MSRB REPORTS
MUNICIPAL SECURITIES RULEMAKING BOARD
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In This Issue

Also In This Issue

(continued on page 2)

Calendar

March 6
Effective date of amendments to rules G-37 and G-8

April 13
MSRB Seminar on Recent Initiatives to be held in New York City

April 27
Effective date of amendments to rule G-26 to reduce the time periods for transferring customer accounts between dealers

April 30
Due date for Form G-37 to be filed with the Board (for the period January 1, 1995 – March 31, 1995)

May 31
Comments due on draft rule G-38, on consultants
Comments due on the Board's plan for reporting institutional customer transactions
Comments due on draft amendments to rules G-12(b)(i) and G-15(b)(i) to define "trade date" for municipal securities to create a trade date processing "cut off" time of 5 p.m., Eastern Time
Comments due on draft amendments to rules G-12(b) and G-34 relating to certain notifications given to registered clearing agencies concerning new issue municipal securities

June 7
Effective date of amendments to rules G-12 and G-15 to redefine regular-way settlement as three, rather than five, business days

July 1
Effective date of continuing education rules

Pending
Amendment to rule G-15(a), on customer confirmations
Amendments to rule G-15 requiring dealers to submit DVP/RVP customer transactions for automated confirmation/acknowledgement no later than the end of trade date, rather than no later than the business day after trade date, as currently required

Also In This Issue

(continued from front cover)

Reminder
An amendment to rule G-34 became effective on February 7, 1995. The amendment requires dealers to apply for depository eligibility within one business day of the date of sale of a new issue municipal security. The amendment exempts from its requirements: (i) issues not meeting the eligibility criteria of a securities depository; and (ii) issues maturing in 60 days or less. It also provides a temporary exemption, until July 1, 1996, for issues under $1 million in par value.

REQUEST —FOR— COMMENTS

COMMENTS DUE BY: MAY 31, 1995

Consultants: Draft Rule G-38

Route To:

- Manager, Muni Department ●
- Underwriting ●
- Trading ○
- Sales ○
- Operations ○
- Public Finance ●
- Compliance ●
- Training ○
- Other ○

Comments Requested

Draft rule G-38 would require dealers (1) to have written agreements with persons who are used by a dealer for the purpose of seeking to obtain or retain municipal securities business and (2) to disclose such arrangements with consultants directly to issuers and to the public through disclosure to the Board.

Comments on the draft rule should be submitted no later than May 31, 1995, and may be directed to Mark McNair, Assistant General Counsel. Written comments will be available for public inspection.

INTRODUCTION

The Municipal Securities Rulemaking Board (Board) believes that dealers are increasing their use of consultants (*i.e.*, persons, other than dealer employees and partners, who are used by a dealer for the purpose of seeking to obtain or retain municipal securities business[1] with issuers). There are many reasons for the increase in use of consultants. For example, dealers may be seeking particular lobbying expertise in a locality. So too, dealers may be attempting to reduce the number of permanent employees in municipal finance and use experienced personnel on a part-time basis. The Board believes in many instances the use of consultants is appropriate. However, the Board is concerned that the increased use of consultants may be in response to limitations placed on dealer activities by Board rules, including rules G-37, on political contributions and prohibitions on municipal securities business, and G-20, on gifts and gratuities. In such instances, dealers may be attempting to obtain municipal securities business through political contributions or other payments by consultants. While both rules G-37 and G-20 prohibit dealers from doing indirectly what they are precluded from doing directly, indirect activities often are difficult to prove.

In addition, the Board understands that increasingly issuers are requesting or directing dealers to hire certain parties involved in municipal securities business (*e.g.*, underwriters' counsel). As noted by the Securities and Exchange Commission (SEC) in its March 1994 Statement of the Commission regarding Disclosure Obligations of Municipal Securities Issuers and Others, "[i]nformation concerning financial and business relationships and arrangements among the parties involved in the issuance of municipal securities may be critical to an evaluation of the offering." The SEC noted that "such information could indicate the existence of actual or potential conflicts of interest, breaches of duty, or less than arms' length transactions." The SEC indicated that disclosure of such relationships may be appropriate and "[i]f, for example, the issuer (or any person acting on its behalf) selects an underwriter, syndicate or selling group member, expert, counsel or other party who has a direct or indirect (for example, through a consultant) financial or business relationship or arrangement with persons connected with the offering process, that relationship or arrangement may be material."[2] The Board believes that any such "designated" persons should be treated as if they were used by the dealer to obtain or retain municipal securities business with the issuer.

Because of the issues and concerns noted above, the Board believes that certain information about consultant arrangements should be made available to issuers and to the public to help ensure the integrity of the municipal securities market. Thus, the Board is proposing for comment draft rule G-38. The draft rule would require dealers (1) to have written agreements with persons who are used by a dealer for the purpose of seeking to obtain or retain municipal securities business ("consultants") and (2) to disclose such arrangements with consultants directly to issuers and to the public through disclosure to the Board. The Board also requests comments on draft amendments to rules G-8 and G-9, on recordkeeping and record retention, respectively, requiring the recording of information regarding consultants.

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[1] Municipal securities business includes: (A) the purchase of a primary offering of municipal securities from the issuer on other than a competitive basis (*i.e.*, negotiated underwriting); (B) the offer or sale of a primary offering of municipal securities on behalf of any issuer (*i.e.*, private placement); (C) the provision of financial advisory or consultant services to or on behalf of an issuer with respect to a primary offering of municipal securities on other than a competitive bid basis; or (D) the provision of remarketing agent services to or on behalf of an issuer with respect to a primary offering of municipal securities on other than a competitive bid basis.

[2] Securities Exchange Act Release No. 33741 (March 17, 1994), reprinted in *MSRB Reports*, Vol. 14, No. 2 (March 1994), at 27-28 [footnotes deleted]

BACKGROUND

Over the last few years, the Board has been concerned about possible abuses associated with the awarding of municipal securities business. Rule G-37, on political contributions and prohibitions on municipal securities business, prohibits a dealer from engaging in municipal securities business with an issuer within two years after any contribution to an official of such issuer made by the dealer, any municipal finance professional associated with such dealer, or any political action committee (PAC) controlled by the dealer or any municipal finance professional.[3] The rule also prohibits a dealer from doing any action indirectly which would result in a violation of the rule if done directly by the dealer. For example, a violation would result if a dealer does business with an issuer after directing contributions to such issuer by third parties, such as consultants. In addition to recording and disclosing political contributions, rule G-37 also requires dealers to record and disclose quarterly on Form G-37 those issuers with which the dealer has engaged in municipal securities business and, where applicable, the name, company, role and compensation arrangement of any person employed by the dealer to obtain or retain municipal securities business with such issuers. This disclosure is required to reduce the opportunity for dealers to circumvent the rule's requirements through the use of consultants.

Rule G-20, on gifts and gratuities, prohibits dealers from, directly or indirectly, giving or permitting to be given any thing or service of value in excess of $100 per year to any person, other than an employee or partner of the dealer, in relation to municipal securities activities of the person's employer. All gifts given by the dealer and its associated persons, or by consultants at the direction of the dealer, are used to compute the $100 limitation and this limitation applies to gifts and gratuities to customers, individuals associated with issuers, and employees of other dealers.[4]

The Board believes that rules G-37 and G-20, along with rule G-17, on fair dealing, set appropriate standards for dealer conduct in the municipal securities industry. Recent SEC actions, however, have charged that kickbacks and conflicts of interest have occurred in connection with municipal securities offerings. In one instance, the SEC alleges that dealer personnel paid a large kickback to the issuer's financial advisor and inflated the underwriters' discount to fund the kickback.[5] In another instance, the SEC alleges that dealer personnel provided loans and direct payments to an employee of an issuer that had an important role in selecting the underwriter.[6]

The Board recognizes that vigorous enforcement of the antifraud provisions of federal securities laws and Board rules will be effective in uncovering improper conduct in municipal securities business and deterring further violations. The Board believes, however, that disclosure of consultant arrangements, even those that would not result in any violations, is necessary and would strengthen the integrity of the municipal securities market. Currently, the limited amount of information regarding consulting arrangements and the role of consultants in obtaining or retaining municipal securities business makes it difficult to determine the extent of possible conflicts of interest. Similarly, it is difficult to determine the extent to which payments to consultants affect the issuer's selection process of dealers for municipal securities business or increase the cost of bringing municipal securities issues to market. Such disclosure also would assist issuers and other participants in municipal securities offerings in making disclosures required under the federal securities laws.

Accordingly, the Board believes it is appropriate to establish a new rule that would require dealers to disclose all arrangements with persons who are used by the dealer for the purpose of seeking to obtain or retain municipal securities business with issuers. This rule also would include within its scope those persons hired by a dealer, at the request or direction of an issuer, to perform services for the dealer. As previously noted, the Board recognizes that the use of consultants is not necessarily indicative of any improper conduct by dealers. Nevertheless, the Board believes that in all instances the public and issuers should be alerted to the role performed by such consultants and the amount of remuneration they receive.

At this time, the Board is not proposing any substantive restrictions on arrangements between dealers and consultants. If, at a later date, the Board learns of specific dealer practices regarding the use of consultants that it believes should be addressed, the Board may proceed with additional rulemaking in this area.

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[3] There is a specific *de minimis* exemption for municipal finance professionals' contributions in rule G-37(b).

[4] Rule G-20(b) exempts "normal business dealings" from the $100 annual limit. These payments are defined as occasional gifts of meals or tickets to theatrical, sporting, and other entertainments, as well as the sponsoring of legitimate business functions that are recognized by the IRS as deductible business expenses, and gifts of reminder advertising. However, the rule also provides that such gifts can not be so frequent or so expensive as to raise a suggestion of unethical conduct.

[5] *See* SEC Litigation Release No. 14421 (February 23, 1995) regarding *SEC v. Nicholas A. Rudi, Joseph C. Salema, Public Capital Advisors, Inc. (formerly known as Consolidated Financial Management, Inc.), George L. Tuttle, Jr. and Alexander S. Williams.*

[6] *See* SEC Litigation Release No. 14397 (January 23, 1995) regarding *SEC v. Terry D. Busbee and Preston C. Bynum.*

SUMMARY OF DRAFT RULE

Definition of Consultant

The draft rule defines "consultant" as any person, other than an employee or partner of a dealer, who is used by a dealer for the purpose of seeking to obtain or retain municipal securities business, including any person performing services for such dealer at the request or direction of an issuer. The Board views this definition very broadly. The Board believes that "consultants" would include persons that act as "finders" for municipal securities business or that lobby state and local government officials. The term also would include persons that undertake services connected to municipal securities business, such as legal, accounting or financial advisory services, if such persons are engaged, even in part, because they can assist in efforts to obtain or retain such municipal securities business with the issuer. In addition, the definition would include persons who are engaged by a dealer at the request or direction of the issuer (*e.g.*, underwriters' counsel). Finally, the Board believes that if a dealer uses another dealer (other than a member of the syndicate) to assist in obtaining or retaining municipal securities business, then this dealer would be acting as a consultant on its behalf.

Written Agreement

The draft rule would require dealers to have written agreements with their consultants before the consultants could provide any services on their behalf. The "Consultant Agreement" must indicate the role to be performed by the consultant and the compensation arrangement. The Board believes that such a written agreement should provide specific information regarding the role and function of the consultant rather than simply indicating that such person will perform "consulting" services or "assist the dealer obtain or retain municipal securities business." For example, dealers may wish to describe the officials or entities to be contacted by the consultant (*e.g.*, state legislators, city finance officers) and specific business areas of expertise of the consultant (*e.g.*, health care, education).

Currently, in the absence of a requirement that consulting arrangements be evidenced in writing, the Board is concerned that dealers may not be aware of such arrangements that their branch offices or local personnel may have with consultants. The Board believes this requirement should assist dealers in developing mechanisms to monitor such arrangements.

Disclosure to Issuers and the Board

The draft rule would require that dealers report information regarding consulting arrangements directly to issuers and to the public through disclosure to the Board. The use of consultants to obtain or retain municipal securities business must be disclosed to the Board on Form G-37 only in connection with specific municipal securities business that has been awarded. The broader scope of the disclosure provision in draft rule G-38 should help ensure that important information about consultant activities is more readily available to issuers and the public.

The draft rule would require dealers to disclose to issuers in writing all consultants with which they have entered into a Consultant Agreement in connection with an effort to obtain or retain municipal securities business with that issuer, along with the basic terms of the Consultant Agreement. Such disclosure would be required when the dealer becomes involved in the issuer's process for selecting a dealer for municipal securities business, whether or not the issuer requests such information in a Request for Proposal (RFP). If a consultant is engaged by a dealer following commencement of this selection process, the dealer would be required to notify the issuer as soon as a Consultant Agreement has been entered into and before the consultant performs any services on behalf of the dealer. Because they are considered consultants for the purpose of draft rule G-38, the dealer also would have to disclose to the issuer all persons who are engaged at the request or direction of the issuer to perform services for the dealer.

The draft rule also would require a dealer to submit reports to the Board of all consultants with which the dealer has entered into Consultant Agreements, not just those consultants that are connected with particular municipal securities business awarded during the reporting period (*i.e.*, as required under rule G-37). These reports would be submitted on Form G-38 on a quarterly basis, within one month after the end of each calendar quarter.[7] For ease of compliance, these reporting periods would correspond to the current reporting periods for Form G-37. Form G-38 would require dealers to list the names of all consultants and complete for each consultant an Attachment to Form G-38 that provides in the prescribed format the consultant's company, the role to be performed by the consultant, and the compensation arrangement. In addition, dealers would be required to report on the Attachment to Form G-38 all dollar amounts paid to each consultant during the reporting period and, if any amounts paid are connected with particular municipal business (*e.g.*, a percentage of the management fee of a particular issue), such issue and the amount paid would be separately identified. Copies of these reports would be available to the public for review and photocopying at the Board's Public Access Facility.

[7] Draft Form G-38, including the Attachment to Form G-38, follows this Notice.

Draft Recordkeeping and Record Retention Requirements
To facilitate compliance with, and enforcement of, draft rule G-38, the Board also proposes to amend existing rules G-8 and G-9, concerning recordkeeping and record retention, respectively. The draft amendment to rule G-8 would require dealers to maintain records of Consultant Agreements and remuneration paid to consultants. The draft amendment also would require dealers to maintain a record of their disclosures to issuers of consultants used in connection with an effort to obtain or retain municipal securities business with that issuer (whether or not the dealer was successful in obtaining or retaining such business). The draft amendment to rule G-9 would require dealers to maintain these records, required by the proposed amendment to rule G-8, for a six-year period.

REQUEST FOR COMMENTS

The Board specifically requests comment on the following:

1. Definition of Consultant

The definition of consultant and explanatory material in this notice cover a wide variety of individuals involved in municipal securities business, including finders, lobbyists and attorneys. Should the definition also include a consultant retained by an affiliate or parent of the dealer if any portion of the consultant's activity relates to efforts to obtain municipal securities business for the dealer? Should certain classes of individuals be exempt from the definition?

2. Written Agreement

a. Should any other information be required in the Consultant Agreement (*e.g.*, geographic area where consultant will be operating)?

b. Interpretation #1 of the Voluntary Initiative[8] states that, in order to comply with the Voluntary Initiative, all written agreements with consultants must be approved by the head of the municipal finance group and the general counsel's office. Should a similar requirement be added to draft rule G-38?

3. Disclosure to Issuer

a. The draft rule requires dealers to disclose to issuers the basic terms of the Consultant Agreement. Instead, should dealers be permitted to provide issuers with a statement that the basic terms of the Consultant Agreement will be furnished upon the written request of the issuer?

b. Interpretation #1 of the Voluntary Initiative also states that, in order to comply with the Voluntary Initiative, dealers must notify the "governing body" of their municipal clients regarding each consultant used on matters affecting such client. Should a similar requirement be added to draft rule G-38?

4. Disclosure to the Board

a. Are the informational requirements on draft Form G-38 clear? Should any additional information be included on the draft Form? After a consultant is listed on Form G-38, should dealers be exempt from listing continuing arrangements on subsequent forms if, for example, the consultant is paid a set monthly retainer?

b. If draft rule G-38 is adopted and disclosure regarding consultant compensation related to particular municipal securities business is disclosed on Form G-38, should similar information regarding consultants be deleted from the current recordkeeping and reporting requirements under rules G-37 and G-8?

- March 22, 1995

TEXT OF DRAFT RULE G-38*

Rule G-38. Consultants

(a) Definitions

(i) The term "consultant" means any person who is used by a broker, dealer or municipal securities dealer for the purpose of seeking to obtain or retain municipal securities business, including any person performing services for such broker, dealer or municipal securities dealer at the request or direction of an issuer; provided, however that no employer or partner of such broker, dealer, or municipal securities dealer shall be considered a consultant for purposes of this rule.

(ii) The term "issuer" shall have the same meaning as in rule G-37 (g)(ii).

(iii) The term "municipal securities business" shall have the same meaning as in rule G-37(g)(vii).

(b) Written Agreement. A broker, dealer or municipal securities dealer that uses a consultant shall evidence such relationship by a writing setting forth the role to be performed by the consultant and the compensation arrangement ("Consultant Agreement"). Such Consultant Agreement must be entered

[8] In October 1993, at the urging of SEC Chairman Levitt, a number of dealers agreed to a Statement of Initiative to support the principle that political contributions which are intended to influence the awarding of municipal securities business should be prohibited. Subsequently, two interpretations of the Initiative were issued that provide specific requirements in a number of areas, including the use of consultants.

* Underlining indicates new language; strikethrough denote deletions.

into before the consultant provides any services on behalf of the broker, dealer or municipal securities dealer.

(c) Disclosure to Issuers. Each broker, dealer and municipal securities dealer shall disclose to an issuer in writing all consultants with which it has entered into a Consultant Agreement in connection with an effort to obtain or retain municipal securities business with that issuer, along with the basic terms of the Consultant Agreement. Such disclosure shall be required when the broker, dealer, or municipal securities dealer becomes involved in the issuer's process for selecting a broker, dealer or municipal securities dealer for municipal securities business. If a consultant is engaged following commencement of this selection process, the issuer shall be notified as soon as a Consultant Agreement has been entered into and before the consultant performs any services on behalf of the broker, dealer, or municipal securities dealer.

(d) Disclosure to Board. Each broker, dealer, or municipal securities dealer shall submit to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending, and the Board shall make public, reports of all consultants with which the broker, dealer or municipal securities dealer has entered into Consultant Agreements. Two copies of the reports must be submitted to the Board on Form G-38, within one month after the end of each calendar quarter (these dates correspond to January 31, April 30, July 31, and October 31). For each consultant, the broker, dealer or municipal securities dealer must report in the prescribed format the consultant's name, company, role and compensation arrangement. In addition, the report shall indicate all dollar amounts paid to each consultant during the report period and, if any dollar amounts are connected with particular municipal business, such business and the amount paid must be separately identified.

Rule G-8. Books and Records to be Made by Brokers, Dealers and Municipal Securities Dealers.

(a) Description of Books and Records Required to be Made. Except as otherwise specifically indicated in this rule, every broker, dealer and municipal securities dealer shall make and keep current the following books and records, to the extent applicable to the business of such broker, dealer or municipal securities dealer:

(i) through (xvii) No change.

(xviii) Records Concerning Arrangements with Consultants Pursuant to Rule G-38. Each broker, dealer and municipal securities dealer shall maintain: (i) a record of all Consultant Agreements referred to in rule G-38(b) and all compensation paid as a result of those agreements and (ii) a record of disclosure to issuers of consultants that assisted it in efforts to obtain or retain municipal securities business with that issuer.

(b) through (e) No change.

(f) Compliance with Rule 17a-3. Brokers, dealers and municipal securities dealers other than bank dealers which are in compliance with rule 17a-3 of the Commission will be deemed to be in compliance with the requirements of this rule, provided that the information required by subparagraph (a)(iv)(D) of this rule as it relates to uncompleted transactions involving customers; paragraph (a)(viii); paragraph (a)(xi); paragraph (a)(xii); paragraph (a)(xiii); paragraph (a)(xiv); paragraph (a)(xv); paragraph (a)(xvi); ~~and~~ paragraph (a)(xvii) and paragraph (a)(xviii) shall in any event be maintained.

Rule G-9. Preservation of Records

(a) Records to be Preserved for Six Years. Every broker, dealer and municipal securities dealer shall preserve the following records for a period of not less than six years:

(i) to (ix) No change.

(x) the records required to be maintained pursuant to rule G-8(a)(xviii).

(b) through (g) No change.

