

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

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action <input type="checkbox"/>			<input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(3) <input type="checkbox"/> 19b-4(f)(6)		
Date Expires <input type="text"/>					

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

Contact Information
 Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Karen"/>	Last Name	<input type="text" value="Caplan"/>
Title	<input type="text" value="Associate General Counsel"/>		
E-mail	<input type="text" value="kcaplan@msrb.org"/>		
Telephone	<input type="text" value="(703) 797-6600"/>	Fax	<input type="text" value="(703) 797-6700"/>

Signature
 Pursuant to the requirements of the Securities Exchange Act of 1934,
Municipal Securities Rulemaking Board
 has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date	<input type="text" value="08/15/2006"/>	
By	<input type="text" value="Ronald W. Smith"/>	<input type="text" value="Corporate Secretary"/>
	(Name)	(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of Proposed Rule Change

(a) The Municipal Securities Rulemaking Board (“MSRB”) hereby files with the Securities and Exchange Commission (“Commission”) a proposed amendment to MSRB Rule G-14, Reports of Sales or Purchases (the “proposed rule change”). The proposed rule change would: (1) expand the definition of “list offering price” transactions to include certain inter-dealer “takedown” transactions; and (2) require the reporting of these transactions as “list offering price/takedown” transactions on the first day of trading of a new issue under MSRB Rule G-14 RTRS Procedures, paragraph (a)(ii)(A). The MSRB proposes an effective date for this proposed rule change of January 8, 2007. The text of the proposed rule change is set forth below. New language is underlined; deletions are in brackets.

Rule G-14 Reports of Sales or Purchases

(a) – (b) No change.

Rule G-14 RTRS Procedures

(a) General Procedures.

(i) No change.

(ii) Transactions effected with a Time of Trade during the hours of the RTRS Business Day shall be reported within fifteen minutes of Time of Trade to an RTRS Portal except in the following situations:

(A) A “List Offering Price/Takedown Transaction,” as defined in paragraph (d)(vii) of Rule G-14 RTRS Procedures, shall be reported by the end of the day on which the trade is executed. [Syndicate managers, syndicate members and selling group members that effect trades in new issues on the first day of trading at the list offering price shall report such trades by the end of the day on which the trades were executed.]

(B) – (C) No change.

(iii) – (vi) No change.

(b) Reporting Requirements for Specific Types of Transactions.

(i) – (iii) No change.

(iv) Transactions with Special Conditions. Reports of transactions affected by the special conditions described in the RTRS Users Manual in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal

Securities Transactions shall be reported with the “special condition indicators” shown and in the manner specified. Special condition indicators designated as “optional” in these Specifications are required for the Submitter to obtain an extended reporting deadline under paragraphs (a)(ii)(B)-(C) of Rule G-14 RTRS Procedures, but may be omitted if a deadline extension is not claimed. All other special condition indicators are mandatory, including the List Offering Price/Takedown Transaction indicator for transactions identified in paragraph (a)(ii)(A) of Rule G-14 RTRS Procedures.

(c) No Change.

(d) Definitions.

(i) - (vi) No change.

(vii) “List Offering Price/Takedown Transaction” means a primary market sale transaction executed on the first day of trading of a new issue:

(A) by a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security (“List Offering Price Transaction”); or

(B) by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security (“RTRS Takedown Transaction”).

* * * * *

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was adopted by the MSRB at its July 12-13, 2006 meeting. Questions concerning this filing may be directed to Karen A. Caplan, Associate General Counsel, at (703) 797-6600.

3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

MSRB Rule G-14 requires brokers, dealers, and municipal securities dealers (collectively “dealers”) to report information about each purchase and sale transaction effected in municipal securities to the Real-Time Transaction Reporting System (“RTRS”) in the manner prescribed by Rule G-14 RTRS Procedures. Rule G-14 requires that transactions effected with a time of trade during the hours of the RTRS business day be reported within fifteen minutes of the time of trade to an RTRS Portal.

Under MSRB Rule G-14 RTRS Procedures, paragraph (a)(ii), there are three exceptions to this fifteen minute reporting requirement. The exception addressed by the proposed rule change currently allows syndicate managers, syndicate members and selling group members that effect trades in new issues on the first day of trading at the list offering price to report such trades by the end of the day on which the trades were executed.¹ This exception is known as the “List Offering Price” exception.

The “List Offering Price” is defined as the publicly announced initial offering price at which a new issue of municipal securities is to be offered to the public.² The MSRB provided the end-of-day reporting deadline for these customer transactions because of the substantial operational difficulties underwriters would face in reporting large numbers of List Offering Price transactions within a fifteen-minute window after the formal award. The MSRB also concluded that real-time dissemination of large numbers of primary market transactions occurring at the same price would not offer a substantial benefit to RTRS transparency objectives.

For purposes of RTRS transaction reporting, a “Takedown” transaction is a primary market sale transaction executed on the first day of trading of a new issue by a sole underwriter or syndicate manager to a syndicate or selling group member at a

¹ The other two exceptions to the fifteen minute reporting rule are: (1) a dealer effecting a trade in a short-term instrument under nine months in effective maturity (including variable rate instruments, auction rate products, and commercial paper) shall report such trades by the end of the business day on which the trades were executed; and (2) a dealer shall report a trade within three hours of the time of trade if certain conditions apply. *See* MSRB Rule G-14 RTRS Procedures (a)(ii)(B) and (C).

² If the price is not publicly disseminated (e.g., if the security is a “not reoffered” maturity within a serial issue), the price is not a List Offering Price. *See* “Reminder Notice on List Offering Price and Three-hour Exception for Real-Time Transaction Reporting: Rule G-14,” MSRB Notice 2004-40 (December 10, 2004).

discount from the List Offering Price. In a 2004 notice, the MSRB stated that these inter-dealer transactions must be reported within fifteen minutes of the time of execution and that they do not fall within the List Offering Price end-of-day exception.³ As experience with real-time transaction reporting has increased, however, industry members have pointed out that Takedown transactions share many of the same characteristics as List Offering Price transactions. A high volume of Takedown transactions on the first day of trading in a new issue, for example, often presents operational difficulties for underwriters attempting to report all of their Takedown transactions within a fifteen-minute window. It also has been noted that prices for both Takedown transactions and List Offering Price transactions are set under an offering price agreement for the new issue and therefore do not necessarily reflect market prices at the time the transaction is effected. Thus, the proposed rule change would expand the definition of List Offering Price to include Takedown transactions, require use of an indicator on reports of all List Offering Price and Takedown transactions, and retain the end of the day exception from the normal fifteen minute reporting deadline for the expanded category of “List Offering Price/Takedown” transactions.⁴

The proposed List Offering Price/Takedown indicator would be required to be used by dealers when reporting any primary market sale transaction executed on the first day of trading of a new issue:

- by a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security (“List Offering Price Transaction”); or
- by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security (“RTRS Takedown Transaction”).

