

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-92938; File No. SR-MSRB-2021-05)

September 10, 2021

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Provide a Further Extension of Time to Become Appropriately Qualified by Passing the Municipal Advisor Principal Qualification Examination (Series 54) Pursuant to MSRB Rule G-3, on Professional Qualification Requirements

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 2, 2021 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 to amend Supplementary Material .09, Temporary Relief for Municipal Advisor Principal, of MSRB Rule G-3, on professional qualification requirements, to provide a further extension of time for those individuals who meet the definition of a municipal advisor principal³ to become appropriately

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term "municipal advisor principal" is defined in MSRB Rule G-3(e)(i) 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 its associated persons.

qualified by passing the Municipal Advisor Principal Qualification Examination (“Series 54 examination”). The MSRB has designated the proposed rule change as constituting a “noncontroversial” rule change under Section 19(b)(3)(A)⁴ of the Act and Rule 19b-4(f)(6)⁵ thereunder, which renders the proposal effective upon receipt of this filing by the Commission.

The text of the proposed rule change is available on the MSRB’s website at www.msrb.org/Rules-and-Interpretations/SEC-Filings/2021-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

In April 2020, and again in December 2020, the MSRB filed proposed rule changes for immediate effectiveness with the SEC that provided regulatory relief on a temporary basis to municipal advisors and dealers in response to the operational challenges and disruptions to normal business functions as a result of the coronavirus disease (“COVID-19”) pandemic (“April

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

relief” and “December relief”).⁶ In connection with the MSRB’s April relief, due to the uncertainty regarding ongoing stay-at-home orders and social distance restrictions that impacted capacity at Prometric testing centers,⁷ the MSRB adopted Supplementary Material .09 of MSRB Rule G-3 to extend the date by which individuals were required to become qualified with the Series 54 examination from November 12, 2020 to March 31, 2021. In its December relief, due to the protracted nature of the pandemic, the MSRB amended Supplementary Material .09 of MSRB Rule G-3 a second time to extend the time period further from March 31, 2021 to November 12, 2021, for individuals to become qualified with the Series 54 examination.⁸

The proposed amendment to Supplementary Material .09 of MSRB Rule G-3 would further extend the time period from November 12, 2021 to November 30, 2021, for individuals to become qualified with the Series 54 examination. This time extension is being proposed in connection with the MSRB’s efforts to facilitate the remote proctoring of the Series 54 examination; and notably, the proposed extension of time roughly coincides with the number of days taken to launch the Series 54 examination online.⁹ On August 11, 2021, the MSRB

⁶ See Exchange Act Release No. 88694 (April 20, 2020), 85 FR 23088 (April 24, 2020) (File No. SR-MSRB-2020-01). See Exchange Act Release No. 90621 (December 9, 2020), 85 FR 81254 (December 15, 2020) (File No. SR-MSRB-2020-09).

⁷ FINRA uses Prometric as its single vendor for the delivery of professional qualification examinations, including MSRB-owned professional qualification examinations.

⁸ The April and December relief extended the initial one-year grace-period, previously set to expire on November 12, 2020, to allow individuals functioning as municipal advisor principals 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 Municipal Advisor Representative Qualification Examination (“Series 50”).

⁹ The launch of the Series 54 examination online took approximately 12 days from the date the MSRB announced the exam would be made available online. The MSRB is proposing

announced, given the quickly approaching compliance date by which individuals have to take and pass the Series 54 examination and in recognition of pandemic-related challenges, the MSRB would provide an interim accommodation to allow individuals to take the Series 54 examination online. Specifically, the Series 54 examination was made available to take online beginning on August 23, 2021 and will be available to take online until November 30, 2021.¹⁰ The Financial Industry Regulatory Authority (“FINRA”), as designated by the Commission, provides test administration services to the MSRB for the delivery of MSRB-owned professional qualification examinations and is facilitating the delivery of the Series 54 examination online.¹¹ The MSRB believes that the extension of time is appropriate given the quick nature in which the Series 54 examination was launched online, on account of exigent circumstances, and that the extension affords individuals time to engage in informed decision making regarding how to test. Relatedly, permitting the remote proctoring of the Series 54 examination, on a temporary basis, as well as ongoing in-person testing at Prometric testing centers, will facilitate compliance with MSRB Rule G-3(e)(ii) during the pandemic.

to extend the compliance date by 18 days taking into consideration the Thanksgiving holiday.