-DRAFT-

FORM G-38: REPORT ON USE OF CONSULTANTS

Name of Dealer: _____

Reporting Period: _____

NAME OF CONSULTANTS: (Specific Information for Each Consultant Must Be Attached)

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

Signature: _____ Date: _____
(Must be officer of dealer)

Name: _____

Address: _____

Phone: _____

Submit two completed forms quarterly by due date (specified by the MSRB) to:

Municipal Securities Rulemaking Board
1640 King Street
Suite 300
Alexandria, Virginia 22314-2719

-DRAFT-

ATTACHMENT TO: FORM G-38

Name of Consultant: _____

Consultant Company Name: _____

Role to be Performed by Consultant as Contained in Consulting Agreement: _____

_____

_____

_____

_____

Compensation Arrangement: _____

_____

_____

_____

_____

Total Dollar Amount Paid to Consultant during Reporting Period: _____

Dollar Amounts Paid to Consultant Connected with Particular Municipal Securities Business (Each such business and amount paid should be separately identified): _____

_____

_____

_____

REQUEST FOR COMMENTS

COMMENTS DUE BY: MAY 31, 1995

Transaction Reporting Program for Municipal Securities: Phase II

Route To:

Manager, Muni Department	●
Underwriting	○
Trading	●
Sales	●
Operations	●
Public Finance	○
Compliance	●
Training	○
Other	○

Comments Requested

The Board is publishing for comment its plans for reporting institutional customer transactions. The Board is also seeking comment on how the transaction reporting function might be accomplished in the retail market and how transactions could be routed to the Board for reporting purposes during the trading day.

Comments on this notice should be submitted no later than May 31, 1995, and may be directed to Larry M. Lawrence, Policy and Technology Advisor. Written comments will be available for public inspection.

INTRODUCTION

The Board is implementing a transaction reporting program for the municipal securities market. The program is designed to provide transparency in the market and to support a database of transactions for regulatory and market surveillance purposes. The development and implementation of the transaction reporting program is being accomplished in stages. Phase I – dealing exclusively with inter-dealer transactions – already has been implemented. In Phase I of the program, the Board, in cooperation with National Securities Clearing Corporation (NSCC), makes available daily public reports of inter-dealer transaction activity in selected municipal securities (the "Daily Reports"). The Board also maintains a comprehensive database of inter-dealer transactions to support regulatory surveillance of the market (the "Surveillance Database"). The Surveillance Database is being made accessible to agencies charged with enforcing Board rules, including the Securities and Exchange Commission (SEC), the National Association of Securities Dealers, the Comptroller of the Currency, the Federal Reserve Board and the Federal Deposit Insurance Corporation.

The Board now is requesting comment from interested parties in preparation for the development and implementation of Phase II of the transaction reporting program. Phase II will require that dealers report their institutional customer transactions (*i.e.*, transactions with DVP/RVP customer accounts[1] to the Board and also will require dealers to include time-of-trade as part of the information submitted for both institutional customer and inter-dealer transactions. This information will be used to augment the Daily Reports and the Surveillance Database. Following the development and implementation of Phase II during 1995, the Board plans to undertake Phases III and IV of the transaction reporting program, which will involve the collection of retail customer transactions and more contemporaneous reporting of transactions, in 1996 and 1997.

This Notice seeks specific comment on various program features that are planned for Phase II. The Board also encourages interested parties to provide general suggestions for methodologies for transaction reporting that might be considered by the Board to implement Phases III and IV of the program. Comments on this Notice should be submitted no later than May 31, 1995.

BACKGROUND

The transaction reporting program is the result of several years of effort by the Board. During 1991 and 1992, the Board studied various ways to increase the availability of information on the value of municipal securities reflected by actual transactions occurring in the market.[2] This examination included the study of inter-dealer transaction information and institutional customer transaction data obtained from clearing agencies registered with the Securities and Exchange Commission (SEC).[3] Based on the review of this data, the

[1] A delivery versus payment/receipt versus payment (DVP/RVP) transaction is a customer transaction in which the customer requires that settlement occur with an exchange of money and securities at the time of settlement. Generally, institutional customers require DVP/RVP settlement and retail customers do not.

[2] In 1987, the Board announced a set of five priorities for the municipal securities market. Among these priorities was the goal of improving information about the value of municipal securities, as well as a number of other goals concerning the accessibility of information about issues of municipal securities and disclosure information relating to the issuers of municipal securities. During 1989-1992, the Board focused on these last two information goals, as reflected in the development and implementation during this time of the Municipal Securities Information Library (MSIL™) system and its two major subsystems – the Official Statement and Advance Refunding Document (OS/ARD) system and the Continuing Disclosure Information (CDI) system. The transaction reporting program is the third major component of the MSIL™ system, addressing the goal of improved information on the value of municipal securities.

[3] Included among such registered clearing agencies are NSCC, the central facilities provider for automated comparison of inter-dealer transactions in municipal securities, and Depository Trust Corporation (DTC), the central facilities provider for automated confirmation and acknowledgment of institutional customer transactions.

Board developed a plan for the transaction reporting program.

Request for Comment on Planned Pilot Program for Inter-Dealer Transactions

In May 1993, the Board announced a proposed pilot program under which inter-dealer transaction information would be reported to the Board through the existing channels already used to "compare" inter-dealer transactions.[4] To minimize industry costs, the reporting procedures to be used for reporting to the Board would be those procedures already required to be used under Board rule G-12(f)(i) on automated comparison of inter-dealer transactions. Prior to going forward with the pilot program, the Board requested comment on the manner and format by which transaction information would be made public.[5]

Commission Views Expressed at Congressional Hearings

In September 1993, during the comment period for the proposed pilot system for inter-dealer transaction reporting, the Board, the SEC, and the National Association of Securities Dealers testified at a hearing held by the Telecommunications and Finance Subcommittee of the Energy and Commerce Committee, United States House of Representatives, concerning the regulation of the municipal securities market. In material presented at this hearing, the Board described its proposed pilot program.[6] The SEC provided material underscoring its strong views on the need for much greater transparency in the municipal securities market, the need to include more contemporaneous and comprehensive transaction information in the Board's proposed system,[7] and the need for an "audit trail" for municipal securities transactions[8] – a concept similar to the Surveillance Database that the Board was planning at that time.[9]

Development and Implementation of Phase I of Transaction Reporting Program

In November 1993, the Board reviewed comments received on the proposed pilot program and the information obtained as a result of the congressional hearings. Subsequently, the Board announced that it was going forward with the pilot program for transaction reporting.[10] In recognition of the SEC's views, the Board also expressed its view that providing next-day reports on inter-dealer transactions was "an appropriate starting point" for introducing transparency to the market, but that the Board would "seek cost-effective means to further increase transparency, with the ultimate goal being the dissemination of comprehensive and contemporaneous pricing data."[11] The Board subsequently filed with the Commission an amendment to Board rule G-14 requiring dealers to submit inter-dealer transaction information to the Board using the comparison system. This amendment was approved by the Commission in November 1994.[12] Developmental work on the production facility for the Daily Reports then was completed and Daily Report production began on January 24, 1995. The Surveillance Database currently is operating in prototype form and is scheduled to go into full operation in April 1995.

The Daily Reports are available on the next day after the trade date and are based on transactions that matched or "compared" in the automated comparison system for municipal securities transactions.[13] Specific price and volume information is included in the Daily Reports only for those issues that trade in the inter-dealer market four or more times on a given day. For each of these issues, the Daily Report states the number of compared trades in the issue for that day, the volume traded and a high and low price for that day. In addition, the Daily Report may include an "average price" for a frequently traded issue, based exclusively upon those transactions in the issue (if any) between $100,000 and $1 million par value. This method of calculating "average price" is meant to exclude from the calculation of "average price" odd lot transactions and large position movements – transactions which might introduce different pricing factors into the calculation of "average price."

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4 "Comparison" is part of the clearance and settlement process for inter-dealer municipal securities transactions. In the comparison process, each dealer in a transaction sends information about the transaction to a central clearing agency registered with the Securities and Exchange Commission.

5 *MSRB Reports*, Vol. 13, No. 3 (June 1993) at 3-6.

6 *Report of the Municipal Securities Rulemaking Board on Regulation of the Municipal Securities Market*, September 3, 1993, at 37-42 [hereinafter cited as *MSRB Congressional Report*].

7 Division of Market Regulation, SEC, *Staff Report on the Municipal Securities Market*, September 1993, at 36-37.

8 *Id.* at 37.

9 See *MSRB Congressional Report*, at 40, where the Board indicated its plan to use transaction data to facilitate market monitoring and inspection.

10 *MSRB Reports*, Vol. 14, No. 1 (January 1994) at 13-16.

11 *Id.* at 13.

12 Securites Exchange Act Release No. 34922 (November 9, 1994).

13 The use of the comparison system for inter-dealer transactions has been required under rule G-12(f)(i) since 1984. This rule states that a transaction must be submitted to a registered securities clearing agency for automated comparison if the transaction is eligible for automated comparison. When the rule was adopted in 1984, an exemption was included that allowed certain transactions to be confirmed outside the automated system if one or both parties to a transaction were not participating in a registered securities clearing agency. This exemption was removed in February 1994 in preparation for the movement to T+3 settlement. *See MSRB Reports*, Vol. 14, No. 1 (January 1994) at 17-18.

In general, all inter-dealer when-issued and regular-way transactions are now eligible for automated comparison and must be submitted to the automated system if the security traded has a CUSIP number. Since 1982, Board rule G-34 generally has required underwriters of new issue municipal securities to obtain CUSIP numbers. A very small number of municipal securities may still be outstanding without CUSIP numbers, but the Board believes the number of such issues to be so small as to be insignificant.

PHASE II – INSTITUTIONAL CUSTOMER TRANSACTIONS: REQUEST FOR COMMENT

In Phase II of the transaction reporting program, the Board plans to incorporate institutional customer transaction data into the Daily Report and Surveillance Database and to obtain time-of-trade information about inter-dealer and institutional customer transactions for use in the Surveillance Database. The structure of transaction reporting in Phase II will be similar to that of Phase I. The Board intends to adopt amendments to rule G-14 that will require dealers to report all transactions with DVP/RVP customer accounts to the Board by the end of trade date. The procedures for reporting these customer transactions will be the same as those procedures required for submitting the transactions to an automated confirmation/acknowledgment system. Use of a confirmation/acknowledgment system already is required under Board rule G-15(d)(ii) and includes the requirement for dealers to submit most of the crucial transaction information (*e.g.*, price, par value, buy/sell indicator) that will be needed by the Board for the Daily Reports and Surveillance Database.

The Board has asked Depository Trust Company (DTC), the central facilities provider for the confirmation/acknowledgment system, to serve as the central collection point for institutional customer transaction data that will be reported to the Board under rule G-14. DTC has agreed to work with the Board on the transaction reporting program toward that result.[14] It should be noted that dealers that submit their DVP/RVP customer transactions for confirmation/acknowledgment to other registered clearing agencies (Midwest Securities Trust Company and Philadelphia Depository Trust Company) would continue to be able to submit transactions to those registered clearing agencies, since all registered clearing agencies are linked with DTC for purposes of central processing of confirmation/acknowledgment information.

Also in Phase II, the Board will be formally requesting DTC, NSCC and the other registered securities clearing agencies to make minor accommodations to their systems to allow dealers to include time-of-trade along with the other required information that today is submitted about municipal securities transactions. The Board plans to include within the amendments to rule G-14 a requirement that time-of-trade be included by the dealer in its submission of an institutional customer transaction and by the selling dealer in an inter-dealer transaction. In addition, in the future other minor changes may be needed in the input procedures of the comparison and confirmation/acknowledgment system and the information requirements of rule G-14.[15]

Enhancements to Daily Report

The Board requests specific comment on how institutional customer transaction data should be reflected in the Daily Reports. To provide a basis for discussion of this issue, the Board offers the following proposed methodology. Based upon all of the transaction information submitted for a given trade date, institutional customer and inter-dealer transactions would be reviewed together to identify those issues in which four or more transactions occurred on a given day. Once these "frequently traded" issues are identified, the prices for all transactions in the issue would be reviewed to determine the high and low prices, which would be reported on the next day. An "average price" would be computed based upon all transactions in that issue involving par values between $100,000 and $1 million, if any.

The proposed procedure would follow the original concept used in Phase I – that of reporting transaction information only for those issues for which there are several transactions on a given day and thus for which transaction prices are most likely to provide a reliable indicator of market value. The Board requests comment on whether the threshold of four trades (combined from all inter-dealer and institutional customer trades) is the most appropriate threshold to establish the list of frequently traded issues each day. The Board also is interested in whether parties reviewing transaction data produced from Phase I believe that institutional customer and inter-dealer transactions should be considered or reported separately for purposes of identifying frequently traded issues. The Board requests comment on whether the methodology for reporting high, low and average prices should be changed for purposes of Phase II. In particular, the Board requests comment on the calculation of average price using only those transactions having a par value between $100,000 and $1 million, inclusive.

Transaction Reporting Procedures for Institutional Customer Transactions

The use of the confirmation/acknowledgment system for reporting institutional customer transactions to the Board will provide a number of advantages to the municipal securities industry, but will also require some additional attention

[14] Letter from Richard B. Nesson, Executive Vice President and General Counsel, DTC to Harold L. Johnson, Deputy General Counsel, MSRB, dated January 18, 1995.

[15] As an example, the Board has included a requirement in rule G-14 that accrued interest must be submitted with an inter-dealer transaction when settlement data is known. This previously was an optional item for comparison purposes. The Board also may review a requirement that introducing broker information be made a mandatory submission under rule G-14. Today, introducing broker identity is an optional input item in the comparison system.

to current clearance practices. First, it should be noted that use of the confirmation/acknowledgment system will avoid the need for the Board to create, and for dealers to enter institutional customer transactions into, a separate system dedicated exclusively to transaction reporting. Since 1984, rule G-15(d)(ii) has required essentially all transactions with DVP/RVP customer accounts to be entered into an automated confirmation/acknowledgment system operated by a registered securities clearing agency to ensure proper clearance and settlement of the transactions. The Board amended the rule effective July 1994 to eliminate certain exemptions that previously allowed a small number of transactions to be cleared outside the confirmation/acknowledgment system. Thus, the Board believes that collecting transaction data through this mechanism will provide the most cost-effective solution to obtaining comprehensive institutional customer transaction data.

The confirmation/acknowledgment process differs somewhat from the automated comparison system used for inter-dealer transaction data. Because both parties to an inter-dealer transaction are regulated as dealers and are required to input transaction data to the automated comparison system, the Board chose to use for consideration in the Daily Reports only those transactions that were matched or "compared" in the initial comparison cycle on the night of trade date. In contrast, a transaction entered into the automated confirmation/acknowledgment system involves only one dealer, who enters the transaction into the system for review by the customer (or the customer's designee). The customer or its designee then "acknowledges" the transaction data to set up the settlement process. In some cases, the acknowledgment of a transaction does not occur by the customer until the day after a transaction occurs, or sometimes even later or not at all. For the above reasons, the Board plans to use the dealer's submissions of transaction information to the automated confirmation/acknowledgment system in the Daily Reports without waiting for the customer's acknowledgment.

The use of dealer input to the confirmation/acknowledgment system for the purposes of transaction reporting to the Board will require some changes by dealers. First, dealers will need to examine their operations to ensure that all DVP/RVP customer transactions are entered correctly into the confirmation/acknowledgment system by the end of trade date. Only in this way can the Board ensure that correct transaction information will be available for the transaction reports to be published on the next day. The Board also notes that it believes that the general practice of ensuring submission of trade information by the end of trade date will also be required for the movement to T+3 settlement. In addition, dealers will have to redouble their efforts to ensure that the transaction data submitted to the system is accurate, since the information will be used to generate the Daily Reports without waiting for customer acknowledgment. Any errors in the price or volume information submitted potentially would affect the Daily Reports and could result in the publication of erroneous data in the Daily Reports.

As noted above, the Board is asking DTC and NSCC to revise input procedures to include the time-of-trade with the submission of other transaction information, as this ultimately will be required as transaction input by dealers under rule G-14. The Board also may request DTC or NSCC to make other technical changes in the transmission input procedures to address any technical problems that may become apparent during program development or operation.

The Board requests comment on the transaction information collection procedures of Phase II proposed above. The Board would appreciate suggestions on how the process of collecting institutional customer transaction information might be improved to ensure that transaction data is made available in a manner that is cost effective to the industry and that provides transaction data for public dissemination that is as timely and reliable as possible.

RETAIL CUSTOMER TRANSACTIONS

Although the Board has not yet begun the development process for Phase III on retail customer transactions and Phase IV on moving trade reporting closer to the time of trade, the Board nevertheless would appreciate comment from interested parties on how the transaction reporting function might be accomplished in the retail market and how transactions can be routed to the Board for reporting purposes during the trading day. The Board plans to begin developmental work on these phases of the program in late 1995 with implementation goals in 1996 and 1997.

One mechanism that may be explored would avoid the need for the Board to develop and implement its own proprietary system for collecting this information from dealers and would instead focus on the Board setting certain standards for computer-readable transaction files and deadlines for providing these files to the Board by computer modem. These standards would be announced with adequate lead time for system providers and other vendors who desire to offer such services. Once standards are set, vendors could work with dealers to develop systems that would accomplish the trade reporting function in the required format and in the required time

frames. This process could work in a manner similar to the methods by which service bureaus and other such service providers now collect trade information from dealers and transmit the appropriate trade information to registered clearing agencies for purposes of clearance and settlement.

- February 28, 1995

VOLUME 15, NUMBER 1

MSRB REPORTS

APRIL 1995

NOTICE — OF — APPROVAL

Political Contributions and Prohibitions on Municipal Securities Business: Rule G-37

Route To:

- Manager, Muni Department ●
- Underwriting ●
- Trading ●
- Sales ●
- Operations ○
- Public Finance ●
- Compliance ●
- Training ○
- Other ○

Amendments Approved

The Securities and Exchange Commission has approved amendments to rule G-37 on political contributions and prohibitions on municipal securities business, and rule G-8 on recordkeeping.

Questions about the amendments may be directed to Jill C. Finder, Assistant General Counsel.

On March 6, 1995, the Securities and Exchange Commission (SEC) approved amendments to rule G-37 on political contributions and prohibitions on municipal securities business, and rule G-8 on recordkeeping, to clarify certain definitions as well as recordkeeping and reporting requirements.[1] The amendments became effective upon approval by the SEC.

SUMMARY OF AMENDMENTS

Definition of Municipal Finance Professional

Prior to approval of the amendments, rule G-37(g)(iv) defined the term "municipal finance professional" as:

> (A) any associated person primarily engaged in municipal securities representative activities, as defined in rule G-3(a)(i);
> (B) any associated person who solicits municipal securities business, as defined in paragraph (vii);
> (C) any associated person who is a direct supervisor of such persons up through and including, in the case of a broker, dealer or municipal securities dealer other than a bank dealer, the Chief Executive Officer or similarly situated official and, in the case of a bank dealer, the officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, as required pursuant to rule G-1(a); or
> (D) any associated person who is a member of the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G-1) executive or management committee or similarly situated officials, if any.

The rule further provided that each person listed by the broker, dealer or municipal securities dealer as a municipal finance professional pursuant to rule G-8(a)(xvi) is deemed to be a municipal finance professional.

Some dealers expressed concern that subsection (C), regarding supervisors, was over-inclusive. For example, if someone from the corporate department assisted the municipal department by soliciting work from a municipal issuer, such a person became a municipal finance professional because of these activities. Prior to the amendment, all direct corporate department supervisors of that individual also came under the definition of municipal finance professional, even though the person's municipal securities activities were subject to the supervision of a principal in the municipal securities department.

In an effort to facilitate compliance with rule G-37, the Board determined to amend the definition of municipal finance professional, as it relates to supervisors, by designating as a municipal finance professional any associated person who is both (i) a municipal securities principal or a municipal securities sales principal and (ii) a supervisor of any person primarily engaged in municipal securities representative activities or who solicits municipal securities business. Thus, in the example given above, the corporate department supervisors would not be included in the definition of municipal finance professional. The Board wishes to note, however, that if an associated person (including any retail sales person) solicits municipal business and thus becomes a municipal finance professional, then that person's supervisor also would become a municipal finance professional. In most cases, this would include the sales person's branch manager (a municipal securities sales principal). The Board remains concerned about situations in which retail sales persons solicit municipal securities business at the request of, or at least with the knowledge of, their branch manager. Thus, branch managers continue to come under the definition of municipal finance professional if they supervise any associated person primarily engaged in municipal securities representative activities (as defined in rule G-3(a)(i)) or who solicits municipal securities business.