The indicator would be included on MSRB price transparency reports to designate to transparency report users that the trade report does not represent a normal secondary market transaction. The proposed rule change recognizes the similarities between List

³ See *id.*

⁴ These List Offering Price/Takedown transactions would be designated with the same special condition indicator currently in use for List Offering Price transactions. The technical requirements for the current List Offering Price indicator are summarized in the *Specifications for Real-Time Reporting of Municipal Securities Transactions* which is available on-line at <http://www.msrb.org>. The draft revisions to the *Specifications* for the indicator identifying the List Offering Price/Takedown Transactions may be found in “Request for Comment on Draft Procedures for Reporting Special Condition Indicators on Certain New Issue Transactions,” MSRB Notice 2006-10 (April 21, 2006).

Offering Price and Takedown transactions and the dissimilarities between these transactions and secondary market transactions in a new issue. Since the secondary market transactions in a new issue are likely to provide the best gauge of the current market value for a new issue and may be reported to RTRS simultaneously with List Offering Price and Takedown transactions, the MSRB believes that transparency reports on the first day of trading for a new issue would be more useful if List Offering Price and Takedown transactions were identified with a special condition indicator.

(b) Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (the “Act”), which provides that the MSRB’s rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will allow the municipal securities industry to produce more accurate trade reporting and transparency and will enhance surveillance data used by enforcement agencies.

4. Self-Regulatory Organization’s Statement on Burden on Competition

The MSRB does not believe the proposed rule change will impose any burden on competition since it would apply equally to all brokers, dealers and municipal securities dealers.

5. Self-Regulatory Organization’s Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others.

On April 21, 2006, the MSRB published for comment a notice with respect to reporting procedures for List Offering Price and Takedown transactions.⁵ In response, the MSRB received six comment letters from: The Bond Market Association (“TBMA”), Jerry L. Chapman, Private Investor (“Chapman”), Digital Assurance Certification LLC (“DAC”), First Southwest Company (“First Southwest”), Nuveen Investments (“Nuveen”) and Wulff, Hansen & Co. (“Wulf, Hansen”).⁶

⁵ MSRB Notice 2006-10 (April 21, 2006).

⁶ The comment letter from Wulff, Hansen did not address the issues relating to List Offering Price and Takedown transactions in MSRB Notice 2006-10 (April 21,

TBMA, Chapman, DAC and Nuveen all indicated support for including Takedown trades in the definition of list price transactions and allowing such transactions to be reported by the end of the day. Chapman stated that he is “happy to see the MSRB is . . . recognizing [that] a takedown trade is a list trade.” First Southwest supported the proposal to include Takedown transactions “within the definition of List Offering Price” and giving such transactions the end-of-day exception from real-time reporting.⁷

After reviewing these comments, the MSRB approved the draft amendments for filing with the SEC.

6. Extension of Time Period of Commission Action

The MSRB declines to consent to an extension of the time period specified in Section 19(b)(2) of the Act.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2).

Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Exhibits

1. Federal Register Notice
2. Notice requesting comments on draft amendments to Rule G-14 and comment letters received

2006). Rather, the comment letter discussed other aspects of the Notice that are not relevant to this rule filing.

⁷ First Southwest, however, opposed the proposal in MSRB Notice 2006-10 (April 21, 2006) that dealers would be required to use a special condition indicator for these transactions. The indicator, however, must be mandatory in order to be useful in distinguishing List Offering Price and Takedown transactions from secondary market transactions.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-MSRB-2006-07]

SELF-REGULATORY ORGANIZATIONS

Proposed Rule Change to MSRB Rule G-14 RTRS Procedures Relating to “List Offering Price” and “Takedown” Transactions

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”), 15 U.S.C. 78s(b)(1), and Rule 19b-4, 17 C.F.R. 240.19b-4, notice is hereby given that on August 15, 2006, the Municipal Securities Rulemaking Board (“MSRB”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in items I, II, and III below, which items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing with the Commission a proposed rule change to Rule G-14 RTRS Procedures under Rule G-14, Reports of Sales or Purchases, to expand the usage of “list offering price” transactions to include certain inter-dealer “takedown” transactions and to require the reporting of these transactions as “list offering price” transactions on the first day of trading of a new issue. The text of the proposed rule change is available on the MSRB’s Web site (<http://www.msrb.org>), at the MSRB’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MSRB has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

MSRB Rule G-14 requires brokers, dealers, and municipal securities dealers (collectively "dealers") to report information about each purchase and sale transaction effected in municipal securities to the Real-Time Transaction Reporting System ("RTRS") in the manner prescribed by Rule G-14 RTRS Procedures. Rule G-14 requires that transactions effected with a time of trade during the hours of the RTRS business day be reported within fifteen minutes of the time of trade to an RTRS Portal.

Under MSRB Rule G-14 RTRS Procedures, paragraph (a)(ii), there are three exceptions to this fifteen minute reporting requirement. The exception addressed by the proposed rule change currently allows syndicate managers, syndicate members and selling group members that effect trades in new issues on the first day of trading at the list offering price to report such trades by the end of the day on which the trades were executed.¹ This exception is known as the "List Offering Price" exception.

¹ The other two exceptions to the fifteen minute reporting rule are: (1) a dealer effecting a trade in a short-term instrument under nine months in effective maturity (including variable rate instruments, auction rate products, and commercial paper) shall report such trades by the end of the business day on

The “List Offering Price” is defined as the publicly announced initial offering price at which a new issue of municipal securities is to be offered to the public.² The MSRB provided the end-of-day reporting deadline for these customer transactions because of the substantial operational difficulties underwriters would face in reporting large numbers of List Offering Price transactions within a fifteen-minute window after the formal award. The MSRB also concluded that real-time dissemination of large numbers of primary market transactions occurring at the same price would not offer a substantial benefit to RTRS transparency objectives.

For purposes of RTRS transaction reporting, a “Takedown” transaction is a primary market sale transaction executed on the first day of trading of a new issue by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the List Offering Price. In a 2004 notice, the MSRB stated that these inter-dealer transactions must be reported within fifteen minutes of the time of execution and that they do not fall within the List Offering Price end-of-day exception.³ As experience with real-time transaction reporting has increased, however, industry members have pointed out that Takedown transactions share many of the same characteristics as List Offering Price transactions. A high volume of Takedown transactions on the first day of

which the trades were executed; and (2) a dealer shall report a trade within three hours of the time of trade if certain conditions apply. *See* MSRB Rule G-14 RTRS Procedures (a)(ii)(B) and (C).

