

## Justin Pica

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**From:** Sentochnik, Richard [REDACTED]  
**Sent:** Thursday, May 03, 2007 3:30 PM  
**To:** Justin Pica  
**Cc:** Papantonio, Edmond; Laufer, Richard A; Milano, Steven M  
**Subject:** Lehman's Response to MSRB Notice 2007-10

**Attachments:** Lehman response to MSRB - Transaction reporting.doc



Lehman response  
to MSRB - Tran...

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Justin,

Attached above is Lehman's response to MSRB Notice 2007-10 (March 5, 2007) request for comments.

Please feel free to contact me if you have any questions.

Richard Sentochnik

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## **MSRB Request for Comments and responses**

### **1) MSRB request for Comment:**

*Underwriters on negotiated issues may begin entering information into NIIDS as soon as CUSIP numbers are assigned, while competitive underwriters will only begin to enter information after bids are opened. Should the two-hour period after the Time of Formal Award for completing the information submission to NIIDS be different for negotiated and competitive underwritings? Would the underwriter that is awarded a competitive deal for which CUSIP numbers have not been assigned be able to apply for and obtain CUSIP numbers and transmit information necessary for Trade Eligibility to NIIDS within two hours of the Time of Formal Award?*

### **Lehman Comment:**

**Negotiated Issues:** Underwriters almost always have cusips before the time of formal award on negotiated issues. I believe in most cases all information could be transmitted to NIIDS by two hours after the time of formal award.

**Competitive Issues:** Underwriters often don't have cusips at the time of formal award and issuers often award an issue immediately and then reconvene to resize/restructure. In addition, some issuers selling competitively don't retain professional financial services. Communication with these issuers is often inefficient as contacts have to be located. We would support a longer period, perhaps three hours, for competitive issues.

### **2) MSRB request for Comment:**

*The Time of Formal Award for a competitive issue is currently defined with reference to the issuer's "announcement" of the award. Questions may exist on when the "formal award" should be deemed to occur in certain circumstances, for example on such competitive underwritings in which the quantities of individual maturities must be determined after the lowest bid is accepted. Commentators are invited to provide comments on alternative formulations of Time of Formal Award to address special situations.*

### **Lehman Comment**

We support an alternative formal award definition which would be the later of the award or the final restructuring/resizing of the issue.

### **3) MSRB request for Comment:**

*Since electronically formatted information can be retransmitted immediately, the MSRB believes that the two-hour advance notification period prior to the Time of First Execution is sufficient for vendors and dealers and service bureaus to receive and enter information disseminated from NIIDS into their own systems. Is two hours a sufficient amount of time? Could the advance notice requirement be shortened? Would it be appropriate to provide different periods of advance notification for competitive and negotiated underwritings?*

### **Lehman Comment**

While we believe that two hours is probably sufficient, we believe that this decision can best be made after seeing an operational version of NIIDS. (see answer to comment # 9 below).

**4) MSRB request for Comment:**

*Only the hours between 9:00 A.M and 5:00 P.M. Eastern Time on an RTRS Business Day are used for purposes of the time tables listed in the draft amendments. If an underwriter does not obtain and transmit all information necessary for Trade Eligibility to NIIDS by 3:00 P.M. Eastern Time, the underwriter would not be able to set a Time of First Execution until the following day. The MSRB is aware that this may affect West Coast underwriters more than those on the East Coast, but does not believe it would be possible to use "local time" in the rule given that dealers in different time zones trade with each other. The MSRB, however, requests comment on any suggestions for alternative approaches that would help address time zone issues.*

**Lehman Comment**

We agree and only add that a provision should be included for "early closes".

**5) MSRB request for Comment:**

*The draft amendments would apply to all types of new issues of municipal securities. Do certain types of new issues, such as issues that have long forward delivery periods or short-term instruments, have special characteristics or employ the use of different "book running" services that would present difficulty for underwriters to comply with the draft amendments to Rule G-34?*

**Lehman Comment:**

We believe that certain products which don't currently use a book running service would find it difficult to comply with the two hour requirement. We believe it would be appropriate to phase in other products over time.