[1] Securities Exchange Act Release No. 35446 (March 6, 1995). On November 9, 1994, the Board withdrew a proposed amendment which would have exempted retail sales representatives from the definition of municipal finance professional.

Finally, the Board has revised the definition of municipal finance professional to clarify that the supervisors of the municipal securities principals and municipal securities sales principals included within the definition also are considered municipal finance professionals.

Designation as a Municipal Finance Professional Extends for Two Years

As noted above, rule G-37(g)(iv) provides that each person listed by the broker, dealer or municipal securities dealer as a municipal finance professional pursuant to rule G-8(a)(xvi) was deemed to be a municipal finance professional. The Board had been asked whether a dealer can establish its own standards under which someone who solicits municipal securities business could relinquish municipal finance professional status upon completing the solicitation activity. Amended rule G-37(g)(iv) now provides that each person designated by a dealer as a municipal finance professional shall retain this designation for two years after the last activity or position which gave rise to the designation. For example, if an associated person is designated a municipal finance professional as a result of solicitation activities, then that designation shall extend for two years from the date of the particular solicitation. Moreover, if this person continues to solicit municipal business, then each such solicitation triggers a new two-year period. Thus, if a municipal finance professional wants to divest himself of this designation, he must forego all soliciting of municipal business for two years (as well as avoid the other situations, set forth in rule G-37(g)(iv), giving rise to the designation of municipal finance professional). So too, if a sales person primarily engaged in municipal securities representative activities is transferred to the corporate department, such person's contributions to officials of issuers and payments to political parties must continue to be recorded for two years after such transfer. The Board believes that this designation period extension will help to ensure that contributions and payments by municipal finance professionals are not being made to influence the awarding of municipal securities business. It also will allow dealers, after this two-year period, to remove these persons from their list of municipal finance professionals.

Contributions and Other Payments Made to Political Parties

Pursuant to rule G-37, contributions to political parties do not trigger the rule's prohibition on business. Such contributions, however, are subject to the rule's recordkeeping and reporting provisions, as set forth in rule G-8(a)(xvi). These disclosure requirements were adopted to help ensure that dealers are not circumventing the rule's prohibition on business by making indirect contributions to issuer officials through contributions to state or local political parties. For example, if a contribution to a political party is earmarked or known to be provided to a particular issuer official or officials, then the dealer would violate the rule's proscription against indirect violations, thereby triggering the two-year prohibition on business with that issuer.

The Board had been notified by dealers and other industry participants that certain political parties are engaging in fundraising practices which, according to these political parties, do not invoke application of rule G-37. For example, some of these entities are urging dealers to make payments to political parties earmarked for expenses other than political contributions (such as administrative expenses or voter registration drives). Since these payments would not constitute "contributions" under the rule, the recordkeeping and reporting provisions would not apply.

The purpose of the rule's disclosure requirements, with respect to political parties, is to ensure that funds contributed to political parties by dealers, dealer-controlled Political Action Committees (PACs), municipal finance professionals and executive officers do not represent attempts to make indirect contributions to issuer officials, in contravention of the letter and the spirit of the rule. The Board continues to believe that disclosure is an adequate means of addressing this matter. However, the Board is concerned, based upon information provided by dealers and others, that the same pay-to-play pressures that motivated the Board to adopt rule G-37 may be emerging in connection with the fundraising practices of certain political parties, as described above. Accordingly, the recordkeeping and reporting provisions of rule G-37 (as set forth in rule G-8(a)(xvi)) now require dealers to record and disclose **all payments** made to political parties. The term "payment" is defined as any gift, subscription, loan, advance or deposit of money or anything of value. This definition is derived from the definition of "contribution" in rule G-37(g)(i), but does not include the limits on the purposes for which such money is given, as currently set forth in the definition of contribution. Thus, as amended, the rule requires dealers to record and report any payments (including, but not limited to, contributions) to political parties by dealers, dealer-controlled PACs, municipal finance professionals and executive officers. The Board believes that these disclosure requirements will help to sever any connection between the giving of payments (including contributions) to political parties and the awarding of municipal securities business.

Definition of Issuer

Prior to approval of the amendments, the term "issuer" was defined in rule G-37(g)(ii) as any governmental issuer speci-

fied in Section 3(a)(29) of the Act (*i.e.*, a state or any political subdivision thereof, or any agency or instrumentality of a state or any political subdivision thereof, or any municipal corporate instrumentality of one or more states) and the issuer of any separate security, including a separate security as defined in Rule 3b-5 under the Act. This definition was taken from the SEC's definition of issuer in Rule 15c2-12. The Board received a number of questions regarding the second portion of the definition – the issuer of a separate security. This portion of the definition was intended to include, for example, a municipality that signs a take-or-pay contract used as a guarantee of the underlying bonds. However, in most instances, the issuers of separate securities are corporate obligors of industrial revenue bonds and bank issuers of letters of credit.

Dealers had complained to the Board that the inclusion of the issuer of any separate security within this definition requires them to go through a "separate security" analysis to determine if a certain corporate obligor fits within this definition of issuer and then to determine if any personnel dealing with such issuers could be deemed municipal finance professionals. These determinations, however, do not result in any connection between the corporate issuers of separate securities and political contributions. In its May 1994 Q & A notice, the Board noted that, when filing Form G-37, dealers do not have to include corporate issuers in industrial development bond issues,[2] since no contributions (as defined in rule G-37) would be made to such corporations.[3] As a result of these concerns, amended rule G-37 now omits issuers of separate securities from the definition of issuer.

- March 6, 1995

TEXT OF AMENDMENTS*

Rule G-37. Political Contributions and Prohibitions on Municipal Securities Business

(a)-(d) No change.

(e)(i) Each broker, dealer or municipal securities dealer shall submit to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending, and the Board shall make public, reports on contributions to officials of issuers and on payments to political parties of states and political subdivisions that are required to be recorded pursuant to rule G-8(a)(xvi). Such reports shall include information concerning the amount of contributions to officials of issuers and payments to political parties of states and political subdivisions made by: (A) the broker, dealer or municipal securities dealer; (B) all municipal finance professionals; (C) all executive officers; and (D) all political action committees controlled by the broker, dealer or municipal securities dealer or by any municipal finance professional. Such reports also shall include information on municipal securities business engaged in and certain other information specified in this section (e), as well as other identifying information as may be determined by the Board from time to time in accordance with Board rule G-37 filing procedures.

(ii) Reports referred to in paragraph (i) of this section (e) must be submitted to the Board on Form G-37, in accordance with Board rule G-37 filing procedures, quarterly with due dates determined by the Board, and must include, in the prescribed format, by state, the following information on contributions to each official of an issuer and payments to each political party of a state or political subdivision made and municipal securities business engaged in during the reporting period: (A) name, and title (including any city/county/state or political subdivision) of each official of an issuer and political party receiving contributions or payments (B) total number and dollar amount of contributions or payments made by the persons and entities described in paragraph (i) of this section (e); and (C) such other identifying information required by Form G-37. Such reports also must include a list of issuers with which the broker, dealer or municipal securities dealer has engaged in municipal securities business, along with the type of municipal securities business and the name, company, role and compensation arrangement of any person, other than a municipal finance professional, employed by the broker, dealer or municipal securities dealer to obtain or retain municipal securities business with such issuers.

(f) The Board will accept additional information related to contributions made to officials of issuers and payments to political parties of states and political subdivisions voluntarily submitted by brokers, dealers or municipal securities dealers or others provided that such information is submitted in accordance with Board rule G-37 filing procedures.

(g) Definitions.

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[2] Of course, dealers are required to record the governmental issuer in these situations, for both taxable and tax-exempt municipal securities.

[3] Pursuant to rule G-37, a contribution is defined as "any gift, subscription, loan advance, or deposit of money or anything of value made: (A) for the purpose of influencing any election for federal, state or local office; (B) for payment of debt incurred in connection with any such election; or (C) for transition or inaugural expenses incurred by the successful candidate for state or local office." Thus, by definition, any funds given to corporate issuers would not constitute a "contribution," since such corporations are not the issuers or issuer officials contemplated by the rule.

* Underlining indicates new language; strikethrough indicates deletions.

(i) No change.
(ii) The term "issuer" means the governmental issuer specified in section 3(a)(29) of the Act ~~and the issuer of any separate security as defined in rule 3b-5 under the Act~~.
(iii) No change.
(iv) The term "municipal finance professional" means: (A) any associated person primarily engaged in municipal securities representative activities, as defined in rule G-3(a)(i); (B) any associated person who solicits municipal securities business, as defined in paragraph (vii); (C) any associated person who is both (i) a municipal securities principal or a municipal securities sales principal and (ii) a ~~direct~~ supervisor of ~~such~~ any person~~s~~ described in subparagraphs (A) or (B); (D) any associated person who is a supervisor of any person described in subparagraph (C) up through and including, in the case of a broker, dealer or municipal securities dealer other than a bank dealer, the Chief Executive Officer or similarly situated official and, in the case of a bank dealer, the officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, as required pursuant to rule G-1(a); or ~~(D)~~ (E) any associated person who is a member of the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G-1) executive or management committee or similarly situated officials, if any. Each person ~~listed~~ designated by the broker, dealer or municipal securities dealer as a municipal finance professional pursuant to rule G-8(a)(xvi) is deemed to be a municipal finance professional. Each person designated a municipal finance professional shall retain this designation for two years after the last activity or position which gave rise to the designation.
(v)-(vii) No change.
(viii) The term "payment" means any gift, subscription, loan, advance, or deposit of money or anything of value.
(h)-(i) No change.

Rule G-8. Books and Records to be Made by Brokers, Dealers and Municipal Securities Dealers
(a)(i) through (xv) No change.
(xvi) Records Concerning Political Contributions and Prohibitions on Municipal Securities Business Pursuant to Rule G-37. Records reflecting:
(A)-(D) No change.
(E) the contributions, direct or indirect, made to officials of an issuer and payments, direct or indirect, made to political parties of states and political subdivisions ~~made~~, by the broker, dealer or municipal securities dealer and each political action committee controlled by the broker, dealer or municipal securities dealer (or controlled by any municipal finance professional of such broker, dealer or municipal securities dealer) for the current year and separate listings for each of the previous two calendar years, which records shall include: (i) the identity of the contributors, (ii) the name~~s~~, and titles (including any city/county/state or other political subdivision) of the recipients of such contributions and payments, and (iii) the amounts and dates of such contributions and payments;
(F) No change.
(G) the ~~contributions~~ payments, direct or indirect, to political parties of states and political subdivisions made by all municipal finance professionals and executive officers for the current year and separate listings for each of the previous two calendar years, which records shall include: (i) the names, titles, city/county and state of residence of contributors, (ii) the name~~s~~, and titles (including any city/county/state or other political subdivision) of the recipients of such ~~contributions~~ payments and (iii) the amounts and dates of such ~~contributions~~ payments; provided, however, that such records need not reflect those ~~contributions~~ payments made by any municipal finance professional or executive officer to a political party of a state or political subdivision in which such persons are entitled to vote if the ~~contributions~~ payments by such person, in total, are not in excess of $250 per political party, per year.
(H) No change.
(I) No record is required by this paragraph (a)(xvi) of (i) any municipal securities business done or contribution to officials of issuers or political parties of states or political subdivisions made prior to April 25, 1994 or (ii) any payment to political parties of states or political subdivisions made prior to March 6, 1995.
(b)-(f) No change.

QUESTIONS AND ANSWERS

Political Contributions and Prohibitions on Municipal Securities Business: Rule G-37

Route To:	
Manager, Muni Department	●
Underwriting	●
Trading	●
Sales	●
Operations	○
Public Finance	●
Compliance	●
Training	○
Other	○

Additional Questions & Answers Notice Published

The Board is publishing a fourth Question & Answer notice concerning certain provisions of rule G-37.

Since May 1994, the Board has provided interpretive guidance on rule G-37 through the publication of three Question & Answer (Q&A) notices.[1] Among other things, the notices addressed the definition of municipal finance professional. Recently, however, the Board has received a number of questions from dealers on this provision. Accordingly, the Board has determined to publish the following interpretive guidance.

Rule G-37 Questions & Answers

1. Definition of Municipal Finance Professional: Solicitation of Municipal Securities Business (Rule G-37(g)(iv)(B))

Q: Any associated person who solicits municipal securities business is deemed a municipal finance professional under rule G-37. The Board previously noted that "solicitation" may encompass a number of activities, including, for example, making presentations of public finance and/or municipal securities marketing capabilities to issuer officials, and engaging in other activities calculated to appeal to issuer officials for municipal securities business, or which effectively do so (*MSRB Reports*, Vol. 14, No. 5 (Dec. 1994) at 8). If an associated person of a dealer attends a presentation by dealer personnel of public finance capabilities, would this also constitute "solicitation" under rule G-37?

A: Yes. If an associated person of a dealer attends such a presentation, then he or she is assumed to have solicited municipal securities business and therefore is deemed a municipal finance professional under rule G-37. Accordingly, any contributions given to issuer officials by that person within the last two years could subject the dealer to the rule's two-year prohibition on business with such issuers. For additional guidance in this area, please refer to Q&A number 4 in the June 1994 issue of *MSRB Reports* (Vol. 14, No. 3), CCH Manual paragraph 3681; and Q&A numbers 1, 2 and 3 in the December 1994 issue of *MSRB Reports* (Vol. 14, No. 5), CCH Manual paragraph 3681.

2. Definition of Municipal Finance Professional: Supervisors (Rule G-37(g)(iv)(C))

Q: A sales representative at a branch office solicits municipal securities business for the dealer. Such activity results in that person becoming a "municipal finance professional" under rule G-37(g)(iv)(B). Would that person's branch manager also be considered a municipal finance professional?

A: Yes. Rule G-37(g)(iv)(C) provides that the definition of municipal finance professional includes, among others, any associated person who is both a (i) municipal securities principal or a municipal securities sales principal and (ii) a supervisor of any associated person who solicits municipal securities business (or who is primarily engaged in municipal securities representative activities). If a sales person is soliciting municipal securities business, then the supervisor of that person (*i.e.*, the branch manager) also is included within the definition of municipal finance professional. Prior to the most recent revision to this portion of the definition of municipal finance professional (which was approved on March 6, 1995 in Securities Exchange Act Release No. 34-35446), the definition included any "direct supervisor" of any associated person who solicited municipal securities business (or who was primarily engaged in municipal securities representative activities). Under both definitions, branch managers are included within the definition of municipal finance professional in the circumstances described above. For additional information in this area, please refer to *MSRB Reports*, Vol. 14, No. 4 (August 1994) at 28-29, CCH Manual paragraph 3681. ● March 22, 1995

[1] *See MSRB Reports*, Vol. 14, No. 3 (June 1994) at 11-16, Vol. 14, No. 4 (August 1994) at 27-31, and Vol. 14, No. 5 (December 1994) at 8. *See also* CCH Manual paragraph 3681.

NOTICE — OF — APPROVAL

Continuing Education Requirements: Rule G-3

Route To:

Manager, Muni Department	●
Underwriting	○
Trading	○
Sales	○
Operations	○
Public Finance	○
Compliance	●
Training	●
Other	○

Amendment Approved

The Securities and Exchange Commission has approved an amendment to rule G-3 on professional qualifications to adopt enabling rules for the implementation of a continuing education program for the securities industry.

Questions about the amendment may be directed to Ronald W. Smith, Legal Associate, or Loretta J. Rollins, Director, Professional Qualifications.

On February 8, 1995, the Securities and Exchange Commission approved an amendment to rule G-3 on professional qualifications to adopt enabling rules for the implementation of a continuing education program for the securities industry.[1] The requirements of the Regulatory Element will become effective on July 1, 1995, and the requirements of the Firm Element will be implemented in two steps under which dealers are required to have completed their Firm Element plans by July 1995, with actual implementation of the plans no later than January 1996.

THE REGULATORY ELEMENT

Who is Covered

The Regulatory Element requires all registered persons to complete a prescribed computer-based training session within 120 days of the second, fifth, and tenth anniversary dates of their initial registration date. Persons who have been registered for more than 10 years and have not been the subject of a serious disciplinary action (as more fully described below) during the most recent 10 years are exempt from the Regulatory Element.

Any person who would otherwise be exempt from the Regulatory Element is required to re-enter the program for another 10 years when and if that person:

- becomes subject to a statutory disqualification pursuant to the Securities Exchange Act of 1934, or
- becomes subject to suspension or the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with, or rule or standard of conduct of, any securities governmental agency, securities self-regulatory organization, or as imposed by any such regulatory or self-regulatory organization in connection with a disciplinary proceeding, or
- is ordered to re-enter the Regulatory Element as a sanction in a disciplinary action by any securities governmental agency or securities self-regulatory organization.

Failure to Comply with the Regulatory Element

Failure to complete the required Regulatory Element computer-based training session during the prescribed time period will result in a person's registration becoming inactive. A person whose registration becomes inactive cannot conduct a securities business, perform any of the functions of a registered person, or receive compensation for activities that require registration until he or she meets the requirements of the Regulatory Element.

Regulatory Element Computer-Based Training

The Regulatory Element computer-based training program is designed to transmit information broadly applicable to all registered persons regardless of their job functions or registration status. The Regulatory Element training focuses on compliance, regulatory, ethical, and sales-practice standards. Its content has been recommended by a group of industry and self-regulatory organization (SRO) representatives, reviewed by the Securities Industry/Regulatory Council on Continuing Education (Council),[2] and approved by the SROs.

While there will be no grading of individual performance on the Regulatory Element, information feedback indicating whether responses are correct or incorrect will be provided to individuals throughout the computer-based training session. Firms will be provided with aggregated information on all

[1] SEC Release No. 34-35341.

[2] The Council was formed in September 1993 with representatives from six SROs and 13 broker-dealers. In addition to the Board, the SROs include the American Stock Exchange, the Chicago Board Options Exchange, the National Association of Securities Dealers (NASD), the New York Stock Exchange, and the Philadelphia Stock Exchange. The Securities and Exchange Commission and the North American Securities Administrators Association have each assigned liaisons to the Council.

their registered persons who take the computer-based training program in a given period. Firms will be expected to consider this information when formulating their training plans for the Firm Element, as more fully explained below.

THE FIRM ELEMENT

Who is Covered

Unlike the Regulatory Element, for which only those persons registered for 10 years or less are covered, the Firm Element has no exemptions. It is applicable to all persons who have direct contact with customers in the conduct of the firm's securities sales, trading, or investment banking business, and the immediate supervisors of such persons.

Annual Requirements

The Firm Element requires each member to establish a training plan and identifies certain minimum requirements associated with that plan. Each year the firm must prepare a written training plan after an analysis of its training needs. Firms must consider certain factors when conducting their analyses and in developing their training plans, such as the firm's size, organizational structure, scope and type of business activities, as well as regulatory developments and the aggregate performance of covered registered persons in the Regulatory Element. The training plan must be implemented and records must be kept that clearly demonstrate the content of its training programs and the completion of the programs by the persons or categories of persons identified in the firm's training plan. Persons who are subject to the training plan have an affirmative obligation to participate in the programs as required by the dealer.

Minimum Standards for the Firm Element Training Programs

The Firm Element also establishes certain minimum standards for the training programs that are used in a member's plan. For example, such programs, when dealing with investment products and services, must identify their investment features and associated risk factors, their suitability in various investment situations and applicable regulatory requirements that affect the products or services. The SROs have the authority to require dealers, individually or as part of a group, to provide specific training to covered registered persons in any area the SROs deem necessary. Depending on the issue of concern, these requirements could be directed at specific individuals or portions of a firm, a specific firm or group of firms, or across the entire industry.

Regulatory Consequences for Non-Compliance with Firm Element Requirements

Failure to comply with Firm Element requirements may subject the firm and individual to disciplinary action. Failure to attend training provided by his or her firm to comply with the Firm Element requirements may subject the "covered person" to disciplinary action.

IMPLEMENTATION – THE REGULATORY ELEMENT

The SROs will begin administration of the Regulatory Element on July 1, 1995. The Central Registration Depository (CRD) system will track persons subject to the requirement and notify dealers in advance of those individuals who, after July 1, 1995, are approaching their second, fifth and tenth year anniversary dates of their initial securities registration and are required to participate in the Regulatory Element.[3] These individuals will have 120 days to complete the Regulatory Element computer-based training session at an NASD PROCTOR Center. Follow-up notices will also be sent as these persons approach the end of the 120 days following their registration anniversary. In addition, the CRD system will generate reports listing those persons whose registrations have become inactive due to failure to complete the requirement within the specified time. Persons who have completed 10 years of registration before July 1, 1995, without serious disciplinary action, will be exempt from the Regulatory Element.