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³ *See id.*

trading in a new issue, for example, often presents operational difficulties for underwriters attempting to report all of their Takedown transactions within a fifteen-minute window. It also has been noted that prices for both Takedown transactions and List Offering Price transactions are set under an offering price agreement for the new issue and therefore do not necessarily reflect market prices at the time the transaction is effected. Thus, the proposed rule change would expand the definition of List Offering Price to include Takedown transactions, require use of an indicator on reports of all List Offering Price and Takedown transactions, and retain the end of the day exception from the normal fifteen minute reporting deadline for the expanded category of “List Offering Price/Takedown” transactions.⁴

The proposed List Offering Price/Takedown indicator would be required to be used by dealers when reporting any primary market sale transaction executed on the first day of trading of a new issue:

- by a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security (“List Offering Price Transaction”); or

⁴ These List Offering Price/Takedown transactions would be designated with the same special condition indicator currently in use for List Offering Price transactions. The technical requirements for the current List Offering Price indicator are summarized in the *Specifications for Real-Time Reporting of Municipal Securities Transactions* which is available on-line at <http://www.msrb.org>. The draft revisions to the *Specifications* for the indicator identifying the List Offering Price/Takedown Transactions may be found in “Request for Comment on Draft Procedures for Reporting Special Condition Indicators on Certain New Issue Transactions,” MSRB Notice 2006-10 (April 21, 2006).

- by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security (“RTRS Takedown Transaction”).

The indicator would be included on MSRB price transparency reports to designate to transparency report users that the trade report does not represent a normal secondary market transaction. The proposed rule change recognizes the similarities between List Offering Price and Takedown transactions and the dissimilarities between these transactions and secondary market transactions in a new issue. Since the secondary market transactions in a new issue are likely to provide the best gauge of the current market value for a new issue and may be reported to RTRS simultaneously with List Offering Price and Takedown transactions, the MSRB believes that transparency reports on the first day of trading for a new issue would be more useful if List Offering Price and Takedown transactions were identified with a special condition indicator.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (the “Act”), which provides that the MSRB’s rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in

municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will allow the municipal securities industry to produce more accurate trade reporting and transparency and will enhance surveillance data used by enforcement agencies.

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

The MSRB does not believe the proposed rule change will impose any burden on competition since it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change by Members, Participants, or Others

On April 21, 2006, the MSRB published for comment a notice with respect to reporting procedures for List Offering Price and Takedown transactions.⁵ In response, the MSRB received six comment letters from: The Bond Market Association ("TBMA"), Jerry L. Chapman, Private Investor ("Chapman"), Digital Assurance Certification LLC ("DAC"), First Southwest Company ("First Southwest"), Nuveen Investments ("Nuveen") and Wulff, Hansen & Co. ("Wulf, Hansen").⁶

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After reviewing these comments, the MSRB approved the draft amendments for filing with the SEC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The MSRB proposes an effective date for the proposed rule change of January 8, 2007. Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

2006). Rather, the comment letter discussed other aspects of the Notice that are not relevant to this rule filing.

⁷ First Southwest, however, opposed the proposal in MSRB Notice 2006-10 (April 21, 2006) that dealers would be required to use a special condition indicator for these transactions. The indicator, however, must be mandatory in order to be useful in distinguishing List Offering Price and Takedown transactions from secondary market transactions.

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MSRB-2006-07 on the subject line.

Paper Comments:

- Send paper comments in triplicate Nancy M. Morris, Securities and Exchange Commission, Station Place, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MSRB-2006-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-2006-07 and should be submitted on or before within [insert date twenty-one days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Nancy M. Morris

Secretary

⁸ 17 CFR 200.30-3(a)(12).



MSRB NOTICE 2006-10 (APRIL 21, 2006)

REQUEST FOR COMMENT ON DRAFT PROCEDURES FOR REPORTING SPECIAL CONDITION INDICATORS ON CERTAIN NEW ISSUE TRANSACTIONS

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The MSRB is requesting comment on proposed revisions to the transaction reporting procedures used by brokers, dealers and municipal securities dealers ("dealers") on the first day of trading in a new issue. The proposed revisions would: (i) create a new special condition indicator for certain transactions that are based on pricing commitments made prior to the formal award of a new issue (the "Conditional Trading Commitment" indicator); and (ii) expand usage of the existing special condition indicator for list offering price transactions to include certain inter-dealer "takedown" transactions (the "List Offering Price/Takedown" indicator). Use of both indicators would be mandatory. The proposed indicators would be included on transaction reports disseminated by the Real-Time Transaction Reporting System ("RTRS") to improve the price transparency provided by the system.[1]

The proposed revisions to transaction reporting procedures are described below and include draft amendments to Rule G-14 RTRS Procedures and draft technical specifications. Comments on this notice should be submitted to the MSRB by June 5, 2006.

BACKGROUND

RTRS serves the dual objectives of price transparency and market surveillance.[2] Because a comprehensive database of transactions is needed for the surveillance function of the system, MSRB Rule G-14, with minor exceptions, requires dealers to report all of their purchase-sale transactions to RTRS. All reported transactions are entered into the RTRS surveillance database used by market regulators. Not all of these reported transactions, however, are equally useful for price transparency. To address this problem, RTRS was designed so that a dealer can code a specific transaction report to designate the transaction as being subject to a special pricing condition. Upon receiving a transaction report with one of these special condition indicators, RTRS is programmed to take one of two actions. Depending on the special condition that is indicated, RTRS either can suppress dissemination of the transparency report to prevent the publication of a misleading price or it can disseminate the transparency report with the indicator, allowing the users of transparency information to see the price as well as the special condition that applied. The special condition indicators proposed in this notice would follow the second policy, making it possible for transparency users to distinguish primary market transactions and transactions based on pre-award pricing commitments from transactions reflecting the current secondary market activity for a new issue.

Dealers identify transactions that are subject to special pricing conditions by using the "special condition indicator" field in their RTRS transaction reports.[3] The RTRS Users Manual and *Specifications for Real-Time Reporting of Municipal Securities Transactions* currently contain instructions on the use of the special condition indicator field and describe several situations in which it is used to identify unusual conditions affecting the price of a specific transaction.[4] This notice includes a discussion of the procedural and technical requirements for the proposed Conditional Trading Commitment and List Offering Price/Takedown indicators. Comment is requested on these specific requirements as well as any general improvements that could be made in technical specifications or other procedural aspects relating to the use of special condition indicators.[5]

NEW SPECIAL CONDITION INDICATOR FOR CTC TRANSACTIONS

A new indicator is proposed for transactions that are priced prior to the formal award of a new issue, but executed after the formal award ("Conditional Trading Commitment" or "CTC" transactions). Under MSRB rules, a transaction in a new issue cannot be executed, confirmed or reported prior to the formal award of the issue.[6] Rule G-34 defines "Time of Formal Award" to be, for competitive underwritings, the time that the issuer announces the award and, for negotiated underwritings, the time the contract to purchase the securities from the issuer is executed.[7] Although trade executions in a new issue are not allowed prior to the Time of Formal Award, it is permissible under MSRB rules for dealers to accept firm orders prior to that time. Dealers generally begin accepting such orders after the pricing for the issue is announced, which sometimes precedes the Time of Formal Award by a day or more. A dealer's commitment to execute such a pre-award order customarily is conditioned upon the formal award occurring without material changes in the proposed securities, pricing or estimated quantities. These pre-award "conditional trading commitments" are executed after the Time of Formal Award, on the first day of trading for a new issue.[8] Transaction reports to RTRS are made only after transactions are formally executed and include the time of execution.