¹⁰ See MSRB Notice 2021-10 (August 11, 2021), “MSRB Provides Interim Accommodation for Municipal Advisor Principal Qualification Examination (Series 54 Exam),” available at <https://www.msrb.org/-/media/Files/Regulatory-Notices/Announcements/2021-10.ashx??n=1>.

¹¹ See, e.g., Exchange Act Release No. 75714 (August 17, 2015), 80 FR 50883 (August 21, 2015) (Designation of the Financial Industry Regulatory Authority to Administer Professional Qualification Tests for Associated Persons of Registered Municipal Advisors). Individuals who wish to take the Series 54 examination online must first complete “FINRA Online Exam Administration Request Form,” available at <https://www.finra.org/registration-exams-ce/qualification-exams/online-exam-administration>.

The MSRB proposes this interim accommodation in recognition of the approaching compliance date for municipal advisors to have at least one person appropriately qualified as a municipal advisor principal; and therefore, the accommodation is offered only with respect to the Series 54 examination.

2. Statutory Basis

Section 15B(b)(2)(A) of the Act¹² authorizes the MSRB to prescribe:

. . . standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons.

The MSRB believes that the proposed rule change is consistent with this provision as those acting in the capacity of a municipal advisor principal would still be subject to the regulatory requirements under MSRB Rule G-3, including the requirement to be qualified with the Series 50 examination, which is a prerequisite to taking and passing the Series 54 examination in order to become qualified as a municipal advisor principal. Accordingly, the proposed amendments do not relieve municipal advisors from compliance with underlying obligations that directly serve to protect investors, municipal entities, obligated persons and the public interest. The extension of time will provide an opportunity for individuals to review the information provided by the MSRB on remote proctoring of exams; make an informed decision regarding how to test; complete the relevant FINRA form, as necessary; and take the exam in furtherance of MSRB Rule G-3, which was promulgated in furtherance of the Exchange Act. The extension provides a reasonable amount of time to facilitate remote proctoring and enhances compliance by providing greater opportunities for individuals to take the Series 54 examination.

¹² 15 U.S.C. 78o-4(b)(2)(A).

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

Section 15B(b)(2)(C) of the Act requires that MSRB rules be designed not to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.¹³ The MSRB believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act. The goal of the proposed rule change is to provide temporary relief to grant additional time for municipal advisors to meet certain obligations under MSRB rules during the exigent circumstances of the COVID-19 pandemic but would not alter their underlying obligations under MSRB rules. Not only does the proposed rule change not burden competition, but as set forth below, it may result in a benefit to competition.

Additionally, Section 15B(b)(2)(L)(iv) of the Exchange Act, requires that MSRB rules not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.¹⁴ The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(L)(iv) of the Exchange Act¹⁵ in that, while the proposed rule change to extend the date by which individuals have to pass the Series 54 examination will affect all municipal advisors, including small municipal advisors, there is no new regulatory burden that results. Small municipal advisors typically have fewer associated persons and, as a result, their resources may be more limited during the pandemic and

¹³ 15 U.S.C. 78o-4(b)(2)(C).

¹⁴ 15 U.S.C. 78o-4(b)(2)(L)(iv).

¹⁵ Id.

the benefits of the proposed rule change may provide smaller municipal advisors a greater benefit given their limited resources. In addition, the MSRB believes that extending the compliance date by approximately 2 ½ weeks may serve to benefit small municipal advisors by providing greater opportunity for individuals to prepare for, take and pass the Series 54 examination and for municipal advisors to meet their compliance obligation to have at least one person properly qualified by passing the Series 54 examination by the compliance date.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁶ and Rule 19b-4(f)(6)¹⁷ 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.

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

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6).

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. Please include File Number SR-MSRB-2021-05 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-2021-05. 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-2021-05 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, pursuant to delegated authority.¹⁸

J. Matthew DeLesDernier
Assistant Secretary

¹⁸ 17 CFR 200.30-3(a)(12).