A person's registration anniversary dates will be determined by his or her first registration, regardless of any subsequent firm changes or changes in registration category, provided that the person has continuously remained registered. Persons who, in the 10-year period before July 1, 1995, have incurred a covered disciplinary event that would require them to re-enter the program will have an initial registration date that coincides with the effective date of the final decision in the disciplinary action. Individuals who have ceased to be registered and are required to take an examination before becoming re-registered will be subject to anniversary dates based on their most recent re-registration date.

The NASD PROCTOR system will deliver the computer-based training program in any of the PROCTOR Centers located throughout the country. In 1995, the PROCTOR network will be expanded by adding an additional center in Manhattan, and at least two mobile centers. The mobile centers will meet the needs of dealers requesting on-site administration of the Regulatory Element computer-based training

[3] Bank dealer personnel are not registered on the CRD system; therefore, bank dealers and their personnel are responsible for tracking registration anniversary dates.

according to final procedures to be announced by the NASD once the mobile centers are available.

IMPLEMENTATION – THE FIRM ELEMENT

The Firm Element will be implemented in two stages. By July 1, 1995, dealers are required to complete their training needs analyses and to develop written training plans that will be available for review upon request by the SEC, the appropriate SRO, the appropriate bank regulatory agency and state regulators. Dealers are expected to begin implementing their plans as soon as practicable but, in any event, no later than January 1, 1996. The SROs will develop a consistent approach for on-site reviews of the Firm Element requirements. Additionally, the SROs will coordinate their field inspection efforts to avoid any unnecessary regulatory overlap in the inspection process for firms that are members of two or more SROs.

Within the broad standards defined in the Continuing Education rules, the Firm Element provides great flexibility to firms in designing training programs appropriate to their needs and consistent with their resources. The Firm Element framework is intended to be flexible enough to accommodate differences in the size, scope, and complexity of firm operations.

The Council and the SROs realize that some dealers will rely upon training material and programs provided by a variety of outside training and education vendors. Nevertheless, the rules place the responsibility on each dealer to ensure that such training meets the broad content standards included in the rule as they relate to that particular firm. The SROs do not intend to pre-approve training materials and programs developed by dealers or vendors. They will, however, communicate regularly with dealers regarding their expectations for the content of training programs. As the program evolves, it is expected that some curricula content standards will be defined by the SROs for products and services where heightened regulatory concerns exist.

The Council has developed guidelines to help firms carry out their responsibilities under the Firm Element. It is likely that the Guidelines will be updated in the future to reflect experience gained during, and issues that arise from, the implementation of the Program.

PUBLICATIONS

The SROs have mailed notices to their members including the content outline for the Regulatory Element and guidelines for Firm Element training. Requests for additional copies of these publications should be directed to John Linnehan, Director, Continuing Education, NASD, (301) 208-2932. ● February 8, 1995

TEXT OF AMENDMENT*

Rule G-3. Classification of Principals and Representatives; Numerical Requirements; Testing; Continuing Education Requirements

No broker, dealer or municipal securities dealer or person who is a municipal securities representative, municipal securities principal, municipal securities sales principal or financial and operations principal (as hereafter defined) shall be qualified for purposes of rule G-2 unless such broker, dealer or municipal securities dealer or person meets the requirements of this rule.

(a) - (g) No change.

(h) Continuing Education Requirements

This section (h) prescribes requirements regarding the continuing education of certain registered persons subsequent to their initial qualification and registration with a registered securities association with respect to a person associated with a member of such association, or the appropriate regulatory agency as defined in section 3(a)(34) of the Act with respect to a person associated with any other broker, dealer or municipal securities dealer ("the appropriate enforcement authority"). The requirements shall consist of a Regulatory Element and a Firm Element as set forth below.

(i) Regulatory Element

(A) Requirements – No broker, dealer or municipal securities dealer shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person, unless such person has complied with the requirements of section (i) hereof.

(1) Each registered person shall complete the Regulatory Element on three occasions, after the occurrence of their second, fifth and tenth registration anniversary dates, or as otherwise prescribed by the Board. On each of the three occasions, the Regulatory Element must be completed within 120 days after the person's registration anniversary date. The content of the Regulatory Element shall be prescribed by the Board.

(2) Registered persons who have been continuously registered for more than 10 years as of the effective

* Underlining indicates new language.

date of this section shall be exempt from participation in the Regulatory Element, provided such persons have not been subject to any disciplinary action within the last 10 years as enumerated in paragraphs (i)(C)(1)-(2) of this section. In the event of such disciplinary action, a person will be required to satisfy the requirements of the Regulatory Element by participation for the period from the effective date of this section to 10 years after the occurrence of the disciplinary action.

(3) Persons who have been currently registered for 10 years or less as of the effective date of this section shall initially participate in the Regulatory Element within 120 days after the occurrence of the second, fifth or tenth registration anniversary date, whichever anniversary date first applies, and on the applicable registration anniversary date(s) thereafter. Such persons will have satisfied the requirements of the Regulatory Element after participation on the tenth registration anniversary.

(4) All registered persons who have satisfied the requirements of the Regulatory Element shall be exempt from further participation in the Regulatory Element, subject to re-entry into the program as set forth in paragraph (i)(C) of this section.

(B) Failure to Complete – Unless otherwise determined by the Board, any registered persons who have not completed the Regulatory Element within the prescribed time frames will have their registrations deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under this section shall cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. A registration that is inactive for a period of two years will be administratively terminated. A person whose registration is so terminated may reactivate the registration only by reapplying for registration and meeting the qualification requirements of the applicable provisions of this rule. The appropriate enforcement authority may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

(C) Re-entry into Program – Unless otherwise determined by the appropriate enforcement authority, a registered person will be required to re-enter the Regulatory Element and satisfy all of its requirements in the event such person:

(1) becomes subject to any statutory disqualification as defined in Section 3(a)(39) of the Securities Exchange Act of 1934;

(2) becomes subject to suspension or to the imposition of a fine of $5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental agency, securities self regulatory organization, the appropriate enforcement authority or as imposed by any such regulatory or self regulatory organization in connection with a disciplinary proceeding;

(3) is ordered as a sanction in a disciplinary action to re-enter the continuing education program by any securities governmental agency, the appropriate enforcement authority or securities self-regulatory organization.

Re-entry shall commence with initial participation within 120 days of the registered person becoming subject to the statutory disqualification, in the case of (i) above, or the disciplinary action becoming final, in the case of (ii) or (iii) above, and on three additional occasions thereafter, at intervals of two, five, and 10 years after re-entry, notwithstanding that such person has completed all or part of the program requirements based on length of time as a registered person or completion of 10 years of participation in the program.

(D) Any registered person who has terminated association with a broker, dealer or municipal securities dealer and who has, within two years of the date of termination, become reassociated in a registered capacity with a broker, dealer or municipal securities dealer shall participate in the Regulatory Element at such intervals (two, five and 10 years) that may apply based on the initial registration anniversary date rather than based on the date of reassociation in a registered capacity.

(E) Definition of registered person – For purposes of this section, the term "registered person" means any person registered with the appropriate enforcement authority as a municipal securities representative, municipal securities principal, municipal securities sales principal or financial and operations principal pursuant to this rule.

(ii) Firm Element

(A) Persons Subject to the Firm Element – The requirements of this section shall apply to any person registered with a broker, dealer or municipal securities dealer who has direct contact with customers in the conduct of the broker, dealer or municipal securities

dealer's securities sales, trading and investment banking activities, and to the immediate supervisors of such persons (collectively, "covered registered persons"). "Customer" shall mean any natural person and any organization, other than another broker, dealer or municipal securities dealer, executing securities transactions with or through or receiving investment banking services from a broker, dealer or municipal securities dealer.

(B) Standards for the Firm Element

(1) Each broker, dealer and municipal securities dealer must maintain a continuing and current education program for its covered registered persons to enhance their securities knowledge, skill, and professionalism. At a minimum, each broker, dealer and municipal securities dealer shall at least annually evaluate and prioritize its training needs and develop a written training plan. The plan must take into consideration the broker, dealer and municipal securities dealer's size, organizational structure, and scope of business activities, as well as regulatory developments and the performance of covered registered persons in the Regulatory Element.

(2) Minimum Standards for Training Programs – Programs used to implement a broker, dealer or municipal securities dealer's training plan must be appropriate for the business of the broker, dealer or municipal securities dealer and, at a minimum must cover the following matters concerning securities products, services and strategies offered by the broker, dealer or municipal securities dealer:

(a) General investment features and associated risk factors;

(b) Suitability and sales practice considerations;

(c) Applicable regulatory requirements.

(3) Administration of Continuing Education Program – A broker, dealer or municipal securities dealer must administer its continuing education programs in accordance with its annual evaluation and written plan and must maintain records documenting the content of the programs and completion of the programs by covered registered persons.

(C) Participation in the Firm Element – Covered registered persons included in a broker, dealer or municipal securities dealer's plan must take all appropriate and reasonable steps to participate in continuing education programs as required by the broker, dealer or municipal securities dealer.

(D) Specific Training Requirements – The appropriate enforcement authority may require a broker, dealer or municipal securities dealer, individually or as part of a larger group, to provide specific training to its covered registered persons in such areas the appropriate enforcement authority deems appropriate. Such a requirement may stipulate the class of covered registered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

NOTICE — OF — APPROVAL

Developments Concerning T+3 Settlements

Route To:

- Manager, Muni Department ●
- Underwriting ●
- Trading ●
- Sales ●
- Operations ●
- Public Finance ●
- Compliance ●
- Training ○
- Other ○

Amendments Approved

The amendments to rules G-12 and G-15 redefine regular-way settlement as three, rather than five, business days.

Questions about the amendments may be directed to Judith A. Somerville, Uniform Practice Specialist.

On February 28, 1995, the Securities and Exchange Commission (SEC) approved amendments to Board rule G-12 on uniform practice and rule G-15 on confirmation, clearance and settlement of transactions with customers redefining regular-way settlement as three, rather than five, business days (T+3 settlement).[1] The amendments are set to become effective on June 7, 1995, at the same time as Exchange Act Rule 15c6-1, to allow the municipal securities market to convert to three day settlement simultaneously with the corporate securities market.

SUMMARY OF AMENDMENTS

The amendments redefine regular-way settlement as three rather than five business days. Tracking the language of Rule 15c6-1(a), the amendments allow settlement dates in secondary market transactions to be extended, by the agreement of the parties to a transaction, on a case by case basis. Any such agreements, however, must be reached on individual transactions at the time of trade; dealers may not use standing instructions or master agreements to retain T+5 settlement as standard practice.

The amendments to rule G-12(b) exempt "when, as and if issued" transactions from T+3 settlement. Currently, when-issued transactions in municipal securities are not settled in five business days due to various actions necessary to accomplish settlement with the issuer. When issued transactions will continue to settle on a date agreed to by the parties, which typically is set to be on or a few days after the "closing date" for the issue.[2]

The amendments also include changes to rule G-15(d)(i)(D) relating to institutional customer delivery instructions on delivery vs. payment and receipt vs. payment (DVP/RVP) transactions to reflect a three-day, rather than five-day settlement cycle.[3]

T+3 IMPLEMENTATION SCHEDULE

The SEC, through discussions with the self-regulatory agencies and clearing agencies, determined that implementation of T+3 settlement should be moved from June 1, 1995 to June 7, 1995 to minimize any potential disruption resulting from the conversion. The SEC consequently amended Rule 15c6-1 to provide an implementation schedule ending on June 7, 1995.[4] The effective date for MSRB rule changes mandating T+3 settlement also has been changed to reflect this schedule.

The conversion to T+3 settlement will take place over a one-week period beginning with trades executed on Friday, June 2, 1995. The following schedule lists execution dates, settlement dates and settlement cycles for trades executed during the transition period.

Trade Date	Settlement Date	Settlement Cycle
June 1, 1995	June 8, 1995	5 Days
June 2, 1995	June 9, 1995	5 Days
June 5, 1995	June 9, 1995	4 Days
June 6, 1995	June 12, 1995	4 Days
June 7, 1995	June 12, 1995	3 Days

Three-day regular-way settlement will be required for all transactions beginning on June 7, 1995. The conversion schedule allows the two double settlement days (June 9 and June 12, 1995) to be split by a weekend, providing an opportunity for dealers to make any necessary adjustments to their systems in the event of problems developing during the conversion process.

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1 Securities Exchange Act Release No. 35427.

2 *See* "Request for Comment - Amendments to Rules G-12(b) and Rule G-34 Relating to Certain Notifications Given to Registered Clearing Agencies Concerning New Issue Municipal Securities," *MSRB Reports*, Vol. 15, No. 1 (April 1995) at 35-38 for proposed amendments relating to the setting of settlement dates and the timing of confirmations.

3 *See* "Notice of Filing - Rule G-15 Trade Date Submission of Delivery vs. Payment and Receipt vs. Payment Customer Transactions," *MSRB Reports*, Vol. 15, No. 1 (April 1995) at 51-52 for further changes to rule G-15(d) concerning the timing of submission of DVP/RVP transactions to the automated confirmation/acknowledgement system.

4 Securities Exchange Act Release No. 34952.

T+3 INTERPRETATION ON "FORWARDS"

The Board recently received inquires concerning whether municipal security forward contracts must settle in three business days once the T+3 amendments are effective. The Board understands a municipal forward to be an agreement entered into between an issuer and investors in which the investors agree to purchase bonds to be issued by the issuer at a future date. As such, the Board believes that transactions in forwards are "when, as and if issued" transactions and thus are exempt from the requirements of T+3 settlement.

T+3 EDUCATIONAL MATERIALS

The Board urges dealers to continue diligently in preparing for T+3 settlement. One area where effort will be needed is in educating retail customers on certain changes that may occur in the three-day settlement cycle. The Public Securities Association (PSA) has advised the Board that it has a brochure available to its members entitled "An Important Change Regarding Your Trades" which discusses the industry movement to T+3 settlement on June 7, 1995. Interested dealers may obtain a camera-ready copy at no charge by calling Tom McGee of the PSA at (212) 440-9422.

The Securities Industry Association (SIA) also has developed T+3 training videos designed to educate both institutional and retail sales representatives about the changes which will be necessary to implement T+3 settlement. Interested dealers may contact Phyllis Cassar of the SIA at (212) 618-0570 for information on how to order the videos. ● February 28, 1995

TEXT OF AMENDMENTS*

Rule G-12. Uniform Practice

(a) No change.

(b) Settlement Dates.

(i) No change.

(ii) Settlement dates. Settlement dates shall be as follows:

(A) for "cash" transactions, the trade date;

(B) for "regular way" transactions, the ~~fifth~~ third business day following the trade date;

(C) for "when, as and if issued" transactions, a date agreed upon by both parties, which date shall not be earlier than the fifth business day following the date the confirmation indicating the final settlement date is sent, or, with respect to transactions between the manager and members of a syndicate or account formed to purchase securities from an issuer, a date not earlier than the sixth business day following the date the confirmation indicating the final settlement date is sent; *provided, however*, that for when, as and if issued transactions compared through the automated comparison facilities of a registered clearing agency under section (f) of this rule, a managing underwriter shall provide the registered clearing agency with the settlement date as soon as it is known and shall immediately inform the registered clearing agency of any changes in such settlement date; and

(D) for all other transactions, a date agreed upon by both parties, *provided, however*, that a broker, dealer or municipal securities dealer shall not effect or enter into a transaction for the purchase or sale of a municipal security (other than a "when, as and if issued" transaction) that provides for payment of funds and delivery of securities later than the third business day after the date of the transaction unless expressly agreed to by the parties, at the time of the transaction.

(c) - (l) No change.

Rule G-15. Confirmation, Clearance and Settlement of Transactions with Customers

(a) No change.

(b) Settlement Dates.

(i) No change.

(ii) Settlement Dates. Settlement dates shall be as follows:

(A) for "cash" transactions, the trade date;

(B) for "regular way" transactions, the ~~fifth~~ third business day following trade date;

(C) for all other transactions, a date agreed upon by both parties, *provided, however*, that a broker, dealer or municipal securities dealer shall not effect or enter into a transaction for the purchase or sale of a municipal security (other than a "when, as and if issued" transaction) that provides for payment of funds and delivery of securities later than the third business day after the date of the transaction unless expressly agreed to by the parties at the time of the transaction.

(c) No change.

(d) Delivery/Receipt vs. Payment Transactions.

(i) No broker, dealer or municipal securities dealer shall accept an order from a customer pursuant to an arrangement whereby payment for securities received (RVP) or delivery against payment of securities sold (DVP) is to be made to or by an agent of the customer unless all of the following procedures are followed:

(A) the broker, dealer or municipal securities dealer shall have received from the customer prior to or at the

* Underlining indicates new language; strikethrough indicates deletions.

time of accepting such order, the name and address of the agent and the name and account number of the customer on file with the agent;

(B) the memorandum of such order made in accordance with the requirements of paragraph (a)(vi) or (a)(vii) of rule G-8 shall include a designation of the fact that it is a delivery vs. payment (DVP) or receipt vs. payment (RVP) transaction;

(C) the broker, dealer or municipal securities dealer shall give or send to the customer a confirmation in accordance with the requirements of section (a) of the rule with respect to the execution of the order not later than the close of business on the next business day after any such execution; and

(D) the broker, dealer or municipal securities dealer shall have obtained a representation from the customer (1) that the customer will furnish the agent instructions with respect to the receipt or delivery of the securities involved in the transaction promptly and in a manner to assure that settlement will occur on settlement date, ~~upon receipt by the customer of each confirmation, or the relevant data as to each execution, relating to such order,~~ and (2) that, with respect to a transaction subject to the provisions of paragraph (ii) below, the customer will furnish the agent such instructions in accordance with the rules of the registered clearing agency through whose facilities the transaction has been or will be confirmed, ~~and (3) that, with respect to all other transactions, the customer will assure that such instructions are delivered to the agent no later than:~~

~~(a) in the case of a purchase by the customer where the broker, dealer or municipal securities dealer is to deliver the securities to the customer's agent against payment (DVP), the close of business on the fourth business day after the trade date of execution of the transaction as to which the particular confirmation relates; or~~

~~(b) in the case of a sale by the customer where the broker, dealer or municipal securities dealer is to receive the securities from the customer's agent against payment (RVP), the close of business on the third business day after the date of execution of the transaction as to which the particular confirmation relates.~~

(ii) - (iii) No change.

(e) No change.

REQUEST —FOR— COMMENTS

COMMENTS DUE BY: MAY 31, 1995

Amendments to Rules G-12(b)(i) and G-15(b)(i) to Define "Trade Date" for Municipal Securities

Route To:	
Manager, Muni Department	●
Underwriting	○
Trading	●
Sales	●
Operations	●
Public Finance	○
Compliance	●
Training	○
Other	○

Comments Requested

The Board is requesting comment on draft amendments to rule G-12(b)(i) and rule G-15(b)(i) to define "trade date" for municipal securities to create a trade date processing "cut off" time of 5 p.m., Eastern Time.

Comments on the draft amendments should be submitted no later than May 31, 1995, and may be directed to Judith A. Somerville, Uniform Practice Specialist. Written comments will be available for public inspection.

In recent months, the Board has received suggestions from several dealers that it consider defining a trading day for purposes of trade processing. Late-day trading, especially on the West Coast, can cause operational problems because these trades often cannot be included for submission to clearance and settlement systems along with other trades executed on that date. In many cases, clearing agents and clearing brokers have processing cut-off times that do not allow trades done after a certain time to be submitted to automated clearance systems on that day. For example, if a trade is executed at 4 p.m., Pacific Time by a West Coast dealer using an East Coast clearing broker, the clearing broker may not be able to accept that trade information so late in its processing day. In such cases, the trade will not be submitted to the appropriate automated clearance and settlement system on trade date. If the trade is an inter-dealer trade, it will not successfully compare on the night of trade date and will count against the West Coast dealer and the clearing broker in terms of compliance with rules G-12(f)(i) on automated comparison and G-14 on transaction reporting.

THE DRAFT AMENDMENTS

Rules G-12(b)(i) and G-15(b)(i) define "settlement date" as that term is used in Board rules governing the confirmation, clearance, settlement and other processing of inter-dealer and customer transactions in municipal securities. However, the rules currently provide no definition of "trade date." Therefore, for purposes of processing a transaction, the "trade date" currently is considered under Board rules simply to be the calendar date on which the transaction is executed, no matter what time of day the transaction is executed. This is true even if the transaction is executed after normal business hours.