Underwriters usually begin to make conditional trading commitments immediately after the pricing of a new issue and parties receiving conditional allocations from underwriters sometimes make their own conditional trading commitments starting at this time. Since this process may continue for a day or more before the formal award occurs, CTC transaction prices frequently can be "stale" when they are executed and reported. Commentators have noted that mixing stale CTC transactions with current market transactions can create unexplained anomalies in RTRS price data.[9] The MSRB believes that the requirement to identify CTC transactions with a "CTC indicator" will reduce this problem by allowing transparency users to distinguish potentially stale CTC transactions from current secondary market transactions that are being reported with similar times of trade.

Technical Requirements for Using the CTC Indicator

The draft revisions to *Specifications for Real-Time Reporting of Municipal Securities Transactions* (the "draft *Specifications*") show the values that are used in the special condition indicator field to indicate a CTC transaction. A CTC transaction would be defined in the RTRS Users Manual as "any transaction that is executed based upon a priced trading commitment made prior to the Time of Formal Award for a new issue." All dealers, including dealers outside the underwriting group, would report their CTC transactions with customers using the CTC transaction indicator. For inter-dealer transactions, the dealer on the sell side of the transaction would be responsible for using the indicator. Other transaction reporting requirements would not change as a result of use of the CTC indicator. For example, CTC transactions would continue to include the time of trade execution (after the formal award) rather than the time the CTC is made [10] and the 15-minute deadline would continue to apply to a CTC transaction unless the transaction qualifies for an exception to the deadline.[11]

REVISED PROCEDURES FOR REPORTING "LIST OFFERING PRICE/TAKEDOWN TRANSACTIONS"

Under existing transaction reporting procedures, the List Offering Price indicator may be included on reports of primary market transactions that are effected by syndicate managers, syndicate members and selling group members at the List Offering Price on the first day of trading in a new issue. The "List Offering Price" is defined as the publicly announced initial offering price at which a new issue of municipal securities is to be offered to the public.[12]

Today, the indicator primarily is used by dealers to claim an end-of-day reporting deadline. [13] The MSRB provided the end-of-day deadline for these transactions because of the substantial operational difficulties underwriters would face in reporting large numbers of List Offering Price transactions within a 15-minute window after the formal award. The MSRB also concluded that real-time dissemination of large numbers of primary market transactions

occurring at the same price would not offer a great benefit to RTRS transparency objectives.
[14]

For purposes of RTRS transaction reporting, a "Takedown" transaction is defined as a primary market sale transaction by a sole underwriter or syndicate manager with a syndicate or selling group member at a discount from the published list offering price. In a 2004 Notice, MSRB stated that Takedown transactions should not be submitted using the List Offering Price Indicator. [15] As experience with real-time transaction reporting has increased, however, industry members have pointed out that Takedown transactions share many of the same characteristics as the List Offering Price transactions. A high volume of Takedown transactions on the first day of trading in a new issue, for example, often presents operational difficulties for underwriters attempting to report all of their takedown transactions within a 15-minute window. It also has been noted that prices for both Takedown transactions and List Offering Price transactions are set under an offering price agreement for the new issue.

The proposed revisions to RTRS recognize the similarities between List Offering Price and Takedown transactions and the dissimilarities between these transactions and secondary market transactions in a new issue. Since the secondary market transactions in a new issue are likely to provide the best gauge of the current market value for a new issue and may be reported at the same time as List Offering Price and Takedown transactions, the MSRB believes that transparency reports on the first day of trading for a new issue would be more useful if List Offering Price and Takedown transactions were identified with a special pricing condition indicator. The proposed revisions to RTRS accordingly would require dealers to use a "List Offering Price/Takedown" ("LOP/TD") indicator when reporting these transactions on the first day of trading.[16]

Technical Requirements for Using the LOP/TD Indicator

The new LOP/TD indicator would be used by dealers when reporting any primary market sale transaction executed on the first day of trading of a new issue:

- by a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security ("List Offering Price Transaction"); or
- by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security ("RTRS Takedown Transaction").

LOP/TD transactions would be designated with the same special condition indicator now used for List Offering Price transactions. The requirements for use of the LOP/TD indicator generally would be the same as those for the existing List Offering Price indicator, including the definition of "List Offering Price" and the availability of the end-of-day reporting deadline

Use of the CTC indicator and the LOP/TD indicator would be independent of each other. This means that it will be possible for transactions to be designated both CTC and LOP/TD, CTC-only, or LOP/TD-only, depending upon the actual circumstances of the transaction.

The technical requirements for both the new CTC indicator and the LOP/TD indicator are summarized in the draft *Specifications*. [Click here to access the draft *Specifications*.](#)

REQUEST FOR COMMENT

Comment is requested on the proposed revisions to transaction reporting procedures and, in general, on the use of the special condition indicator field. The following questions may be helpful to commentators and would assist the MSRB in considering its action on the proposal.

- Use of the CTC indicator will require dealers to identify transactions in which a conditional trading commitment is formed prior to the Time of Formal Award. Do syndicate/trading systems currently capture both the time that new issue trading commitments are made and the Time of Formal Award? If so, do those systems pass this information through to the processing systems used for trade reporting?
- Under Rule G-34(a)(2)(c), underwriters currently are required to disseminate Time of Formal Award so that dealers with pending orders in a new issue will know when trade executions can begin. Is current dissemination of this information adequate to comply with the proposed requirements to identify CTC transactions?
- For competitive underwritings, Rule G-34 defines the Time of Formal Award as the time the issuer official announces the award of a new issue. This "announcement of the award" means an official announcement confirming the award and including offering prices, coupons and quantities for each security. Is this definition workable for identifying conditional trading commitments in competitive underwritings?
- In some underwritings, the formal award is made relatively quickly after the pricing of the issue, minimizing the opportunity for the prices reported after the formal award to be "stale" based on their time of execution. Should these situations be addressed differently than those where there is opportunity for a significant delay between the time a conditional trading commitment is made and the time the trade is executed?
- The proposal in this notice limits the use of the CTC and LOP/TD indicators to transactions on the "first day of trading" in a new issue. The first day of trading is assumed to be the day of the formal award unless the formal award occurs after business hours or so late in the day that the underwriter cannot execute and process its pending transactions. It is further assumed that, in those latter instances, the underwriter notifies the industry of the time its initial trade executions will begin. Is this assumption accurate? Is there need for specific rules stating uniform practices for setting the "first day of trading" and disseminating that information?
- The MSRB believes that a period of six months following the publication of final *Specifications* should be adequate for dealer programming and implementation of the proposal in this notice. Are there major technical or operational challenges to implementation of the proposal that have not been addressed above and that would require a longer lead time?
- The MSRB has received comment from some transparency users suggesting that a further improvement to transparency could be achieved by adopting procedures requiring dealers to include the time that the CTC is made on trade reports. This could be done either as an additional field on the trade report or as a substitute for the current "time of trade" (time of execution). Would the costs and timing for implementation of such a proposal be different than those for the proposal contained in this Notice?

