that this data element should therefore be omitted. The MSRB notes that the SHORT System has been designed to accept reports of VRDO in which the minimum rate is unspecified by allowing a dealer to not include a value for the minimum rate. SIFMA also states that some VRDO maximum rates are not stated in official documents for the VRDO or are set pursuant to a formula for which some VRDO maximum rates are not able to be calculated on the day that an interest rate reset occurs. The purpose of the requirement in the proposed amendments to Rule G-34 to report the current maximum rate is to improve the availability of important characteristics of a VRDO that have been set by drafters of official documents for VRDO. Therefore, dealers would be required to report under the proposed amendments to Rule G-34 VRDO maximum rates that are stated in official documents either as absolute values or that are able to be calculated pursuant to formulas on the day of an interest rate reset.<sup>2</sup> For VRDO maximum rates that are not able to be calculated on the day an interest rate reset occurs, the SHORT System has been designed to accept a value of “not calculable.”<sup>3</sup>

SIFMA also states general concerns regarding information that would be required to be reported to the SHORT System about ARS under the proposed amendments to Rule G-34. SIFMA notes that many of the items of information in the proposed amendments to Rule G-34 are provided to dealers by ARS Auction Agents and that dealers are not always able to verify the accuracy of such information. The MSRB acknowledges that many of the items of information about ARS that would be required to be reported to the MSRB under the proposed amendments to Rule G-34 are produced by ARS Auction Agents and that dealers may not always be able to verify the accuracy of such information. Accordingly, the MSRB has designed the SHORT System to accept submissions of information directly from ARS Auction Agents and has incorporated into the proposed amendments to Rule G-34 that dealers “may rely on the accuracy of such information if the [dealer] makes a good faith and reasonable effort to cause the Auction Agent to correct any inaccuracies known to the [dealer].” In the event that an ARS Auction Agent does not submit information directly to the SHORT System but instead a

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<sup>2</sup> The MSRB acknowledges that some VRDO maximum rates are limited by prevailing state law. While the MSRB did not intend for dealers to report state law interest rate caps in the proposed amendments to Rule G-34, the MSRB will continue to review whether transparency of such state law interest rate caps would be of benefit to the municipal securities market.

<sup>3</sup> In addition, the SHORT System also has been designed to accept reports of VRDO in which the maximum rate is unspecified by allowing a dealer to not include a value for the maximum rate.

dealer reports to the SHORT System information it receives from the ARS Auction Agent, the reporting dealer would have a similar responsibility for correcting any inaccuracies known to the dealer in the data provided to it by an ARS Auction Agent. Therefore, so long as the dealer reports the information about the auction as provided by the ARS Auction Agent and fulfills its responsibility to correct known inaccuracies, and the dealer does not itself introduce any inaccuracies to the data submitted, the dealer would be entitled to the same reliance as in the case of a direct submission to the SHORT System by the ARS Auction Agent.

### **Comments on Timing of Implementation**

All three commentators state concerns, however, with implementing and testing an automated system for reporting data about both ARS and VRDO to the MSRB by the proposed January 30, 2009 effective date. Specifically with regard to VRDO, RBDA and Wells Fargo note that there are a high number of VRDO securities and that VRDO interest rates reset frequently. RBDA states that these VRDO characteristics suggest that automated systems would be needed for dealers to “ensure effective implementation and full compliance with requirements associated with the SHORT System.” Wells Fargo notes that it “could implement the alternative solution of manual submission” of VRDO data if automated systems are not able to be implemented by the proposed January 30, 2009 effective date, but “given the potential for errors inherent in high-volume manual processing and the burden it would place on [its] firm, [Wells Fargo] believe[s] this would not be a desirable alternative.” RBDA and SIFMA suggest a new effective date of April 1, 2009.

#### Request for Extension of ARS Effective Date

While the MSRB acknowledges that some dealers may need additional time to perform and test system changes to report data to the MSRB using an automated system, the MSRB believes that dealers will be able to report information about ARS to the MSRB manually using the SHORT System Web User Interface if those system changes are not able to be fully implemented by January 30, 2009, particularly since the number of ARS issues is relatively small. In addition, since ARS are primarily a retail product, the MSRB believes it is important to provide transparency of ARS as early as practicable. Accordingly, the MSRB does not believe that a change to the proposed January 30, 2009 effective date for ARS is warranted.

#### Request for Extension of VRDO Effective Date

While the SHORT System allows data to be reported manually using the SHORT System Web User Interface, the MSRB agrees with commentators that manual submission of data for VRDO would be impractical in many cases due to the high number of VRDO securities and the frequency with which VRDO interest rates reset. Therefore, the MSRB believes that a revised effective date of April 1, 2009 would allow additional time for dealers to implement automated systems to submit data about VRDO to the SHORT System and should address commentators concerns.