The draft amendments would define "trade date" for purposes of confirming, clearing, settling and otherwise processing municipal securities transactions. Under the draft amendments, "trade date" would be defined such that transactions executed after 5 p.m., Eastern Time would be processed as if they were executed on the next business day. To ensure consistency in the marketplace, the draft amendments state that trades done after this time **shall** be considered for purposes of processing as if they were done on the next business day. If adopted, the draft amendments would not provide an option for processing such trades using the actual calendar date of the transaction. The draft amendments would apply to all inter-dealer as well as all institutional and retail customer transactions.

REQUEST FOR COMMENT

The Board requests comment on the draft amendments, particularly on whether a 5 p.m. Eastern Time "cut off" for trade processing would result in a greater number of inter-dealer transactions being compared in the initial comparison cycle and a greater rate of affirmation of institutional customer transactions. Comment also is requested on whether an earlier cut-off time should be considered. The Board also requests comment on whether the draft amendments would have other positive or negative effects on the efficiency of clearance and settlement and whether there are alternative methods for addressing municipal securities transactions done after normal trade processing deadlines which would increase the comparison rate and otherwise improve usage of automated clearance systems.

The Board notes that the draft amendments would effectively extend the settlement cycle by one day for those regular-way trades executed after 5 p.m., Eastern Time. In some cases in which a dealer buys and sells the same securities during the course of a day, this extension of the settlement cycle for the sales done later in the day could result in the dealer having to finance an inventory position that otherwise could have been avoided. Commentators are asked to comment on

whether this scenario would occur so frequently as to cause operational problems.

Comment also is requested on whether the proposed definition of "trade date" might be confusing to customers who would sometimes receive a confirmation listing a trade date that is one day after the actual calendar date of the transaction. The Board asks whether, in these circumstances, the customer's confirmation should note the actual trade date as well as the trade date used for purposes of processing. ● March 14, 1995

TEXT OF DRAFT AMENDMENTS*

Rule G-12. Uniform Practice

(a) No change.

(b) Trade Dates and Settlement Dates.

(i) Definitions. For purposes of this rule, the following terms shall have the following meanings:

(A) Settlement Date. The term "settlement date" shall mean the day used in price and interest computations, which shall also be the day delivery is due unless otherwise agreed by the parties.

(B) Business Day. The term "business day" shall mean a day recognized by the National Association of Securities Dealers, Inc. as a day on which securities transactions may be settled.

(C) Trade Date. The term "trade date" shall mean the day on which a transaction is executed; *provided, however,* that trades executed after 5 p.m., Eastern Time shall be considered as being executed on the next business day for purposes of all confirmation, clearance and settlement requirements of Board rules.

(ii) No change.

(c)-(l) No change.

Rule G-15. Confirmation, Clearance and Settlement of Transactions with Customers

(a) No change.

(b) Trade Dates and Settlement Dates.

(i) Definitions. For purposes of this rule, the following terms shall have the following meanings:

(A) Settlement Date. The term "settlement date" shall mean the day used in price and interest computations, which shall also be the day delivery is due unless otherwise agreed by the parties.

(B) Business Day. The term "business day" shall mean a day recognized by the National Association of Securities Dealers, Inc. as a day on which securities transactions may be settled.

(C) Trade Date. The term "trade date" shall mean the day on which a broker, dealer or municipal securities dealer executes a transaction with a customer; provided, however, that a transaction executed after 5 p.m., Eastern Time shall be considered as being executed on the next business day for purposes of all confirmation, clearance and settlement requirements of Board rules.

(ii) No change.

(c)-(e) No change.

* Underlining indicates new language; strikethrough indicates deletions.

REQUEST —FOR— COMMENTS

COMMENTS DUE BY: MAY 31, 1995

Amendments to Rules G-12(b) and G-34 Relating to Certain Notifications Given to Registered Clearing Agencies Concerning New Issue Municipal Securities

Route To:

- Manager, Muni Department ●
- Underwriting ●
- Trading ●
- Sales ○
- Operations ●
- Public Finance ○
- Compliance ●
- Training ○
- Other ○

Comments on the draft amendments should be submitted no later than May 31, 1995, and may be directed to Judith A. Somerville, Uniform Practice Specialist. Written comments will be available for public inspection.

Comments Requested

The Board is proposing for comment draft amendments to rules G-12(b) and G-34 concerning new issue municipal securities. The draft amendments would require the underwriter of a new issue to supply a registered clearing agency providing comparison services for the issue with the interest rate and maturity structure of the issue as soon as they become available. The draft amendments also would relax notice requirements concerning the initial settlement date for inter-dealer transactions to reflect changes in the automated comparison system. Finally, the draft amendments would reformat portions of rules G-12 and G-34 to consolidate certain new issue requirements applicable to underwriters into rule G-34.

REQUIREMENT TO PROVIDE INTEREST RATE AND MATURITY DATE INFORMATION TO A REGISTERED SECURITIES CLEARING CORPORATION

Rule G-12(b) currently requires that the managing underwriter of a new issue of municipal securities provide the registered clearing agency that performs comparison services for the issue with the initial inter-dealer settlement date of the new issue as soon as the settlement date is known. The underwriter also must immediately inform the registered clearing agency of any subsequent changes in the settlement date. In the draft amendments to rule G-34, the Board is proposing that, in addition to the settlement date, the underwriter also report the interest rate and final maturity information for the new issue to the registered clearing agency as soon as this information is available.

National Securities Clearing Corporation (NSCC), the registered clearing agency providing central processing services for automated comparison of municipal securities, requires accurate interest rate, maturity date and settlement date information to calculate final monies and to provide accurate securities descriptions in the comparison of transactions in new issues. Additionally, the Board uses certain information from the automated comparison system, including final money calculations, in its Transaction Reporting Program.

In most new issues, NSCC obtains the correct interest rate and maturity information in a timely manner, as most underwriters supply this information to NSCC through the same channels as settlement date information provided under rule G-12(b). However, reviews of the Board's Transaction Reporting Program data have revealed several situations involving new issues where the interest rate and/or maturity date information has been inaccurate in securities descriptions or final monies could not be calculated because the information was not available. Given the importance of correct interest rate and maturity information for purposes of securities descriptions and price calculations used in the Board's Transaction Reporting Program, the Board believes that it would be appropriate to formalize a requirement for interest rate and maturity dates to be provided to the registered clearing agency in the same way in which settlement date information is now provided. Therefore, the Board is requesting comment on a draft amendment to rule G-34 requiring managing underwriters to provide the registered clearing agency with interest rate and final maturity information. This information would have to be provided to the registered clearing agency by the managing underwriter as soon as it becomes available. Since trading begins in a new issue once the issue is awarded (for competitively bid issues) and after the signing of the bond purchase agreement (in the case of negotiated issues), the information in all cases should be provided before that time.

OTHER REVISIONS IN RULES G-12 AND G-34 CONCERNING THE SETTING OF INTER-DEALER SETTLEMENT DATES FOR NEW ISSUES

The draft amendments also conform rule G-12(b) to current

practice in relation to the advance notice that must be provided to a registered securities clearing agency of the initial inter-dealer settlement date for a new issue. Currently, rule G-12(b) contains requirements concerning the setting of inter-dealer settlement dates in a new issue which relate back to the practice of mailing paper confirmations. Specifically, the rule requires that, with respect to the settlement date of a when-issued transaction, it shall be one agreed to by the parties, but shall not be earlier than the fifth business day following the date the confirmation indicating the final settlement date is sent. For syndicate transactions, the rule states that the settlement date of a when-issued transaction shall not be earlier than the sixth business day following the date the confirmation indicating final settlement is sent.

In 1993, rule G-12(f) was amended to require essentially all inter-dealer transactions to be compared in the automated comparison system. This system currently allows initial settlement dates for new issue municipal securities to be provided as late as two days prior to the settlement date. The draft amendment to rule G-12(b) reflects this change, and states that with respect to transactions required to be compared in an automated comparison system under rule G-12(f)(i) the settlement date shall be one agreed to by the parties, but shall not be earlier than two business days after notification of such settlement date to the registered clearing agency. For the relatively rare issues in which transactions are not eligible for automated comparison, the draft amendment provides that the settlement date shall not be earlier than the third business day following the date the confirmation indicating the final settlement date is sent.

REFORMATTING OF RULE G-34

The draft amendments also reformat various underwriting duties with respect to new issues into rule G-34 which currently contains the requirement to obtain CUSIP numbers, initial trade notification and depository application. The draft amendments would add the proposed requirement for submission of interest rate and final maturity information to the registered clearing agency to rule G-34 along with the requirement to notify the registered clearing agency of the settlement date of the new issue.

The Board requests comment on the draft amendments, including time frames for notification to the registered clearing agency of the interest rate and maturity structure of new issues and the notice of settlement date required for when-issued transactions. ● March 14, 1995

TEXT OF DRAFT AMENDMENTS*

Rule G-12. Uniform Practice

(a) No change.

(b) Settlement Dates.

(i) No change.

(ii) Settlement Dates. Settlement dates shall be as follows:

(A)-(B) No change.

(C) for "when, as and if issued" transactions, a date agreed upon by both parties, which date ~~shall not be earlier than the fifth business day following the date the confirmation indicating the final settlement date is sent, or with respect to transactions between the manager and members of a syndicate or account formed to purchase securities from an issuer, a date not earlier than the sixth business day following the date the confirmation indicating the final settlement date is sent; *provided, however,* that for when, as and if issued transactions compared through the automated comparison facilities of a registered clearing agency under section (f) of this rule, a managing underwriter shall provide the registered clearing agency with the settlement date as soon as it is known and shall immediately inform the registered clearing agency of any changes in such settlement date~~: (1) with respect to transactions required to be compared in an automated comparison system under rule G-12(f)(i), shall not be earlier than two business days after notification of such settlement date is provided to the registered clearing agency by the managing underwriter for the issue as required by rule G-34(a)(ii)(D)(2); and (2) with respect to transactions not eligible for automated comparison, shall not be earlier than the third business day following the date the confirmation indicating the final settlement date is sent; and

(D) No change.

(c)-(l) No change.

Rule G-34. CUSIP Numbers and New Issue Requirements, ~~Dissemination of Initial Trade Date Information and Depository Eligibility~~

(a) New Issue Securities.

(i) Assignment of CUSIP Numbers. (No change in text).

(ii) Application for Depository Eligibility, CUSIP Number Affixture and Initial Communications.

Each ~~municipal securities~~ broker, dealer or municipal securities dealer who acquires, whether as principal or agent, a new issue of municipal securities from the issuer of such securities for the purpose of distributing such new issue

* Underlining indicates new language; strikethrough indicates deletions.

("underwriter") shall carry out the following functions: ~~, prior to the delivery of such securities to any person, affix to, or arrange to have affixed to, the securities certificates of such new issue the CUSIP number assigned to such new issue. If more than one CUSIP number is assigned to the new issue, each such number shall be affixed to the securities certificates of that part of the issue to which such number relates.~~

~~(iii) Application for Depository Eligibility.~~

~~(A) Except as otherwise provided in this subparagraph (iii), each broker, dealer or municipal securities dealer who acquires, whether as principal or agent, a new issue of municipal securities from the issuer of such securities for the purpose of distributing such new issue shall apply to a securities depository registered with the Securities and Exchange Commission, in accordance with the rules and procedures of such depository, to make such new issue depository eligible. The application required by this subparagraph (A) shall be made as promptly as possible, but in no event later than one business day after award from the issuer (in the case of a competitive sale) or one business day after the execution of the contract to purchase the securities from the issuer (in the case of a negotiated sale). In the event that the full documentation and information required to establish depository eligibility is not available at the time the initial application is submitted to the depository, the broker, dealer or municipal securities dealer shall forward such documentation as soon as it is available.~~

~~(B) Subparagraph (iii)(A) of this rule shall not apply to an issue of municipal securities that fails to meet the criteria for depository eligibility at all depositories that accept municipal securities for deposit.~~

~~(C) Subparagraph (iii)(A) of this rule shall not apply to any new issue maturing in 60 days or less.~~

~~(D) Subparagraph (iii)(A) of this rule shall not apply to any new issue that is less than $1 million in par value, *provided however*, that this exemption shall expire July 1, 1996.~~

~~(iv) Underwriting Syndicate. In the event a syndicate or similar account has been formed for the purchase of a new issue of municipal securities, the managing underwriter shall take the actions required under the provisions of this rule.~~

(A) Except as otherwise provided in this subparagraph (ii)(A), the underwriter shall apply to a securities depository registered with the Securities and Exchange Commission, in accordance with the rules and procedures of such depository, to make such new issue depository-eligible. The application required by this subparagraph (ii)(A) shall be made as promptly as possible, but in no event later than one business day after award from the issuer (in the case of a competitive sale) or one business day after the execution of the contract to purchase the securities from the issuer (in the case of a negotiated sale). In the event that the full documentation and information required to establish depository eligibility is not available at the time the initial application is submitted to the depository, the underwriter shall forward such documentation as soon as it is available; *provided, however,* this subparagraph (ii)(A) of this rule shall not apply to:

(1) an issue of municipal securities that fails to meet the criteria for depository eligibility at all depositories that accept municipal securities for deposit;

(2) any new issue maturing in 60 days or less;

(3) any new issue that is less than $1 million in par value; *provided, however,* that this exemption shall expire July 1, 1996.

(B) The underwriter, prior to the delivery of such securities to any other person, shall affix to, or arrange to have affixed to, the securities certificates of such new issue the CUSIP number assigned to such new issue. If more than one CUSIP number is assigned to the new issue, each such number shall be affixed to the securities certificates of that part of the issue to which such number relates.

(C) The underwriter, on initial trade date, shall communicate the following information to syndicate and selling group members:

(1) the CUSIP number or numbers assigned to the issue and descriptive information sufficient to identify the CUSIP number corresponding to each part of the issue assigned a specific CUSIP number; and

(2) the initial trade date. For purposes of this subparagraph (a)(ii)(C), initial trade date shall mean, for competitive issues, either the date of award, or the first date allocations are made to syndicate or selling group members, whichever date is later, and, for negotiated issues, either the date on which the contract to purchase the securities from the issuer is executed, or the first date allocations are made to syndicate or selling group members, whichever date is later.

(D) For any new issue of municipal securities eligible for comparison through the automated comparison facilities of a registered clearing agency under section (f) of rule G-12, the underwriter shall provide the registered securities clearing agency responsible for comparing when, as and if issued transactions with:

(1) final interest rate and maturity information about the new issue as soon as it is available; and
(2) the settlement date of the new issue as soon as it is known and shall immediately inform the regis tered clearing agency of any changes in such settle ment date.

(iii) Underwriting Syndicate. In the event a syndicate or similar account has been formed for the purchase of a new issue of municipal securities, the managing under-writer shall take the actions required of the underwriter under the provisions of this section (a).

(b) No change.

(c) ~~Each municipal securities broker or municipal securities dealer who acquires, whether as principal or agent, a new issue of municipal securities from the issuer of such securities for the purpose of distributing the new issue shall on the initial trade date communicate the following information to syndicate and selling group members:~~

~~(i) the CUSIP number or numbers assigned to the issue and descriptive information sufficient to identify the CUSIP number corresponding to each part of the issue assigned a specific CUSIP number; and~~

~~(ii) the initial trade date. For purposes of this paragraph (c), initial trade date shall mean, for competitive issues, either the date of award, or the first date allocations are made to syndicate or selling group members, whichever date is later, and, for negotiated issues, either the date on which the contract to purchase the securities from the issuer is executed, or the first date allocations are made to syndicate or selling group members, whichever date is later.~~

~~(d)~~ CUSIP Number Eligibility. The provisions of this rule shall not apply to an issue of municipal securities (or for the purpose of section (b) any part of an outstanding maturity of an issue) which does not meet the eligibility criteria for CUSIP number assignment.

FILING WITH SEC

Customer Confirmations: Rule G-15(a)

Route To:

- Manager, Muni Department ●
- Underwriting ○
- Trading ○
- Sales ●
- Operations ○
- Public Finance ○
- Compliance ●
- Training ○
- Other ○

Amendment Filed

The amendment: (1) clarifies the current customer confirmation requirements by reorganizing the rule and incorporating previous Board interpretations into the language of the rule; (2) revises certain requirements in areas where the Board believes that more disclosure is necessary; and (3) includes certain other modifications to the current confirmation disclosure requirements.

Questions about the amendment may be directed to Marianne I. Dunaitis, Assistant General Counsel, or Mark McNair, Assistant General Counsel.

On March 30, 1995, the Board filed with the Securities and Exchange Commission (SEC or Commission) a proposed amendment to rule G-15(a), regarding customer confirmations. The amendment (1) clarifies the current customer confirmation requirements by reorganizing the rule and incorporating previous Board interpretations into the language of the rule; (2) revises certain requirements in areas where the Board believes that more disclosure is necessary; and (3) includes certain other modifications to the current confirmation disclosure requirements. The amendment will become effective 120 days after approval by the Commission. Persons wishing to comment on the amendment should comment directly to the Commission.[1]

BACKGROUND

As part of the Board's ongoing customer protection review, the Board reviewed rule G-15(a) regarding customer confirmations and decided that it would be beneficial to improve, in certain areas, the disclosure provided on the confirmation. In June 1994, the Board published a Request for Comments on a draft amendment to rule G-15(a). The draft amendment reorganized the rule and incorporated previous Board interpretations into the rule, revised certain requirements where the Board believed more disclosure would be appropriate, and included other relatively minor modifications to simplify and clarify the requirements of the rule and to promote better compliance. After reviewing these matters and the comments received, the Board approved an amendment to rule G-15(a) which includes a number of revisions to the draft amendment. The amendment also responds to recent revisions by the SEC to its Rule 10b-10, the confirmation rule applicable to transactions in securities other than municipal securities, and to the SEC's proposed Rule 15c2-13 which would require certain disclosures to be made on confirmations for transactions in municipal securities.[2]

Reorganization of Current Rule Including Codification of Interpretations

Rule G-15(a) provides requirements for the format and content of confirmations to customers. The amendment clarifies rule G-15(a) by reorganizing the rule and incorporating Board interpretations into the rule. Most requirements in the revised rule are subdivided by subject matter into three broad categories that comprise the content of municipal securities confirmations – terms of the transaction, securities identification, and the features of the securities ("securities description"). Under each category, Board rules and interpretations are organized by specific confirmation requirement. For example, under the securities identification section of the amendment, all existing rules and Board interpretive notices specifying how the interest rate should be expressed on the confirmation for various categories of municipal securities transactions have been codified.[3] This reorganization should assist operations personnel in programming automated systems for generating municipal securities confirmations since it will no longer be necessary to review all previous interpretive notices on confirmations to find those that may address the statement of interest rate for a particular type of municipal security.

REVISIONS IN CUSTOMER CONFIRMATION REQUIREMENTS

The amendment revises some requirements that the Board feels will strengthen the disclosure and customer protection objectives of the rule while updating the requirements of the customer confirmation.

[1] Comments sent to the Commission should refer to SEC File No. SR-MSRB-95-4.
[2] Securities Exchange Act Rel. No. 34962 (Nov. 10, 1994).
[3] Categories include zero coupon securities, variable rate securities, securities with adjustable tender fees, stepped coupon securities, and stripped coupon securities.

Disclosure if a Security is Unrated
In November 1994, the SEC approved amendments to Rule 10b-10 of the Securities Exchange Act, the confirmation rule applicable to transactions in securities other than municipal securities.[4] At the same time, the SEC deferred consideration of proposed Rule 15c2-13 that would have established certain confirmation requirements applicable to transactions in municipal securities. The SEC's amendments to Rule 10b-10 require, among other things, that dealers disclose if a debt security, other than a governmental security, has not been rated by a nationally recognized statistical rating organization. The SEC had proposed a similar requirement for municipal securities confirmations in its proposed Rule 15c2-13. The SEC noted that this disclosure is not intended to suggest that an unrated security is inherently riskier than a rated security; instead, this disclosure is intended to alert customers that they may wish to obtain further information or clarification from their dealer. Previously, the Board indicated in its comment to the SEC that, if the SEC determined information as to whether a security is unrated was needed by investors in debt securities, the Board would amend rule G-15 to include this requirement. The amendment includes this provision in rule G-15(a)(i)(C)(3)(f).

Call Provisions
Currently, for many bonds, only a designation of "callable" is required by rule G-15(a)(i)(E), along with the following legend provided by rule G-15(a)(iii)(F) which can be indicated in a footnote or otherwise: "Call features may exist which could affect yield; complete information will be provided upon request."