Questions and comments about this notice may be directed to Jay Jackson, Uniform Practice Assistant, or Justin Pica, Uniform Practice Specialist.

April 21, 2006

* * *

Text of Draft Amendment[17]

Rule G-14. Reports of Sales or Purchases

(a) - (b) No change.

Rule G-14 RTRS Procedures

(a) General Procedures.

(i) No change.

(ii) Transactions effected with a Time of Trade during the hours of the RTRS Business Day shall be reported within 15 minutes of Time of Trade to an RTRS Portal except in the following situations:

~~(A) A "List Offering Price/Takedown Transaction," as defined in paragraph (d)(vii) of Rule G-14 RTRS Procedures, shall be reported by the end of the day on which the trade is executed. Syndicate managers, syndicate members and selling group members that effect trades in new issues on the first day of trading at the list offering price shall report such trades by the end of the day on which the trades were executed.~~

(B) A dealer effecting trades in short-term instruments under nine months in effective maturity, including variable rate instruments, auction rate products, and commercial paper shall report such trades by the end of the RTRS Business Day on which the trades were executed.

(C) A dealer shall report a trade within three hours of the Time of Trade if all the following conditions apply: (1) the CUSIP number and indicative data of the issue traded are not in the securities master file used by the dealer to process trades for confirmations, clearance and settlement; (2) the dealer has not traded the issue in the previous year; and (3) the dealer is not a syndicate manager or syndicate member for the issue. If fewer than three hours of the RTRS Business Day remain after the Time of Trade, the trade shall be reported no later than 15 minutes after the beginning of the next RTRS Business Day. This provision (C) will cease to be effective on December 31, 2007 for when, as and if issued transactions and December 29, 2006 for all other transactions.

(iii) - (vi) No change.

(b) Reporting Requirements for Specific Types of Transactions.

(i) - (iii) No change.

(iv) Transactions with Special Conditions. Reports of transactions affected by the special conditions described in Section 4.3.2 of the Specifications for Real-Time Reporting of Municipal Securities Transactions shall be reported with the "special condition indicators" shown and in the manner specified. Special condition indicators designated as "optional" in these Specifications are required for the Submitter to obtain an extended reporting deadline under paragraphs (a)(ii)(B)-(C) of Rule G-14 RTRS Procedures, but may be omitted if a deadline extension is not claimed.

(c) No Change.

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(d) Definitions.

(i) - (vi) No change.

(vii) "List Offering Price/Takedown Transaction" means a primary market sale transaction executed on the first day of trading of a new issue:

(A) by a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security ("List Offering Price Transaction"); or

(B) by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security ("RTRS Takedown Transaction").

[1] The documentation for RTRS transparency reports would explain the special condition codes and their significance for users of the transparency reports.

[2] The purposes of real-time transaction reporting and RTRS are described in "Request for Comment: Plan for Real-Time Transaction Reporting," MSRB Notice 2003-23 (June 13, 2003).

[3] See *Specifications for Real-Time Reporting of Municipal Securities Transactions*, Section 4.3.2 and Appendix B.2. In Version 1.0 of the *Specifications*, the special condition indicator field was called the "special price reason code." It has since been renamed the "special condition indicator."

[4] The RTRS Users Manual and *Specifications for Real-Time Reporting of Municipal Securities Transactions* are available on-line at www.msrb.org. A summary of existing special condition indicators is included in "Rule G-14 Real-Time Transaction Reporting Update," MSRB Notice 2005-43 (August 17, 2005). As noted therein, some special condition indicators are used exclusively by dealers to note that a trade qualifies for an exception to the 15-minute reporting deadline (e.g., the Short-Term Instrument Exception and the Three-Hour Exception). Those indicators do not affect the content of the disseminated trade report.

[5] The MSRB previously has noted that additional special condition indicators may be required as additional experience is gained with real-time transaction reporting. See, e.g., "Rule G-14 Real-Time Transaction Reporting Update," MSRB Notice 2005-43 (August 17, 2005) (discussing the possibility of adding a special condition indicator for conditional trading commitment transactions).

[6] See "Confirmation: Mailing of WAI Confirmation," MSRB Rule G-12 Interpretive Letter (April 30, 1982), paragraph 3556.55 MSRB Manual. Implications for transaction reporting were discussed, among other places, in "Notice Requesting Comment on Draft Amendments to Rule G-34 to Facilitate Real-Time Transaction Reporting and Explaining Time of Trade for Reporting New Issue Trades," MSRB Notice 2004-18 (June 18, 2004).

[7] MSRB Rule G-34 (a)(ii)(C)(2).

[8] The first official day of trading in a new issue typically is the day of the formal award, although it may be delayed to the next day by underwriters in certain circumstances. This notice includes a request for comment on whether a more formal structure is needed with respect to determining the first official day of trading in a new issue.

[9] See Letter to Jonathan G. Katz, Secretary, Commission, from Leslie M. Norwood, Vice President and Assistant General Counsel, The Bond Market Association 3 (July 20, 2004). It may be noted that many CTC transactions are effected at list offering prices and are reported only at

the end of the first day of trading in the issue. All transaction reports, however, including end-of-day reports, must include an accurate time of trade execution. Thus, anomalies continue to exist when comparing transactions with similar execution times. In addition, some CTC transactions are not list offering price transactions and are required to be reported within 15 minutes of execution. Without a CTC indicator, these transactions reports are indistinguishable from reports of transactions occurring in the current secondary market.

[10] The final section of this notice requests comment on technical issues that would have to be addressed in order for dealers to report the time that a conditional trading commitment is made in addition to, or in place of, reporting the time of trade execution.

[11] Under current RTRS requirements, a special condition indicator must be used to claim one of the extended reporting deadlines. Note that the Three-Hour Exception will expire on December 31, 2007 for when, as and if issued transactions, and December 29, 2006 for all other transactions. "SEC Approves Proposed Rule Change to MSRB Rule G-14 RTRS Procedures, Paragraph (a)(i)(C) to Extend the Expiration Date of the Three-Hour Exception," MSRB Notice 2005-62 (December 22, 2005).

[12] If the price is not publicly disseminated (*e.g.*, if the security is a "not reoffered" maturity within a serial issue), the price is not a List Offering Price. See "Reminder Notice on List Offering Price and Three-hour Exception for Real-Time Transaction Reporting: Rule G-14," MSRB Notice 2004-40 (December 10, 2004).

[13] Rule G-14(a)(ii)(A) RTRS Procedures.

[14] See discussion in "Real-time Transactions Reporting: Revised Schedule and Operational Plan," MSRB Notice 2003-44 (December 11, 2003).

[15] "Reminder Notice on List Offering Price and Three-hour Exception for Real-Time Transaction Reporting: Rule G-14," MSRB Notice 2004-40 (December 10, 2004).

[16] Although most dealers already use the existing List Offering Price indicator to claim the end-of-day reporting deadline, the use of the indicator is optional and is not used by some dealers. RTRS currently disseminates the indicator in its transparency reports; however, most re-distributors of the data do not include the indicator because it is optional or is viewed primarily as the mechanism by which dealers obtain an extended reporting deadline. If the indicator is made mandatory and extended to takedown transactions, it would suggest the need for all vendors to re-disseminate the indicator.