**6) MSRB request for Comment:**

*The schedule for implementing the proposed rule changes is dependent on the operational start date for NIIDS, which at this time is scheduled for August 2007. How much lead time would be necessary for underwriters to implement changes required to use the NIIDS system?*

**Lehman Comment:**

We believe that until the final requirements of NIIDs are determined, it would be impossible to commit to a time frame. However, as this is a major change in the way of doing business, a long lead time would be warranted.

**7) MSRB Request for Additional Comment on CTC Indicator**

*Comment is requested on the revised CTC indicator requirement and provisions in the draft amendments of Rule G-34. Consideration of the following questions may be helpful in providing comments:*

*Would the provisions in the draft amendments to Rule G-34 relating to "Time of Formal Award" be effective in allowing dealers to identify and report CTC transactions?*

**Lehman Comment:**

As written, the draft amendment of Rule G-34 makes identifying CTC transactions somewhat confusing. There seems to be three interpretations within the industry. The first is that CTC's

are any trades done before the time of formal award regardless of price or whether the parties to the trade are members of the syndicate. Another is that syndicate trades done at List Offering Prices (LOP's) are not CTC's. The third is that you can have trades which are both CTC's and LOP's and that they can each be flagged as such..

We would ask that the MSRB more clearly define CTC trades and which definition status would prevail (if any) in case a trade satisfies both conditions of being a CTC and LOP.

**8) MSRB request for Comment:**

*Based on current market practices, what degree of "staleness" exists for transaction prices that are based on trading commitments formed between the Time of Formal Award and the Time of First Execution? Is there a need for a special indicator (not associated with an end-of-day reporting deadline) to identify these trades?*

**Lehman Comment:**

The status of these trades is problematic. As defined by the proposed rule, they are not CTC transactions as they occur after the time of award; however they are done presumably before there is enough trade information in the market to execute them. We believe that an additional indicator would be confusing to the market.

We propose that CTC's be defined as all trades done before the time of execution.

In this way, all "stale trades" (regardless of price) would be clearly segregated from current market trades for the investing community.

**9) MSRB request for Comment:**

*The MSRB anticipates that the CTC indicator could be implemented by RTRS in January 2008 in conjunction with other changes such as the expiration of the three-hour exception, assuming that the draft amendments to Rule G-34 can be implemented by that time. What amount of lead time would be necessary for dealers to implement the CTC indicator?*

**Lehman Comment:**

We believe that this question can't be answered until the industry had operational experience with the NIIDs system.

We would support a two phase implementation of the proposed rule. The first phase would be the implementation of the NIIDs system. During this phase the industry would gain real operational experience using NIIDS. After due consideration, a time frame for implementation of the CTC indicator could be made. We believe that implementing both phases with fixed time frames ahead of time is unnecessary and is asking market participants to commit to major systems changes based on suppositions.

**10) MSRB request for Comment:**

**Other Approaches to Addressing Transparency of New Issue Prices**

*One approach to address transparency issues associated with CTC transactions is to require conditional trading commitments to be reported to RTRS as they are formed rather than waiting for trade execution.*

**Lehman Comment:**

We believe that this would be highly impractical. (See SIFMA's response to this question).

**11) MSRB request for Comment:**

*Another possible approach to CTC transactions might be to reduce existing delays between the informal and formal awards. In effect, this would reduce the chance of the secondary market pricing activity that occurs without being reported in real-time. As a possible example, the MSRB could consider rules that provide for a maximum length of time (e.g., 24 hours) between the formation of an informal agreement with an issuer on pricing and the expected time of formal award. While this would reduce the flexibility that currently exists to time new issue pricing independently of the formal award, it would help reduce the potential for secondary market activity prior to the formal award and thus reduce the number of stale prices that are of the most concern.*

**Lehman Comment:**

We agree with SIFMA's position that certain institutional and statutory practices in the public finance market would make this approach impracticable.