The amendment in rule G-15(a)(i)(C)(2)(a) revises the existing confirmation requirements regarding call features. It requires that the date and price of the next pricing call always be disclosed.[5] It also requires the following notation on the confirmation if any call features exist in addition to the next pricing call – "Additional call features exist that may affect yield; complete information will be provided upon request." The amendment in rule G-15(a)(i)(E) requires this notation to be on the front of the confirmation. This substitutes for the current legend requirement, which typically has resulted in call legends being pre-printed on the back of the confirmation.

The Board believes that disclosure of call features is particularly important to customers and that the pre-printed legend on the back of the confirmation has not always been effective in alerting customers to the existence of call features. The amendment puts customers clearly on notice as to the presence of call features on the front of the confirmation, including a specific date and price for the next pricing call (one of the most important elements of call information) and the existence of any other call features in addition to this call.

Revenue Bonds and Additional Obligors
Currently, with regard to revenue bonds, rule G-15(a)(i)(E) provides that the disclosure of the source of revenue on the confirmation is required only "if necessary for a materially complete description of the securities." The amendment in rule G-15(a)(i)(C)(1)(a) requires dealers to put the primary revenue source for revenue bonds on the confirmation (*e.g.*, project name) and deletes the language "if necessary for a materially complete description of the securities." The Board believes that requiring disclosure of the primary revenue source of revenue bonds on the confirmation will help ensure that customers receive important information about such bonds.

Additional Obligors
Currently, with regard to additional obligors, confirmation disclosure of such information is required under rule G-15(a)(i)(E) only "if necessary for a materially complete description of the securities." In such instances, the confirmation must disclose the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service or, if there is more than one such obligor, the statement "multiple obligors" may be shown. The amendment in rule G-15(a)(i)(C)(1)(b) deletes the language "if necessary for a materially complete description of the securities;" thus the amendment requires dealers always to identify the additional obligor on the confirmation or indicate "multiple obligors" if there are more than one additional obligors. The Board believes this will simplify and clarify the intent of the rule. The amendment also clarifies that, if a letter of credit is used, the identity of the bank issuing the letter of credit must be noted.

Limited Tax
Currently, rule G-15(a)(i)(E) provides that the description of the bonds should specify if they are "limited tax." Traditionally, a limited tax bond is a general obligation bond secured by the pledge of a specified tax (usually the property tax) or category of taxes which is limited as to rate or amount. However, the meaning of this "limited tax" designation has become ambiguous as various states have implemented a variety of tax limitation measures and the Board is unaware of any

[4] Securities Exchange Act Rel. No. 34962 (Nov. 10, 1994).
[5] The amendment in rule G-15(a)(vi)(F) defines "pricing call" as a call feature that represents "an in whole call" of the type that may be used by the issuer without restriction in a refunding.

clear standards that may be used to separate limited and unlimited tax municipal securities. The amendment thus deletes the "limited tax" designation requirement.

Dealers Acting as Agent and Receiving "Other Remuneration"

Currently, rule G-15(a)(ii) provides that, in agency transactions, remuneration paid by the customer always must be disclosed, but if a dealer receives "other" remuneration (*i.e.*, remuneration from a source other than the customer), it is sufficient to indicate that other remuneration was received and that details will be furnished to the customer upon written request. The Board has received inquiries whether the "discount" received by a dealer in an inter-dealer transaction undertaken as agent for a customer should be considered as "other remuneration." The amendment in rule G-15(a)(i)(A)(1)(e) clarifies this by stating that in an agency transaction for a customer, if a dealer acquires a bond from another dealer at a discount (*e.g.*, "net" price less concession) and the customer pays the "net" price, the inter-dealer discount or concession received by the dealer cannot be considered "other remuneration," but rather should be considered remuneration received from the customer. Thus, the amendment clarifies that the amount of the "discount" or concession must be disclosed on the confirmation in these agency transactions pursuant to rule G-15(a)(i)(A)(6)(f).

"Ex-legal" Delivery Designation

Currently, rule G-15(a)(iii)(I)(1) requires that the confirmation must note whether a transaction is "ex-legal." This term refers to the absence of a written copy of the legal opinion attached to the bond certificate for physical delivery. This provision was adopted when nearly all deliveries of municipal securities were accomplished with physical deliveries of certificates which included a copy of the legal opinion. With the movement away from physical deliveries and the high percentage of book-entry-only securities in the markets, the Board believes that this requirement is no longer necessary and the amendment deletes the "ex-legal" delivery designation.

Zero Coupon Bonds

Currently, rule G-15(a)(v) provides a number of specific confirmation requirements for zero coupon bonds, including disclosure that the interest rate is 0% and, if the securities are callable and available in bearer form, a statement to that effect which can be satisfied by the following legend: "No periodic payments – callable below maturity value without prior notice by mail to holder unless registered." The amendment retains these requirements.

In addition, the amendment in rule G-15(a)(i)(A)(6)(h) requires that the amount of any premium paid over accreted value for callable zero coupon bonds be included on confirmations. The accreted value for a zero coupon bond reflects the increase in the security's value as it approaches the maturity date. For zero coupon bonds that are callable, the call price is generally at the accreted value. The Board believes it is important for customers to know that such securities may be affected by an early call and that a premium over the accreted value is being paid in the purchase price. In general, a customer purchasing a typical, interest-paying municipal security understands that a price above "100" indicates the customer is paying a premium price and that, if the security contains any call features, such features should be considered carefully. The importance of reviewing call features, however, is not as apparent with callable zero coupon securities, where a customer may not be aware of the relationship between a potential call price and the accreted value of the security being purchased. Accordingly, the amendment requires dealers to disclose on the confirmation any premium paid over the accreted value for callable zero coupon bonds.

Original Issue Discount Securities

Currently, a dealer must disclose on the confirmation whether securities are sold as "original issue discount" securities pursuant to rule G-15(a)(iii)(H). The amendment in rule G-15(a)(i)(C)(4)(c) also requires the dealer to disclose the initial public offering price for such securities. The Board believes that this information is particularly important to customers since it may be needed for tax purposes and also may be important if the security is subject to an early call.

Disclosure regarding CMOs

The SEC's amendment to its Rule 10b-10 provides that the dealer must include a statement on the confirmation indicating that the actual yield of collateralized mortgage obligations (CMOs) may vary according to the rate at which the underlying receivables or other financial assets are prepaid, and a statement of the fact that information concerning the factors that affect yield (including, at a minimum, estimated yield, weighted average life, and the prepayment assumptions underlying yield) will be furnished upon the written request of a customer. The amendment in rule G-15(a)(i)(D)(2) includes a similar provision for municipal CMOs.

First Interest Payment Date (including if not semi-annual)

Currently, rule G-15(a)(iii)(A) is ambiguous as to whether the first interest payment date must be included on the confirmation in all instances in which there is no regular semi-annual interest payment, or only if the first payment date is necessary for purposes of calculation of final monies. The amendment in rule G-15(a)(i)(A)(6)(g) clarifies that the

first interest payment date is required on the confirmation only in those cases in which it is necessary for the calculation of final money. For example, it would not be required for transactions in the issue occurring after the first interest payment date.

Yield Information

Currently, there is not a specific exemption for statement of yield on transactions in defaulted bonds, bonds that prepay principal and variable rate securities that are not sold on basis of yield to put. The amendment in rule G-15(a)(i)(A)(5)(d) includes specific exemptions for these types of transactions.

MODIFICATIONS AND CLARIFICATIONS TO CONFIRMATION FORMAT

Multi-Transaction Data should not be Aggregated on One Confirmation

Currently, rule G-15(a) provides that, at or before the completion of a transaction in municipal securities, dealers must provide the customer with a written confirmation of the transaction. The current rule does not specifically indicate that customers should receive a separate confirmation for each transaction. The Board previously has stated that, if a customer purchased from a dealer several different securities of one issuer, it would be inappropriate for the dealer to aggregate on the confirmation the accrued interest for all the bonds acquired or to aggregate yield data and disclose the "yield to the average life" rather than providing yield to maturity information for each bond acquired.[6] The amendment in rule G-15(a)(ii) clarifies that a separate confirmation must be provided for each municipal securities transaction whenever several transactions are done at one time.

Clarification of Confirmation Format

The amendment requires that all disclosures, with certain exceptions, be clearly and specifically indicated on the front of the confirmation. To address concerns about the "crowding" of information on the front side of the confirmation, the amendment allows certain requirements to be met by statements on the back of the confirmation, namely: (1) the required legend for zero coupon bonds; (2) the requirement that permits a dealer in agency transactions, rather than naming the person from whom the securities were purchased or sold to include a statement that this information will be furnished upon the written request of the customer; and (3) the requirement that permits a dealer, rather than indicating the time of execution, to include a statement that the time of execution will be furnished upon the written request of the customer. In addition, consistent with the SEC's amendment to Rule 10b-10, the amendment does not require the disclosure statement for transactions in municipal collateralized mortgage obligations required in rule G-15(a)(i)(D)(2) to be on the front of the confirmation.

SUMMARY OF COMMENTS AND DISCUSSION

Prior to adopting the amendment, in June 1994 the Board published for comment a draft amendment containing most of the revisions discussed above, with the exception of those that were the subject of the SEC's proposed changes to Rule 10b-10 and proposed Rule 15c2-13. As discussed below, the Board made a number of revisions to the draft amendment to reflect issues raised by commentators. The Board received 12 comment letters in response to the rule filing change.[7] In general, the codification and reorganization of the rule received favorable comment. Several commentators, however, discussed specific provisions as described.[8]

Call Provisions

The draft amendment proposed to alter call disclosure on the confirmation in several ways. It would have required that the date and price of the first refunding call always be disclosed. It would have deleted the legend that generally is preprinted on the back of the confirmation. Instead, it would have required that, if there were any call features in addition to the first refunding call, disclosure must be made on the front of the confirmation that "special call features exist."

Several commentators commented on the Board's proposal to improve the disclosure of call features on the customer confirmation. Some commentators noted that it would be beneficial to investors to require the disclosure of the first in-whole pricing call. One commentator, however, suggested that the Board modify the draft rule language to require the date and price of the next pricing call, instead of the "first" pricing call to be noted on the confirmation. The amendment incorporates this suggestion.

Some commentators supported the replacement of the current legend "Call features may exist which could affect yield; complete information will be provided upon request," that generally

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[6] MSRB Interpretation of July 27, 1981, *MSRB Manual* (CCH) para. 3571.35 and 3571.41.

[7] *MSRB Reports*, Vol. 14, No. 3 (June 1994) at 27-33. The comment letters are available for inspection at the Board's offices. The Board also requested comment on broader issues associated with disclosure to customers and the role of the customer confirmation. The Board, however, is not proposing rulemaking in these areas at the present time.

[8] After reviewing comments received, the Board decided not to include in the amendment certain provisions that were included in the draft rule. For example, the Board decided to retain disclosure on the confirmation if municipal securities are available only in book-entry form. The Board also determined not to require that the dated date always be included on the confirmation or that the confirmation indicate if a municipal security was issued without a legal opinion.

is contained on the back of the confirmation, with the notation on the front of the confirmation that "special call features exist," because they believed that an affirmative statement as to the presence of other call features would be beneficial to investors. Other commentators, however, expressed concern because they believed that dealers, if their knowledge of a particular bond is incomplete, should be able to use the current legend. With regard to the availability of information regarding the presence of additional call features, however, a number of commentators indicated that sufficient data regarding call features is available to support the disclosures being proposed.

The Board continues to believe that disclosure of call features is important to customers and that it is appropriate to improve existing disclosure by requiring an affirmative notation on the front of the confirmation if there are any calls in addition to the first in-whole pricing call. Dealers should have information regarding the presence of call features before they sell municipal securities to their customers and such information appears to be readily available for most municipal securities. Thus, the amendment deletes the current legend that permits dealers to indicate generally in a pre-printed format that other call features may exist.

After reviewing the comments on this aspect of the draft amendment, the Board changed the notation "Special call features exist" to "Additional call features exist that may effect yield." The Board believes that this statement will best reflect the potential types of calls that might exist. Additionally, the Board added the second half of the existing legend "complete information will be provided upon request" to the notation to ensure that customers recognize that they can request additional information regarding call features.

Revenue Bonds

Several commentators opposed a provision of the draft amendment that would have required that the revenue source for revenue bonds always be disclosed. In general, these commentators noted difficulties describing the revenue source for certain bonds, particularly those with complex sources of revenue or those that have a lengthy list of revenue sources or too complex a funding scheme to allow for full disclosure on a confirmation. Because of confirmation space concerns, one commentator suggested that only the most significant sources of revenue be disclosed on the confirmation.

In response to commentators' concerns about the practical difficulties in listing numerous revenue sources, the amendment requires dealers to put only the primary revenue source for revenue bonds on the confirmation (*e.g.*, project name). The Board believes that this information is available and would be helpful to customers.

Limited Tax

Several commentators commented on the proposal to delete the "limited tax" designation. One supported the deletion of the limited tax designation because it believed that investors should refer to the official statement as a source for such information. However, other commentators questioned whether deletion of this provision would further the Board's objective of improving disclosure to customers because they believed the "limited tax" is useful information.

The amendment deletes the "limited tax" designation because the Board believes that its meaning has become so ambiguous and so subject to differing views as to its applicability that it is of doubtful use to investors. The Board emphasizes, however, that deletion of this provision does not affect a dealer's obligation to disclose all material facts to a customer at the time of the transaction. If a general obligation bond has a limitation on taxes that is material to the investment decision, dealers must ensure that their customers are aware of the relevant facts, at or before the time of the transaction.

Dealers Acting as Agent and Receiving "Other Remuneration"

Several commentators commented on the proposal to clarify when it would be sufficient for a dealer to indicate that it received "other remuneration" in a transaction and that details will be furnished to the customer upon written request. The amendment clarifies this by stating that in an agency transaction if a dealer acquires a bond from another dealer at a discount and the customer pays the "net" price, the inter-dealer discount cannot be considered "other remuneration" but rather should be considered other remuneration received from the customer and disclosed pursuant to rule G-15(a)(i)(A)(6)(f). In general, commentators supported the amendment. The Board believes that this clarification should ensure that dealers only disclose "other remuneration" in those situations where such designation is appropriate, such as remuneration received from remarketing programs.

"Ex-legal" Delivery Designation

Two commentators supported the proposed deletion of the current requirement that the confirmation must indicate if a bond certificate is physically delivered without a legal opinion attached. Another commentator recognized that, with the movement away from the delivery of certificates, this provision is seldom noted on a confirmation. However, this commentator believed this provision should be retained.

The Board believes that with the movement away from the

physical delivery of certificates, there are few instances where a bond is physically delivered without a legal opinion attached and, accordingly, as part of the update of the customer confirmation rule, this provision should be deleted. Of course, even with the deletion of this requirement, if it was material that a municipal security was delivered without a legal opinion, this fact must be disclosed to the customer at or before the execution of the transaction.

Zero Coupon Bonds

Numerous commentators commented on the proposed disclosure requirements for zero coupon bonds. One commentator supported the proposed rule change to require disclosure of any premium over accreted value even though it would require additional programming for dealers. Several other commentators, however, opposed the disclosure of any premium over accreted value for transactions in zero coupon bonds. These commentators believed it would be difficult to obtain this information and one of them further noted that some reprogramming would be required in order to include this information on the confirmation.

The Board originally proposed that the premium over accreted value be disclosed for all zero coupon bonds, but the amendment only requires that this premium be disclosed for zero coupon bonds that are callable. As discussed above, the accreted value of zero coupon bonds reflects the increase in the security's value as it approaches the redemption date, and if the bond is called prior to maturity it generally would be called at a price reflecting that value. The Board believes that requiring dealers to disclose any premium over the accreted value for callable zero coupon bonds is necessary so that customers are provided with sufficient information to assess the transaction.

Another commentator suggested that the Board consider a different approach because it believed that a discount or premium to the accreted value of a bond is equally important for any callable original issue discount bond. This commentator suggested the following statement on confirmations relating to transactions in original issue discount bonds which are callable in part at an accreted value: "If a premium was paid, a lower yield may result from early call." Although the Board does not believe this legend is appropriate for OID municipal securities, the Board does believe that additional information is necessary for such securities, and, as discussed above, the amendment requires that the original issue price be disclosed for OID issues.

Additional Obligors

Several commentators commented on the provision in the draft amendment that dealers always be required to disclose information regarding additional obligors. In general, these commentators opposed requiring dealers to provide complete information regarding obligors because they believed it could be difficult to obtain such information. One commentator suggested the official statement should be used as a source if an investor has questions regarding obligors.

The Board believes that its always important for customers to understand if there are any obligors in addition to the issuer and the Board believes this information should always be placed on the confirmation. The Board, however, recognizes that it could be difficult in certain instances for dealers to include on the confirmation complete information regarding obligors, if there are numerous obligors. The amendment accordingly permits dealers in such instances to note "multiple obligors" on the confirmation.

Multi-Transaction Data should not be Aggregated on One Confirmation

In general, commentators supported this clarification because they believed it would be beneficial for customers to have a separate confirmation for each transaction if they acquire several municipal securities. One commentator, however, suggested that, if a customer executes multiple transactions, the dealer should have the ability to send a single document that would provide all required information, except that certain information such as purchase/sale and settlement data would not have to be listed for each transaction. The Board does not believe that it is too burdensome for dealers to ensure that the confirmation data for each transaction is complete. Accordingly, the amendment requires a separate confirmation for each transaction.

New Sections to Clarify Confirmation Format

The draft amendment proposed that all confirmation requirements, except the zero coupon legend, be clearly and specifically noted on the front of the confirmation. Several commentators supported this format because they believed that disclosing more provisions on the front of the confirmation, rather than pre-printed on the back, would be beneficial to customers. One commentator, however, suggested that dealers be permitted to continue to put two notations on the back of the confirmation. First, for agency transactions, rule G-15 (a)(ii)(A) currently provides that the dealer shall indicate on the confirmation either the name of the person from whom the securities were purchased or to whom the securities were sold for the customer or a statement that this information will be furnished upon written request of the customer. Second, rule G-15(a)(i)(G) currently provides that a dealer shall indicate on the confirmation the time of execution or a statement

that the time of execution will be furnished upon written request of the customer. The amendment incorporates these suggestions because, in view of concerns regarding confirmation crowding, the Board does not believe it is necessary to include these statements on the front of the confirmation. In addition, consistent with the SEC's amendment to Rule 10b-10, the amendment does not require that the statement regarding factors affecting the yield for municipal CMOs be placed on the front of the confirmation. ● March 30, 1995

TEXT OF PROPOSED AMENDMENT*

Rule G-15(a). Customer Confirmations.

(i) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation that complies with the requirements of this paragraph (i):

(A) Transaction information. The confirmation shall include information regarding the terms of the transaction as set forth in this subparagraph (A):

(1) The parties, their capacities, and any remuneration from other parties. The following information regarding the parties to the transaction and their relationship shall be included:

(a) name, address, and telephone number of the broker, dealer, or municipal securities dealer, provided, however, that the address and telephone number need not be stated on a confirmation sent through the automated confirmation facilities of a clearing agency registered with the Securities and Exchange Commission;

(b) name of customer;

(c) designation of whether the transaction was a purchase from or sale to the customer;

(d) the capacity in which the broker, dealer or municipal securities dealer effected the transaction, whether acting:

(i) as principal for its own account,

(ii) as agent for the customer,

(iii) as agent for a person other than the customer, or

(iv) as agent for both the customer and another person;

(e) if the broker, dealer or municipal securities dealer is effecting a transaction as agent for the customer or as agent for both the customer and another person, the confirmation shall include: (i) either (A) the name of the person from whom the securities were purchased or to whom the securities were sold for the customer, or (B) a statement that this information will be furnished upon the written request of the customer; and (ii) either (A) the source and amount of any remuneration received or to be received (shown in aggregate dollar amount) by the broker, dealer or municipal securities dealer in connection with the transaction from any person other than the customer, or (B) a statement indicating whether any such remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of the customer. In applying the terms of this subparagraph (A)(1)(e), if a security is acquired at a discount (*e.g.*, "net" price less concession) and is sold at a "net" price to a customer, the discount must be disclosed as remuneration received from the customer pursuant to subparagraph (A)(6)(f) of this paragraph rather than as remuneration received from "a person other than the customer."

(2) Trade date and time of execution. The trade date shall be shown. In addition, either (a) the time of execution, or (b) a statement that the time of execution will be furnished upon written request of the customer shall be shown.