[17] Underlining indicates additions; strikethroughs indicate deletions.

Alphabetical List of Comment Letters on MSRB Notice 2006-10 (April 21, 2006)

1. Jerry L. Chapman: Letter to Jay Jackson, MSRB
2. Digital Assurance Certification LLC: Letter to Jay Jackson, MSRB, from Paula Stewart, Chief Executive Officer
3. First Southwest Company: Letter to Jay Jackson, MSRB, from Karen Cook, General Counsel
4. Nuveen Investments: E-mail to Angela Shelton, MSRB, from William Campbell, Quantitative Analyst
5. The Bond Market Association: Letter to Justin Pica, MSRB, from Leslie M. Norwood, Vice President and Assistant General Counsel
6. Wulff, Hansen & Co.: Letter to Justin Pica, MSRB, from Christopher Charles, President

Jerry L. Chapman
494 Williamsburg Lane
Memphis, Tennessee 38117

May 30, 2006

Mr. Jay Jackson
Uniform Practice Asst.
MSRB
1900 Duke Street, Suite 600
Alexandria, Virginia 22314

Re: MSRB Notice 2006-10 Comments on Procedures for Reporting Special Indicators on Certain New Issue Transactions

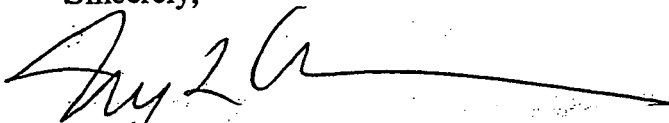
Dear Mr. Jackson:

The world of transparent trade reporting of municipal securities should be content with timely reporting beginning with day two to the maturity or call of the bonds. The period from the beginning of the order period to the batch processing at the initial trade time should be reserved for creation of the bond. This period can be a day or three, and all trades executed or all "conditional trading commitments" are stale when reported. We now have an industry where any trade older than 15 minutes is stale and no number of new special conditions codes will refresh those trades.

The MSRB currently has codes A-K and four M codes for a total of 15 special condition codes. I think these are more than enough. Many of our current codes need to be revised or have their language changed to be more suited with industry tradition. "Trading flat" means something quite different to me than trading with zero accrued interest. I am happy to see the MSRB is finally recognizing a takedown trade is a list trade even if only for one day ("....executed on the first day of trading of a new issue."). Again, I believe the first day of trade reporting will have so much stale data as to render the reports ineffective. Does this mean we should not report all these stale trades? No, we have to begin somewhere and this is the beginning for these municipal bonds. Trade reporting is effective from the next day to the maturity or call of these bonds. Effective reporting every day except for the first day should be sufficient. Trace has similar problems.

I wonder at the real intent of categorizing and timing these "conditional trading commitments." If regulators are concerned with abuses, let those perceived abuses be investigated. We have enough special condition MSRB reporting codes!

Sincerely,



Jerry L. Chapman
Private Investor



Digital Assurance Certification LLC

390 North Orange Avenue, Suite 1750
Orlando, FL 32801-1674
www.dacbond.com
Phone: 407.515.1100

June 2, 2006

Mr. Jay Jackson
Uniform Practice Assistant
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

RE: MSRB Notice 2006-10 (April 21, 2006)

Dear Mr. Jackson:

Digital Assurance Certification LLC (“DAC”) appreciates this opportunity to respond to the notice (“Notice”) issued by the Municipal Securities Rulemaking Board (“MSRB”) on April 21, 2006, in which the MSRB proposes to revise the procedures used by brokers, dealers and municipal securities dealers (“dealers”) on the first day of trading in a new issue.¹ As described in the Notice, “the proposed revisions would: (i) create a new special condition indicator for certain transactions that are based on pricing commitments made prior to the formal award of a new issue (the “Conditional Trading Commitment” indicator); and (ii) expand usage of the existing special condition indicator for list offering price transactions to include certain inter-dealer “takedown” transactions (the “List Offering Price/Takedown” indicator).” Use of both indicators would be mandatory.

DAC’s core business activities promote transparency in the municipal securities market. As part of its services to the municipal market, DAC obtains price quotations for municipal securities and related information from the Real-Time Reporting Service (“RTRS”) and provides the information free of charge on the DAC website. As a disseminator of disclosure and transaction information, DAC offers a unique perspective on the proposals in the Notice. DAC applauds the MSRB’s efforts to improve transparency in municipal securities transactions in general and specifically encourages implementation of the measures described in the Notice.

We offer our experience to back our support. DAC has provided RTRS since January 31, 2005, and has found this service to be popular among municipal issuers as well as investors. In our experience, municipal issuers appear to appreciate the ability to view both transactions in outstanding securities of the issuer prior to and at the time of pricing a new issue of municipal securities. Likewise in our experience, municipal issuers appear to appreciate the ability to view transactions in new issue securities following award.

¹ MSRB Notice 2006-10.



Conditional Trading Commitment.

The Notice explains the background for the CTC proposal: under MSRB rules, a transaction in a new issue cannot be executed, confirmed or reported prior to the formal award of the issue. “Time of Formal Award” is defined, for competitive underwritings, as the time that the issuer announces the award and, for negotiated underwritings, as the time the contract to purchase the securities from the issuer is executed. Although trade executions in a new issue are not allowed prior to the Time of Formal Award, dealers are allowed to accept firm orders prior to that time. Dealers generally begin accepting such orders after the pricing for the issue is announced, which sometimes precedes the Time of Formal Award by a day or more. A dealer’s commitment to execute such a pre-award order customarily is conditioned upon the formal award occurring without material changes in the proposed securities, pricing or estimated quantities. These pre-award “conditional trading commitments” are executed after the Time of Formal Award, on the first day of trading for a new issue. Transaction reports to RTRS are made only after transactions are formally executed and include the time of execution. Underwriters usually begin to make conditional trading commitments immediately after the pricing of a new issue and parties receiving conditional allocations from underwriters sometimes make their own conditional trading commitments starting at this time. Since this process may continue for a day or more before the formal award occurs, CTC transaction prices frequently can be “stale” when they are executed and reported. Commentators have noted that mixing stale CTC transactions with current market transactions can create unexplained anomalies in RTRS price data. The MSRB believes that the requirement to identify CTC transactions with a “CTC indicator” will reduce this problem by allowing transparency users to distinguish potentially stale CTC transactions from current secondary market transactions that are being reported with similar times of trade.

List Offering Price/Takedown Transactions.

As the Notice explains, under existing transaction reporting procedures, the List Offering Price indicator may be included on reports of primary market transactions that are effected by syndicate managers, syndicate members and selling group members at the List Offering Price on the first day of trading in a new issue. The “List Offering Price” is defined as the publicly announced initial offering price at which a new issue of municipal securities is to be offered to the public. Today, the indicator primarily is used by dealers to claim an end-of-day reporting deadline. The MSRB provided the end-of-day deadline for these transactions because of the substantial operational difficulties underwriters would face in reporting large numbers of List Offering Price transactions within a 15-minute window after the formal award. The MSRB also concluded that real-time dissemination of large numbers of primary market transactions occurring at the same price would not offer a great benefit to RTRS transparency objectives.

The Notice also explains that, for purposes of RTRS transaction reporting, a “Takedown” transaction is defined as a primary market sale transaction by a sole underwriter or syndicate manager with a syndicate or selling group member at a discount from the published list offering price. In a 2004 Notice, MSRB stated that Takedown transactions should not be submitted using



the List Offering Price indicator. As experience with real-time transaction reporting has increased, however, industry members have pointed out that Takedown transactions share many of the same characteristics as the List Offering Price transactions. A high volume of Takedown transactions on the first day of trading in a new issue, for example, often presents operational difficulties for underwriters attempting to report all of their takedown transactions within a 15-minute window. It also has been noted that prices for both Takedown transactions and List Offering Price transactions are set under an offering price agreement for the new issue.

The proposed revisions to RTRS recognize the similarities between List Offering Price and Takedown transactions and the dissimilarities between these transactions and secondary market transactions in a new issue. Since the secondary market transactions in a new issue are likely to provide the best gauge of the current market value for a new issue and may be reported at the same time as List Offering Price and Takedown transactions, the MSRB believes that transparency reports on the first day of trading for a new issue would be more useful if List Offering Price and Takedown transactions were identified with a special pricing condition indicator. The proposed revisions to RTRS accordingly would require dealers to use a "List Offering Price/Takedown" ("LOP/TD") indicator when reporting these transactions on the first day of trading.

DAC's Views.

DAC agrees with the views of the MSRB on both CTC and List Offering Price/Takedown and believes the effect of both revisions will be an increase in the transparency of the municipal securities markets. DAC believes that the additional information provided by the proposed revisions will be of interest and use to issuers of municipal securities, financial advisors, and bond counsel, as well as dealers and investors. Such information may provide assistance in a variety of contexts, including regulations of the Internal Revenue Service.

We encourage the MSRB to adopt the proposed revisions and express our thanks for the opportunity to provide our comments.

Sincerely,

A handwritten signature in black ink, reading "Paula Stuart". The signature is written in a cursive, flowing style.

Paula Stuart
Chief Executive Officer
Digital Assurance Certification, LLC.



325 North St. Paul Street
Suite 800
Dallas, Texas 75201-3852

(214) 953-8891 Direct
(214) 953-4075 Fax

Karen Cook
General Counsel

kcook@firstsw.com

June 5, 2006

MSRB

Attention: Jay Jackson
Uniform Practice Assistant
1900 Duke Street Suite 600
Alexandria, VA 22314

Dear Ladies and Gentlemen:

First Southwest Company ("FSC") respectfully submits the following response to the Municipal Securities Rulemaking Board's ("MSRB") Notice 2006-10 (April 21, 2006) requesting comments ("Request") on proposed revisions to the transaction reporting procedures used by brokers, dealers and municipal securities dealers ("dealers") on the first day of trading in a new issue pursuant to the provisions of MSRB Rule G-14 (the "Rule"). FSC believes the proposed revisions are unnecessarily burdensome and premature, especially given the recent and dramatic changes created by real-time trade reporting.

Summary

FSC supports the MSRB's efforts to create greater price transparency in the municipal securities market and believes the transition to real-time trade reporting has made great strides toward that goal. For the reasons discussed below, we believe that the proposed amendments to the Rule will not advance that goal, and are unnecessarily burdensome in light of the complexities and cost associated with complying with the proposed amendments compared with their minimal benefit.

The Proposed Rule Amendments are Unduly Burdensome

The proposed amendments, if adopted, will create an undue burden on dealers affected by them. Dealers who report their trades electronically will be required to effect, or procure from third party vendors whose electronic platforms are used, costly reprogramming of the dealers' systems to accommodate the proposed amendments. Where the services of a third-party vendor are involved, dealers cannot obtain guarantees that the programming changes can or will be completed, tested and implemented by the applicable effective date. Indeed, some firms are still in the process of analyzing and adjusting their systems to perfect real-time trade reporting.

Firms that report their transactions manually will also be burdened if the proposed amendments are adopted. Increasing the complexity of complying with the Rule is time consuming and decreases the likelihood that the trades will be accurately reported on time. Compliance with the Rule is already difficult with the current number of special condition codes that must be



applied. Increasing the complexity—especially while firms are still adjusting to the conversion to real-time trade reporting—will lead to more errors. While errors can be repaired, such corrections are not currently reflected in a firm's monthly MSRB report card, which skews such data and increases the number of unnecessary follow-up inquiries.

As discussed herein, the benefits to be derived from the proposed amendments appear to be greatly outweighed by the increased burden to dealers that must comply with them.

The Proposed Rule Amendments Will Not Meet the Stated Goal

The proposed indicators will not improve the price transparency in the market. While we recognize the wisdom behind the goal of segregating stale trade information from current trade information to eliminate confusion in the marketplace, segregating conditional trade commitment ("CTC") transactions from other trade reports with a special indicator is neither necessary nor helpful. Because such trades are executed simultaneously, the market sees a "batch" of trades in the same security at the same time and same price. Thus, it should be clear to the market that this group of transactions was executed in connection with the primary offering and thus the price is stale. Further, because of other exemptions available for other types of trades on the first day of trading, segregating the CTCs will not succeed in identifying all stale transactions in the marketplace. We believe that the marketplace is not confused by CTC transactions, because they are obvious when reported. Placing an indicator on CTC transactions when there are other stale transactions in the marketplace does not clear up all confusion that may exist by the simultaneous presence of stale and current transaction information. Under the current rules, once a trade is more than 15 minutes old it is stale. No benefit is derived by segregating some—but not all—of the stale transactions from the current ones. If anything, the CTC transactions are the easiest "stale" transactions to recognize.

Inclusion of "Takedown" transactions within the definition of "List Offering Price" in the proposed amendments is an important recognition. We agree that the characteristics of takedown transactions are so similar to those of list offering prices transactions as to be treated the same. However, we do not support making mandatory the LOP/TD indicator. While the information reflected by this proposed indicator may be of some benefit, the price is the important information and it is reported to the marketplace. Further, this proposed indicator overlaps substantially with the CTC and, similarly, provides little benefit in light of the burden to dealers to comply.

Specified Questions

Use of the CTC Indicator will require dealers to identify transactions in which a conditional trading commitment is formed prior to the Time of Formal Award. Do syndicate/trading systems currently capture both the time that new issue trading commitments are made and the Time of Formal Award? If so, do those systems pass this information through to the processing systems used for trade reporting.

Response: Some trading systems capture the time of the CTC as well as the time of the formal award. However, the CTC time is of no use without the date. Because firms are not required to capture this information, it is not passed to the processing systems used for trade reporting.