(3) Par value. The par value of the securities shall be shown, with special requirements for the following securities:

(a) Zero coupon securities. For zero coupon securities, the maturity value of the securities must be shown if it differs from the par value.

(4) Settlement date. The settlement date as defined in section (b) of this rule shall be shown.

(5) Yield and dollar price. Yields and dollar prices shall be computed and shown in the following manner, subject to the exceptions stated in subparagraph (A)(5)(d) of this paragraph:

(a) For transactions that are effected on the basis of a yield to maturity, yield to a call date, or yield to a put date:

(i) The yield at which the transaction was effected shall be shown and, if that yield is to a call date or to a put date, this shall be noted, along with the date and dollar price of the call or put.

(ii) A dollar price shall be computed and

* The proposed amendment is a complete revision to the current rule language. The current rule language of rule G-15(a) and related interpretations are contained in the *MSRB Manual*.

shown in accordance with the rules in subparagraph (A)(5)(c) of this paragraph, and such dollar price shall be used in computations of extended principal and final monies shown on the confirmation.

(b) For transactions that are effected on the basis of a dollar price:

(i) The dollar price at which the transaction was effected shall be shown.

(ii) A yield shall be computed and shown in accordance with subparagraph (A)(5)(c) of this paragraph, unless the transaction was effected at "par."

(c) In computing yield and dollar price, the following rules shall be observed:

(i) The yield or dollar price computed and shown shall be computed to the lower of call or nominal maturity date, with the exceptions noted in this subparagraph (A)(5)(c).

(ii) For purposes of computing yield to call or dollar price to call, only those call features that represent "in whole calls" of the type that may be used by the issuer without restriction in a refunding ("pricing calls") shall be considered in computations made under this subparagraph (A)(5).

(iii) Yield computations shall take into account dollar price concessions granted to the customer, commissions charged to the customer and adjustable tender fees applicable to puttable securities, but shall not take into account incidental transaction fees or miscellaneous charges, provided, however, that as specified in subparagraph (A)(6)(e) of this paragraph, such fees or charges must be indicated on the confirmation.

(iv) With respect to the following specific situations, these additional rules shall be observed:

(A) Declining premium calls. For those securities subject to a series of pricing calls at declining premiums, the call date resulting in the lowest yield or dollar price shall be considered the yield to call or dollar price to call.

(B) Continuously callable securities. For those securities that, at the time of trade, are subject to a notice of a pricing call at any time, the yield to call or dollar price to call shall be computed based upon the assumption that a notice of call may be issued on the day after trade date or on any subsequent date.

(C) Mandatory tender dates. For those securities subject to a mandatory tender date, the mandatory tender date and dollar price of redemption shall be used in computations in lieu of nominal maturity date and maturity value.

(D) Securities sold on basis of yield to put. For those transactions effected on the basis of a yield to put date, the put date and dollar price of redemption shall be used in computations in lieu of maturity date and maturity value.

(E) Prerefunded or called securities. For those securities that are prerefunded or called to a call date prior to maturity, the date and dollar price of redemption set by the prerefunding shall be used in computations in lieu of maturity date and maturity value.

(v) Computations shall be made in accordance with the requirements of rule G-33.

(vi) If the computed yield or dollar price shown on the confirmation is not based upon the nominal maturity date, then the date used in the computation shall be identified and stated. If the computed yield or dollar price is not based upon a redemption value of par, the dollar price used in the computation shall be shown (*e.g.*, 5.00% yield to call on 1/1/99 at 103).

(vii) If the computed yield required by this paragraph (5) is different than the yield at which the transaction was effected, the computed yield must be shown in addition to the yield at which the transaction was effected.

(d) Notwithstanding the requirements noted in subparagraphs (A)(5)(a) through (c) of this paragraph, above:

(i) Securities that prepay principal. For securities that prepay principal periodically, a yield computation and display of yield is not required, provided, however, that if a yield is displayed, there shall be included a statement describing how the yield was computed.

(ii) Municipal Collateralized Mortgage Obligations. For municipal collateralized mortgage obligations, a yield computation and display of yield is not required, provided however, that if a yield is displayed, there shall be included a statement describing how the yield was computed.

(iii) Defaulted securities. For securities that have defaulted in the payment of interest or principal, a yield shall not be shown.

(iv) Variable rate securities. For municipal securities with a variable interest rate, a yield shall not be shown unless the transaction was effected on the basis of yield to put.

(v) Securities traded on a discounted basis. For securities traded on a discounted basis, a yield shall not be shown.

(6) Final Monies. The following information relating to the calculation and display of final monies shall be shown:

(a) total dollar amount of transaction;

(b) amount of accrued interest, with special requirements for the following securities:

(i) Zero coupon securities. For zero coupon securities, no figure for accrued interest shall be shown;

(ii) Securities traded on discounted basis. For securities traded on a discounted basis (other than discounted securities traded on a yield-equivalent basis), no figure for accrued interest shall be shown;

(c) if the securities are traded without interest, a notation of "flat;"

(d) extended principal amount, with special requirements for the following securities:

(i) Securities traded on discounted basis. For securities traded on a discounted basis (other than discounted securities sold on a yield-equivalent basis) total dollar amount of discount may be shown in lieu of the resulting dollar price and extended principal amount;

(e) the nature and amount of miscellaneous fees, such as special delivery arrangements or a "per transaction" fee, or if agreed to, any fees for converting registered certificates to or from bearer form;

(f) if the broker, dealer or municipal securities dealer is effecting the transaction as agent for the customer or as agent for both the customer and another person, the amount of any remuneration received or to be received (shown in aggregate dollar amount) by the broker, dealer or municipal securities dealer from the customer in connection with the transaction unless remuneration paid by the customer is determined, pursuant to a written agreement with the customer, other than on a transaction basis.

(g) the first interest payment date if other than semi-annual, but only if necessary for the calculation of final money;

(h) for callable zero coupon securities, any premium paid over the accreted value of the securities.

(7) Delivery of securities. The following information regarding the delivery of securities shall be shown:

(a) Securities other than bonds. For securities other than bonds, denominations to be delivered;

(b) Bond certificates delivered in non-standard denominations. For bonds, denominations of certificates to be delivered shall be stated if:

(i) for bearer bonds, denominations are other than $1,000 or $5,000 in par value, and

(ii) for registered bonds, denominations are other than multiples of $1,000 par value, or exceed $100,000 par value;

(c) Delivery instructions. Instructions if available, regarding receipt or delivery of securities, and form of payment if other than as usual and customary between the parties.

(8) Additional information about the transaction. In addition to the transaction information required above, such other information as may be necessary to ensure that the parties agree to details of the transaction also shall be shown.

(B) Securities identification information. The confirmation shall include a securities identification which includes, at a minimum:

(1) the name of the issuer, with special requirements for the following securities:

(a) Stripped coupon securities. For stripped coupon securities, the trade name and series designation assigned to the stripped coupon municipal security by the dealer sponsoring the program;

(2) CUSIP number, if any, assigned to the securities;

(3) maturity date, with special requirements for the following securities:

(a) Stripped coupon securities. For stripped coupon securities, the maturity date of the instrument must be shown in lieu of the maturity date of the underlying securities;

(4) interest rate, with special requirements for the following securities:

(a) Zero coupon securities. For zero coupon securities, the interest rate must be shown as 0%;

(b) Variable rate securities. For securities with a variable or floating interest rate, the interest rate must be shown as "variable;" provided however if the yield is computed to put date or to mandatory tender date, the interest rate used in that calculation shall be shown.

(c) Securities with adjustable tender fees. If the

net interest rate paid on a tender option security is affected by an adjustable "tender fee," the stated interest rate must be shown as that of the underlying security with the phrase "less fee for put;"

(d) Stepped coupon securities. For stepped coupon securities, the interest rate currently being paid must be shown;

(e) Stripped coupon securities. For stripped coupon securities, the interest rate actually paid on the instrument must be shown in lieu of interest rate on underlying security;

(5) the dated date if it affects the price or interest calculation, with special requirements for the following securities:

(a) Stripped coupon securities. For stripped coupon securities, the date that interest begins accruing to the custodian for payment to the beneficial owner shall be shown in lieu of the dated date of the underlying securities. This date, along with the first date that interest will be paid to the owner, must be stated on the confirmation whenever it is necessary for calculation of price or accrued interest.

(C) Securities descriptive information. The confirmation shall include descriptive information about the securities which includes, at a minimum:

(1) Credit backing. The following information, if applicable, regarding the credit backing of the security:

(a) Revenue securities. For revenue securities, a notation of that fact, regardless of whether such designation appears in the formal title of the security, and a notation of the primary source of revenue (*e.g.*, project name).

(b) Securities with additional credit backing. The name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service or, if there is more than one such obligor, the statement "multiple obligors" may be shown and, if a letter of credit is used, the identity of the bank issuing the letter of credit must be noted.

(2) Features of the securities. The following information, if applicable, regarding features of the securities:

(a) Callable securities. If the securities are subject to call prior to maturity through any means, a notation of "callable" shall be included. This shall not be required if the only call feature applicable to the securities is a "catastrophe" or "calamity" call feature, such as one relating to an event such as an act of God or eminent domain, and which event is beyond the control of the issuer of the securities. The date and price of the next pricing call shall be included and so designated. Other specific call features are not required to be listed unless required by subparagraph (A)(5)(c)(ii) of this paragraph on computation and display of price and yield. If any specific call feature is listed even though not required by this rule, it shall be identified. If there are any call features in addition to the first pricing call, disclosure must be made on the confirmation that "additional call features exist that may affect yield; complete information will be provided upon request;"

(b) Puttable securities. If the securities are puttable by the customer, a designation to that effect;

(c) Stepped coupon securities. If stepped coupon securities, a designation to that effect;

(d) Book-entry only securities. If the securities are available only in book entry form, a designation to that effect;

(e) Periodic interest payment. With respect to securities that pay interest on other than a semi-annual basis, a statement of the basis on which interest is paid;

(3) Information on status of securities. The following information, as applicable, regarding the status of the security shall be included:

(a) Prerefunded and called securities. If the securities are called or "prerefunded," a designation to such effect, the date of maturity which has been fixed by the call notice, and the amount of the call price.

(b) Escrowed to maturity securities. If the securities are advance refunded to maturity date and no call feature (with the exception of a sinking fund call) is explicitly reserved by the issuer, the securities must be described as "escrowed to maturity" and, if a sinking fund call is operable with respect to the securities, additionally described as "callable."

(c) Advanced refunded/callable securities. If advanced refunded securities have an explicitly reserved call feature other than a sinking fund call, the securities shall be described as "escrowed to [redemption date] – callable."

(d) Advanced refunded/stripped coupon securities. If the municipal securities underlying stripped coupon securities are advance-refunded, the stripped coupon securities shall be described as "escrowed-to-maturity," or "pre-refunded" as applicable.

(e) Securities in default. If the securities are in default as to the payment of interest or principal,

they shall be described as "in default;"

(f) Unrated securities. If the security is unrated by a nationally recognized statistical rating organization, a disclosure to such effect.

(4) Tax information. The following information that may be related to the tax treatment of the security:

(a) Taxable securities. If the securities are identified by the issuer or sold by the underwriter as subject to federal taxation, a designation to that effect.

(b) Alternative minimum tax securities. If interest on the securities is identified by the issuer or underwriter as subject to the alternative minimum tax, a designation to that effect.

(c) Original issue discount securities. If the securities pay periodic interest and are sold by the underwriter as original issue discount securities, a designation that they are "original issue discount" securities and a statement of the initial public offering price of the securities.

(D) Disclosure statements:

(1) The confirmation for zero coupon securities shall include a statement to the effect that "No periodic payments – callable below maturity value without notice by mail to holder unless registered."

(2) The confirmation for municipal collateralized mortgage obligations shall include a statement indicating that the actual yield of such security may vary according to the rate at which the underlying receivables or other financial assets are prepaid and a statement that information concerning the factors that affect yield (including at a minimum estimated yield, weighted average life, and the prepayment assumptions underlying yield) will be furnished upon written request.

(E) Confirmation format. All requirements must be clearly and specifically indicated on the front of the confirmation, except that the following statements may be on the reverse side of the confirmation:

(1) The disclosure statements required in subparagraph (D)(1) and (2) of this paragraph, provided that their specific applicability is noted on the front of the confirmation.

(2) The statement concerning the person from whom the securities were purchased or to whom the securities were sold that can be provided in satisfaction of subparagraph (A)(1)(e)(i) of this paragraph.

(3) The statement concerning time of execution that can be provided in satisfaction of subparagraph (A)(2) of this paragraph.

(ii) Separate confirmation for each transaction. Each broker, dealer or municipal securities dealer for each transaction in municipal securities shall give or send to the customer a separate written confirmation in accordance with the requirements of (i) above.

(iii) "When, as and if issued" transactions. A confirmation meeting the requirements of this rule shall be sent in all "when, as and if issued" transactions. In addition, a broker, dealer or municipal securities dealer may send a confirmation for a "when, as and if issued" transaction executed prior to determination of settlement date and may be required to do so for delivery vs. payment and receipt vs. payment ("DVP/RVP") accounts under paragraph (d)(i)(C) of this rule. If such a confirmation is sent, it shall include all information required by this section with the exception of settlement date, dollar price for transactions executed on a yield basis, yield for transactions executed on a dollar price, total monies, accrued interest, extended principal and delivery instructions.

(iv) Confirmations to customers who tender put option bonds. A broker, dealer, or municipal securities dealer that has an interest in put option bonds (including acting as remarketing agent) and accepts for tender put bonds from a customer is engaging in a transaction in such municipal securities and shall send a confirmation under paragraph (i) of this section.

(v) Timing for providing information. Information requested by a customer pursuant to statements required on the confirmation shall be given or sent to the customer within five business days following the date of receipt of a request for such information; provided however, that in the case of information relating to a transaction executed more than 30 calendar days prior to the date of receipt of a request, the information shall be given or sent to the customer within 15 business days following the date of receipt of the request.

(vi) Definitions. For purposes of this rule, the following terms shall have the following meanings:

(A) Execution of a transaction. The term "the time of execution of a transaction" shall be the time of execution reflected in the records of the broker, dealer or municipal securities dealer pursuant to rule G-8 or Rule 17a-3 under the Act.

(B) Completion of transaction. The term "completion of transaction" shall have the same meaning as provided in Rule 15c1-1 under the Act.

(C) Stepped coupon securities. The term "stepped coupon securities" shall mean securities with the interest rate periodically changing on a pre-established schedule.

(D) Zero coupon securities. The term "zero coupon securities" shall mean securities maturing in more than two years and paying investment return solely at redemption.

(E) Stripped coupon securities. The term "stripped coupon securities" shall have the same meaning as

defined in SEC staff letter (stripped coupon municipal securities) dated January 19, 1989, reprinted in the MSRB Manual at 3571.
(F) The term "pricing call" shall mean a call feature that represents "an in whole call" of the type that may be used by the issuer without restriction in a refunding.

FILING —WITH— SEC

Rule G-15 Trade Date Submission of Delivery vs. Payment and Receipt vs. Payment Customer Transactions

Route To:

Manager, Muni Department	○
Underwriting	●
Trading	●
Sales	●
Operations	○
Public Finance	●
Compliance	○
Training	○
Other	

Amendments Filed

The amendments require dealers to submit DVP/RVP customer transactions for automated confirmation/acknowledgement no later than the end of trade date, rather than no later than the business day after trade date, as currently required.

Questions about the proposed amendments may be directed to Judith A. Somerville, Uniform Practice Specialist.

On March 23, 1995, the Board filed with the Securities and Exchange Commission (SEC) amendments to sections (d)(i) and (ii) of rule G-15 that require dealers to submit delivery vs. payment and receipt vs. payment (DVP/RVP) customer transactions for automated confirmation/acknowledgement no later than the end of trade date, rather than no later than the business day after trade date, as currently required. The amendments are being filed as a necessary action to facilitate the movement to three-day settlement in June. The amendments also will help to ensure timely submission of transaction information to a confirmation/acknowledgement system operated by a registered securities clearing agency, as the Board plans ultimately to use this data for market transparency and surveillance purposes. The amendments will not be effective until 30 days after they are approved by the Securities and Exchange Commission. Comments may be provided directly to the SEC.[1]

BACKGROUND

Securities Exchange Act Rule 15c6-1, compressing the current five business day settlement cycle to three days (T+3), is set for effectiveness on June 7, 1995.[2] Although municipal securities were exempted from Rule 15c6-1, the SEC requested that the Board undertake a commitment to T+3 settlement and develop a plan for converting the municipal securities market to T+3 settlement to maintain consistency within corporate securities markets.[3]

In March 1994, the Board provided the SEC with its plan for converting the municipal securities market to T+3 settlement.[4] In its report, the Board noted that T+3 settlement will depend in large part upon efficient use of certain mandatory, centralized, automated systems for clearance and settlement. The confirmation/acknowledgement system, is one of these automated systems and is designed to ensure timely confirmation and settlement of institutional customer transactions. Trade confirmations are sent by dealers through the system with the institutional customer or its agent acknowledging the confirmations through the system and setting up settlement. The time period for these communications between dealers, customers and clearing agents will be substantially reduced in a three-day settlement cycle, increasing the dependence on the confirmation/acknowledgement system and increasing the need for confirmation information to be made available to institutional customers as soon as possible after the trade.

DRAFT AMENDMENT TO RULE G-15(d)

Currently, Board rule G-15(d) on DVP/RVP customer transactions prohibits a broker, dealer or municipal securities dealer from granting DVP/RVP privileges to a customer unless certain procedures are followed within specified time periods with respect to clearing and settling the transaction. Rule G-15(d)(i)(C) states that dealers must give or send DVP/RVP customers a confirmation with respect to the execution of a transaction no later than the close of business on the next business day after any such execution (T+1). Rule G-15(d)(ii) further requires that dealers use the facilities of a registered clearing agency for the confirmation/acknowledgement of all DVP/RVP customer transactions that are eligible for processing in such systems.

In preparation for the industry move to three-day settlement on June 7, 1995, the amendments to rule G-15(d)(i)(C) and rule G-15(d)(ii) state that the confirmation required by

1 File No. SR-MSRB-95-3. Comments submitted to the SEC should refer to this file number.
2 Securities Exchange Act Release No. 34952 (November 9, 1994).
3 *See* letter from Arthur Levitt, Chairman, SEC to David Clapp, Chairman, MSRB (October 7, 1993) *MSRB Reports*, Vol. 14, No. 2 (March 1994) at 3.
4 *See Report of the Municipal Securities Rulemaking Board on T+3 Settlement for the Municipal Securities Market* (MSRB 1994) *MSRB Reports*, Vol. 14, No. 2 (March 1994) at 5.

those rules must be sent no later than the end of trade date (rather than T+1). The amendments are designed to facilitate the movement toward T+3 settlement and to ensure that institutional customer transaction information is submitted to a registered clearing agency on trade date for purposes of the Board's proposed transaction reporting program.[5] Under Phase II of that program, certain price and volume data on institutional customer transactions will be made public on a next-day basis, using the transaction information that is submitted by dealers for confirmation/acknowledgement.

The Board believes that many dealers already meet the trade date deadline for submission of DVP/RVP customer transaction data to a confirmation/acknowledgement system. While it may require additional effort on the part of some dealers to complete initial processing each day for all institutional customer transactions that are executed on that day, the Board believes that this goal can be accomplished in the municipal securities market. The Board believes that this change in practice will be necessary to ensure a successful conversion to T+3 settlement since there will be two fewer days in the settlement cycle to complete processing. The Board also notes that trade date submission of transaction information will be necessary to assure the timely, next-day reporting of institutional customer transaction data in Phase II of the Board's transaction reporting program. ● March 22, 1995

TEXT OF PROPOSED AMENDMENTS

Rule G-15. Confirmation, Clearance and Settlement of Transactions with Customers

(a)-(c) No change.

(d) Delivery/Receipt vs. Payment Transactions.

(i) No broker, dealer or municipal securities dealer shall ~~accept an order from~~ execute a transaction with a customer pursuant to an arrangement whereby payment for securities received (RVP) or delivery against payment of securities sold (DVP) is to be made to or by an agent of the customer unless all of the following procedures are followed:

(A)-(B) No changes.

(C) the broker, dealer or municipal securities dealer shall give or send to the customer a confirmation in accordance with the requirements of section (a) of the rule with respect to the execution of the order not later than the ~~close of business on the next business~~ day ~~after~~ of ~~any~~ such execution; and

(D) No change.

(ii) Except as provided in this paragraph, no broker, dealer or municipal securities dealer shall effect a customer transaction for settlement on a delivery vs. payment or receipt vs. payment (DVP/RVP) basis unless the facilities of a clearing agency registered with the Securities and Exchange Commission (registered clearing agency) are used for automated confirmation and acknowledgement of the transaction. Each broker, dealer and municipal securities dealer executing a customer transaction on a DVP/RVP basis shall: (A) ensure that the customer has the capability, either directly or through its clearing agent, to acknowledge transactions in an automated confirmation/~~affirmation~~ acknowledgement system operated by a registered clearing agency; ~~and~~ (B) submit or cause to be submitted to a registered clearing agency all information and instructions required by the registered clearing agency for the production of a confirmation that can be acknowledged by the customer or the customer's clearing agent; and (C) submit such transaction information to the automated confirmation/acknowledgement system on the date of execution of such transaction; provided that a transaction that is not eligible for automated confirmation and acknowledgement through the facilities of a registered clearing agency shall not be subject to this paragraph (ii).

(iii) No change.

(e) No change.

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[5] See "Transaction Reporting Program for Municipal Securities: Phase II," *MSRB Reports*, Vol. 15, No. 1 (April 1995).

* Underlining indicates new language; strikethrough indicates deletions.

ATTENTION ! ATTENTION

Rule G-34 on CUSIP Numbers

Route To:	
Manager, Muni Department	●
Underwriting	●
Trading	●
Sales	●
Operations	●
Public Finance	●
Compliance	●
Training	○
Other	○

Notice

The Board reminds dealers of the information required to be provided to the CUSIP Service Bureau under rule G-34.

Questions about this notice may be directed to Judith A. Somerville, Uniform Practice Specialist.

Board rule G-34, on CUSIP numbers, dissemination of initial trade date information and depository eligibility, requires that a broker, dealer or municipal securities dealer acting as an underwriter, who acquires, whether as principal or agent, a new issue of municipal securities from the issuer of such securities shall apply in writing to the Board or its designee for assignment of a CUSIP number or numbers to such new issue.[1] The Board has designated the CUSIP Service Bureau to receive these applications. The application for CUSIP numbers must be made by the underwriter or financial advisor in time to allow for the assignment of CUSIP numbers prior to the business day on which the contract to purchase the securities from the issuer is executed (or in the case of competitive sales, the date of award). The rule specifies the information and documentation that must be provided and states that, if certain information is not available at the time of assignment, it must be provided when it becomes available.

Timely compliance with the CUSIP application requirements of the rule is critical to the identification of municipal securities and the CUSIP numbering system. The Board has been informed by the CUSIP Service Bureau that it does not always receive all of the information required under G-34(a)(i)(A) in a timely manner from dealers. The Board reminds dealers that the following information is required to be provided to the CUSIP Service Bureau under rule G-34:

(1) complete name of issue and series designation, if any;
(2) interest rate(s) and maturity date(s) provided, however, that, if the interest rate is not established at the time of application, it may be provided at such time as it becomes available);
(3) dated date;
(4) type of issue (*e.g.*, general obligation, limited tax or revenue);
(5) type of revenue, if the issue is a revenue issue;
(6) details of all redemption provisions;
(7) the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to the debt service on all or part of the issue (and, if part of the issue, an indication of which part); and
(8) any distinction(s) in the security or source of payment of the debt service on the issue, and an indication of the part(s) of the issue to which such distinction(s) relate.

Underwriters and financial advisors making application to the CUSIP Service Bureau under rule G-34 must make these applications in sufficient time to permit assignment of CUSIP numbers prior to the date of award or execution of the contract to purchase the securities from the issuer. Although the final interest rates for an issue may not be available at the time that the initial application is submitted to the CUSIP Service Bureau, the underwriter or financial advisor has an obligation to provide this final information to the CUSIP Service Bureau as soon as it is available. According to the CUSIP Service Bureau, in many instances, dealers submit the initial application prior to the date of sale, but do not submit follow-up documentation with correct, final interest rate and maturity information. This can cause errors in the registration and allocation of CUSIP numbers, which can adversely impact various securities processing, clearance and settlement functions.

Rule G-34 also requires that a copy of a notice of sale, official statement, legal opinion, or other similar document prepared by or on behalf of the issuer, or portions of such documentation, reflecting the information be submitted along with the application for CUSIP numbers. The Board reminds dealers that, while such documentation should be submitted in preliminary form whenever possible, the rule also requires that the **final** documentation, or the relevant portions of such documentation, must thereafter be provided to the CUSIP Service Bureau as soon as it is available. Dealers may fax follow-up documentation to the CUSIP Service Bureau by dialing either (212) 208-8328 or (212) 208-0046. ● March 14, 1995

[1] The CUSIP application requirement also applies to brokers, dealers or municipal securities dealers acting as a financial advisor to an issuer in connection with a competitive sale of an issue.

FILING WITH SEC

Rule G-26 Customer Account Transfers

Route To:	
Manager, Muni Department	●
Underwriting	○
Trading	○
Sales	●
Operations	●
Public Finance	○
Compliance	●
Training	○
Other	○

Amendments Filed

The amendments reduce the time periods for transferring customer accounts between dealers.

Questions about the proposed amendments may be directed to Judith A. Somerville, Uniform Practice Specialist.

On March 31, 1995, the Board filed with the Securities and Exchange Commission (SEC) amendments to sections (d)(i) and (v) of rule G-26 that reduce the time periods for transferring customer accounts between dealers. The amendments support the movement of the securities industry to three-day settlement in June and recent amendments to the customer account transfer rules of the New York Stock Exchange and the National Association of Securities Dealers. Recent enhancements also were made to ACATS, the Automated Customer Account Transfer System operated by National Securities Clearing Corporation, accelerating the time in which an account can be transferred. These amendments also conform rule G-26 to these enhancements.

The amendments to rule G-26(d)(i) require that a party carrying a customer account in municipal securities must validate and return customer account transfer instructions to the party designated to receive the account within three business days. The rule currently allows five business days for this to occur. In addition, G-26(d)(v) has been amended to require that the carrying party complete the transfer of the account within four business days of validation of the transfer instructions in lieu of five business days, as currently stated in the rule. The amendments will become effective on April 27, 1995. Persons wishing to comment on the amendments should comment directly to the SEC.[1] ● March 31, 1995

TEXT OF PROPOSED AMENDMENTS*

Rule G-26. Customer Account Transfers

(a) - (c) No changes.

(d) Transfer Procedures.

i) Upon receipt from the customer of a signed transfer instruction to receive such customer's securities account from the carrying party, the receiving party must immedi ately submit such instruction to the carrying party. The carrying party must, within ~~five~~ three business days following receipt of such instruction, validate and return the transfer instruction to the receiving party (with an attachment reflecting all positions and money balances as shown on its books) or take exception to the transfer instruction for reasons other than securities positions or money balance differences and advise the receiving party of the exception taken.

(ii) - (iv) No changes.

(v) Within ~~five~~ four business days following the validation of a transfer instruction, the carrying party must complete the transfer of the account to the receiving party. The receiving party and the carrying party must immediately establish fail-to-receive and fail to-deliver contracts at the then-current market value as of the date of validation upon their respective books of account against the long/short positions in the customer's accounts that have not been physically delivered/received and the receiving party/carrying party must debit/credit the related money amount. Nontransferable assets and assets in-transfer to the customer are exempt from the requirement that fail-to-receive and fail-to-deliver contracts must be established for positions in a customer's securities account that have not been physically delivered. Zero value fail-to-receive and fail-to-deliver instructions shall be established for delayed delivery assets. The customer's account(s) shall thereupon be deemed transferred.

(vi) No change.

(e) - (i) No changes.

[1] Comments sent to the SEC should refer to File No. SR-MSRB-95-5.

* Underlining indicates new language; strikethrough indicates deletions.

Financial Statements – Fiscal Years Ended September 30, 1994 and 1993

Report of Independent Accountants

To the Members of the
Municipal Securities Rulemaking Board, Inc.

We have audited the accompanying balance sheets of the Municipal Securities Rulemaking Board, Inc. (the Board) as of September 30, 1994 and 1993, and the related statements of revenues and expenses and changes in fund balance and cash flows for the years then ended. These financial statements are the responsibility of the Board's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Municipal Securities Rulemaking Board, Inc. as of September 30, 1994 and 1993, and the results of its operations and its cash flows for the years then ended in conformity with generally accepted accounting principles.

Coopers & Lybrand L.L.P.

Washington, D.C.
November 30, 1994

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.

BALANCE SHEETS

September 30, 1994 and 1993

ASSETS

	1994	1993
Cash and cash equivalents (Note 1)	$ 344,181	$ 242,800
Investments (Note 1)	7,215,644	6,694,188
Accounts receivable (Note 1)	535,299	1,033,681
Accrued interest receivable	42,797	57,050
Other assets	163,950	98,483
Fixed assets, net (Notes 1 and 5)	1,329,895	1,021,123
	$9,631,766	$9,147,325

LIABILITIES AND FUND BALANCE

Accounts payable	$ 261,064	$ 168,841
Accrued vacation pay	74,889	61,609
Deferred rent credit (Note 2)	136,045	34,790
	471,998	265,240
Commitments (Notes 2 and 6)		
Fund balance	9,159,768	8,882,085
	$9,631,766	$9,147,325

The accompanying notes are an integral part of these financial statements.

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.

STATEMENTS OF REVENUES AND EXPENSES AND CHANGES IN FUND BALANCE

for the years ended September 30, 1994 and 1993

	1994	1993
Revenues:		
Assessment fees (Note 1)	$5,937,999	$8,020,405
Annual fees (Note 1)	275,700	276,300
Initial fees (Note 1)	19,700	24,300
Investment income (Note 1)	284,418	211,060
MSIL fees (Note 6)	95,165	67,895
Board manuals and other	109,389	94,985
	6,722,371	8,694,945
Expenses:		
Administration and operations	2,746,376	2,158,340
Board and committee	631,879	582,771
Professional qualifications	210,819	153,808
Arbitration	141,855	152,822
MSIL:		
Development (Note 6)	154,773	65,147
Operations (Note 6)	1,143,100	1,703,011
Education and communications	318,170	363,967
Rulemaking and policy development	1,097,716	592,588
	6,444,688	5,772,454
Excess of revenues over expenses	277,683	2,922,491
Fund balance, beginning of year	8,882,085	5,959,594
Fund balance, end of year	$9,159,768	$8,882,085

The accompanying notes are an integral part of these financial statements.

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.

STATEMENTS OF CASH FLOWS

for the years ended September 30, 1994 and 1993

	1994	1993
Cash flows from operating activities:		
Excess of revenues over expenses	$ 277,683	$ 2,922,491
Adjustments to reconcile excess of revenues over expenses to net cash provided by operating activities:		
Depreciation and amortization	500,734	388,557
Amortization of investment premium/discount	60,982	63,075
Loss (gain) on sale of fixed assets	35,686	(8,436)
Decrease (increase) in accounts receivable	498,382	(356,953)
(Increase) decrease in accrued interest receivable	14,253	(16,826)
(Increase) decrease in other assets	(65,467)	171,754
Increase in accounts payable and accrued vacation pay	105,503	23,767
Increase (decrease) in deferred rent credit	101,255	(31,001)
Total adjustments	1,251,328	233,937
Net cash provided by operating activities	1,529,011	3,156,428
Cash flows from investing activities:		
Purchase of fixed assets	(854,617)	(800,219)
Proceeds from sale of fixed assets	9,425	37,427
Purchases of U.S. Treasury Notes	(3,219,001)	(5,110,450)
Maturities of U.S. Treasury Notes	2,636,563	2,400,000
Net cash used by investing activities	(1,427,630)	(3,473,242)
Net increase (decrease) in cash and cash equivalents	101,381	(316,814)
Cash and cash equivalents, beginning of year	242,800	559,614
Cash and cash equivalents, end of year	$ 344,181	$ 242,800

The accompanying notes are an integral part of these financial statements.

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.
NOTES TO FINANCIAL STATEMENTS

1. Accounting policies

The Municipal Securities Rulemaking Board (the Board) was established in 1975 pursuant to authority granted by the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975, as an independent, self-regulatory organization charged with rulemaking responsibility for the municipal securities industry. Effective May 17, 1989, the Board became incorporated as a nonprofit, nonstock corporation in the Commonwealth of Virginia.

Assessment fees

On March 10, 1992, the Board filed with the Securities and Exchange Commission an amendment to Rule A-13 on assessments relating to the underwriting of municipal securities offerings. The amendment relates to the Board's method of assessment, the scope of offerings which are assessed and assessment rates.

The underwriting assessment fee is equal to a percentage of the face amount of all municipal securities which are purchased from an issuer as part of a new issue. The fee charged ranges from .001% to .003% of the par value of the offerings.

Revenue from assessment fees is recognized when the underwriter files the offering statement with the Board.

Annual fees

Each municipal securities broker and municipal securities dealer is required to pay an annual fee of $100 with respect to each fiscal year of the Board in which the municipal securities broker or municipal securities dealer conducts business.

Initial fees

The initial fee is a one-time fee of $100, which is to be paid by every municipal securities broker or municipal securities dealer registered with the Securities and Exchange Commission.

Revenue from initial fees is recognized when received by the Board.

Investments

Investments in securities are stated at amortized cost, which approximates market value. Investments consist entirely of U.S. Treasury notes, maturing on various dates through May 1996. It is management's intention to hold each note through maturity.

Fixed assets

Furniture and equipment are recorded at cost and are depreciated using the straight-line method over the estimated useful lives of the assets. Leasehold improvements are amortized using the straight-line method over the shorter of the remaining lease period or the estimated useful life of the improvement.

When assets are retired or sold, the related cost and accumulated depreciation are removed from the accounts, and any gain or loss arising from such disposition is included in current operations.

Cash and cash equivalents

Cash and cash equivalents include cash on hand, time and demand deposits, and money market funds with maturities of three months or less. Portions of these funds consist of amounts that are maintained in excess of federally insured amounts, and, as a result, subject the Board to a degree of credit risk. The Board's policy is to limit credit risk by depositing its funds with high quality financial institutions.

2. Lease agreements

On November 16, 1984, the Board leased office space under a lease agreement expiring in November 1994. This agreement calls for the Board to receive a rent credit equal to one-half of the base monthly rent for the first 30 months of

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.
NOTES TO FINANCIAL STATEMENTS

the lease. This lease was terminated by the Board in May 1994 and settled for $77,500. Accordingly, the remaining rent abatement of $19,290 and the amount incurred to settle the lease were recognized as rent expense in 1994.

On October 1, 1992, the Board entered into a lease agreement for office space in Alexandria, VA, for a term of sixty months. This lease was amended in October, 1993 for additional space. The rental payments are $21,101 each month.

In August, 1993, the Board entered into a lease agreement for office space to replace the current lease agreement which expires in November, 1994. The lease term is for 120 months, commencing on March, 1994, with one five year renewal option. The lease agreement also includes a rent abatement period of fifteen months commencing on the second month of the lease term. As a result, the total rental payment was $21,579 for May 1994, and is $22,119 a month commencing September 1995 for the remainder of the lease term, subject to an annual escalation of two and one-half percent (2.5%). For financial reporting purposes, the Board is recognizing rental expense evenly during the 10-year lease term at $22,518.

Future minimum rental commitments are as follows:

Year ending September 30,	Minimum rentals
1995	$275,331
1996	521,405
1997	528,111
1998	281,773
1999	299,395
Thereafter	1,534,173
Total	$3,440,188

Total lease expense for office space and equipment for the years ended September 30, 1994 and 1993, was $906,475 and $619,649, respectively.

3. Retirement plans

The Board has a defined-contribution retirement plan. All employees are eligible to participate upon attaining a minimum length of service. The Board makes contributions to an insurance company based on a percentage of the salaries of covered employees and their lengths of service. Retirement plan costs are funded as they accrue. Employees may also make voluntary contributions. Cost of the plan was approximately $122,300 and $95,200 for the years ended September 30, 1994 and 1993, respectively.

The Board also has a deferred compensation plan which covers all employees. The Board contributes $.50 for every $1 contributed by an employee, with a maximum Board contribution of 2% of the employee's annual salary. The cost of this plan was approximately $17,700 and $17,200 for the years ended September 30, 1994 and 1993, respectively.

4. Income taxes

Under section 501(c)(6) of the Internal Revenue Code and applicable income tax regulations of the District of Columbia, the Board is exempt from taxes on income other than unrelated business income. No provision for income taxes has been made as of September 30, 1994 and 1993, since the Board believes that any unrelated business income is not significant.

5. Fixed assets

Fixed assets consist of the following as of September 30, 1994 and 1993:

	1994	1993
Leasehold improvements	$ 304,891	$ 145,182
Office equipment	1,155,823	1,035,502
Furniture and fixtures	827,578	557,590
	2,288,292	1,738,274
Accumulated depreciation and amortization	(958,397)	(717,151)
	$1,329,895	$1,021,123

MUNICIPAL SECURITIES RULEMAKING BOARD, INC.

NOTES TO FINANCIAL STATEMENTS

6. Municipal Securities Information Library

During 1991, the Board developed and established Municipal Securities Information Library (MSIL), an information storage and retrieval process which collects, stores and disseminates official statements and advance refunding documents.

The Board charges users of the MSIL system for information retrieval and copy. The fees for these services are recognized when rendered.

The Board expenses in the current period all development costs incurred in establishing MSIL, except for computer equipment which is capitalized and depreciated over the life of the asset. Costs of operating MSIL are expensed as incurred.

PUBLICATIONS LIST

MANUALS AND RULE TEXTS

MSRB Manual
Soft-cover edition containing the text of MSRB rules, interpretive notices and letters, samples of forms, texts of the securities Exchange Act of 1934 and of the Securities Investor Protection Act of 1970, as amended, and other applicable rules and regulations affecting the industry. Reprinted semi-annually. • **April 1, 1995 $5.00**

Glossary of Municipal Securities Terms
Glossary of terms (adapted from the State of Florida's *Glossary of Municipal Bond Terms*) defined according to use in the municipal securities industry. • **1985 $1.50**

Instructions for Filing Forms G-36
This publication is available to assist underwriters in submitting official statements, advance refunding documents and complete and correct forms G-36. • **1994 no charge**

Professional Qualification Handbook
A guide to requirements for qualification as a municipal securities representative, principal, sales principal and financial and operations principal, with questions and answers on each category. Includes sections on examination procedures, waivers, disqualification and lapse of qualification, the text of MSRB qualification rules and a glossary of terms. • **1990**
5 copies per order no charge
Each additional copy $1.50

Manual on Close-Out Procedures
A discussion of the close-out procedures of rule G-12(h)(i) in a question and answer format. Includes the text of rule G-12(h)(i) with each sentence indexed to particular questions, and a glossary of terms. • **January 1, 1985 $3.00**

Arbitration Information and Rules
Based on SICA's *Arbitration Procedures* and edited to conform to the Board's arbitration rules, this pamphlet includes the text of rules G-35 and A-16, a glossary of terms and list of other sponsoring organizations. • **1991 no charge**

Instructions for Beginning an Arbitration
Step-by-step instructions and forms necessary for filing an arbitration claim. • **1991 no charge**

The MSRB Arbitrator's Manual
The Board's guide for arbitrators. Based on SICA's *The Arbitrator's Manual*, it has been edited to conform to the Board's arbitration rules. It also contains relevant portions of the *Code of Ethics for Arbitrators in Commercial Disputes*.
• **1991 $1.00**

REPORTER AND NEWSLETTER

MSRB Reports
The MSRB's reporter and newsletter to the municipal securities industry. Includes notices of rule amendments filed with and/or approved by the SEC, notices of interpretations of MSRB rules, requests for comments from the industry and the public and news items. • **Quarterly no charge**

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A series of guides outlining subject matter areas a candidate seeking professional qualification is expected to know. Each outline includes a list of reference materials and sample questions.

Study Outline: Municipal Securities Representative Qualification Examination
Outline for Test Series 52. • **July 1992 no charge**

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Outline for Test Series 53. • **January 1993 no charge**

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MSRB Information for Municipal Securities Investors
Investor brochure describing Board rulemaking authority, the rules protecting the investor, arbitration and communication with the industry and investors. Use of this brochure satisfies the requirements of rule G-10. •
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Over 500 copies $.01 per copy

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Glossary of Municipal Securities Terms	$1.50		
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Manual on Close-Out Procedures	$3.00		
Instructions for Filing Forms G-36	no charge		
Arbitration Information and Rules	no charge		
Instructions for Beginning an Arbitration	no charge		
The MSRB Arbitrator's Manual	$1.00		
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Study Outline: Municipal Securities Principal Qualification Examination	no charge		
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