Under Rule G-34(a)(2)(c), underwriters currently are required to disseminate Time of Formal Award so that dealers with pending orders in a new issue will know when trade executions can begin. Is current dissemination of this information adequate to comply with the proposed requirements to identify CTC transactions?



Response: The current method of disseminating the time for formal award is not adequate to comply with the proposed requirements regarding CTC transactions. Communication of the time for formal award to the dealers involved in the primary offering is adequate, but is less than adequate for transactions executed in the secondary market on a conditional basis, especially in light of the 15-minute window during which the trade must be reported.

For competitive underwritings, Rule G-34 defines the Time of Formal Award as the time the issuer official announces the award of a new issue. This "announcement of the award" means an official announcement confirming the award and including offering prices, coupons and quantities for each security. Is this definition workable for identifying conditional trading commitments in competitive underwritings?

Response: The definition of the time of formal award, as reflected in MSRB Rule G-34 is adequate for both competitive and negotiated underwritings.

In some underwritings, the formal award is made relatively quickly after the pricing of the issue, minimizing the opportunity for the prices reported after the formal award to be "stale" based on their time of execution. Should these situations be addressed differently than those where there is opportunity for a significant delay between the time and conditional trading commitment is made and the time the trade is executed?

Response: The time differences for awarding underwritings should not be addressed with a new rule or procedures. The setting of price for a new issue is a very fluid process that is generally made based upon market conditions. Separately, the scheduling of a forum for the approval of an underwriting award is based upon logistical requirements and circumstances that are unique to each issuer and its governing members. Because the scheduling of these two events is based upon completely different criteria, which can vary among offerings by the same issuer, restricting or regulating such events, or the reporting of transactions subject to them, would unnecessarily complicate both processes. Further, establishing different reporting criteria is neither practical nor helpful. Making distinctions between "stale" and "more stale" transaction information is not useful to the marketplace; stale is stale.

The proposal in this notice limits the use of the CTC and LOP/TD indicators to transactions on the "first day of trading" in a new issue. The first day of trading is assumed to be the day of the formal award unless the formal award occurs after business hours or so late in the day that the underwriter cannot execute and process its pending transactions. It is further assumed that, in those latter instances, the underwriter notifies the industry of the time its initial trade executions will begin. Is this assumption accurate? Is there need for specific rules stating uniform practices for setting the "first day of trading" and disseminating that information.

Response: The current practices for setting the "first day of trading" are reasonable and appear to be working well. The proposed indicators would add cost and complication with little benefit, and such benefit would exist for only one day during the trading life of the security.

The MSRB believes that a period of six months following the publication of final Specifications should be adequate for dealer programming and implementation of the proposal in this notice. Are there major technical or operational challenges to implementation of the proposal that have not been addressed above and that would require longer lead time.

Response: Any proposed changes will be burdensome and costly to dealers that are governed by them, especially for those firms still making changes to achieve compliance with the Rule in



its current form. Firms that require reprogramming by third-party processing vendors cannot control the timing of satisfactory completion of the necessary reprogramming. In addition, consideration should be given to the cumulative cost, burden and consumption of time that all regulatory revisions and rulemaking have on the affected firms. While one might conclude that any given measure would not add a material burden to firms, the cumulative effect of all of the rules that have been amended or implemented in the past three years by the industry's regulators has had a material impact on all firms. Thus, the necessity of any given measure should be carefully scrutinized in light of the cumulative effect of recent rulemaking.

The MSRB has received comment from some transparency users suggesting that a further improvement to transparency could be achieved by adopting procedures requiring dealers to include the time that the CTC is made on trade reports. This could be done either as an additional field on the trade report or as a substitute for the current "time of trade" (time of execution). Would the costs and timing for implementation of such a proposal be different than those for the proposal contained in this Notice?

Response: Adding the time that the CTC is made would be meaningless without also adding the date. The programming requirements to accommodate such a change would be substantial. Further, the "time of trade" seems to be more important to the market than the CTC time, thus substituting this information would not improve price transparency.

Conclusion

The improvement in price transparency from the implementation of real-time trade reporting has been significant. While there may be ways to make further improvements in the future, any benefits that would be afforded by the proposed rules are slight and seem to be clearly outweighed by the cost and burden to dealers to comply with them. For the reasons discussed above, FSC requests that the MSRB refrain from making the proposed amendment to the Rule.

Sincerely yours,

Karen Cook
General Counsel

From: Campbell, William J. [mailto:William.Campbell@nuveen.com]
Sent: Tuesday, May 09, 2006 10:03 AM
To: Angela Shelton
Cc: Trim, Terry
Subject: MSRB Notice 2006-10:MSRB is publishing a notice requesting comment on proposed revisions to the transaction reporting procedures

Angela,

It would be extremely helpful if you put in a flag to indicate primary vs. secondary market trades. Also, an indicator number to tie deal transactions together would also be useful. You could make this deal number random so that the user could only identify trades from the particular deal but the confidentiality of the broker would be kept in tact.

Thank you,

Bill Campbell
Quantitative Analyst
Risk Management and Portfolio
Construction



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June 5, 2006

Mr. Justin Pica
Uniform Practice Specialist
Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, VA 22314

RE: MSRB Notice 2006-10: Draft Procedures for Reporting Special Condition Indicators on Certain New Issue Transactions

Dear Mr. Pica:

The Bond Market Association¹ ("Association") appreciates this opportunity to respond to the notice ("Notice") issued by the Municipal Securities Rulemaking Board ("MSRB") on April 21, 2006, in which the MSRB proposes draft amendments to Rule G-14 RTRS Procedures.² The Notice sets out the MSRB's proposed revisions which would: (i) create a new special condition indicator for certain transactions that are based on pricing commitments made prior to the formal award of a new issue (the "Conditional Trading Commitment" or "CTC" indicator); and (ii) expand usage of the existing special condition indicator for list offering price transactions to include certain inter-dealer "takedown" transactions (the "List Offering Price/Takedown" or "LOP/TD" indicator). The MSRB also solicited comment on specific issues with respect to implementation of these indicators which we have addressed herein.

A. Operational Changes to RTRS Reporting Generally

The Association has supported the efforts of the MSRB and the broker dealer community to increase transparency in the municipal securities market through the implementation of the new Real-time Trade Reporting System (RTRS) that became mandatory on January 31, 2005. In an effort to rationally implement trade reporting, many broker dealers have

¹ The Association is a trade association that represents approximately 200 securities firms, banks and asset managers that underwrite, trade and invest in fixed-income securities in the United States and in international markets. Fixed income securities include U.S. government and federal agency securities, municipal bonds, corporate bonds, mortgage-backed and asset-backed securities, money market instruments and funding instruments such as repurchase agreements. More information about the Association and its members and activities is available on its website www.bondmarkets.com.

² MSRB Notice 2006-10.

Mr. Justin Pica
Municipal Securities Rulemaking Board
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automatic, uniform rules-based models so that reporting is conducted in a uniformly correct manner that is not subject to human error and judgment. Many of those systems are interconnected with other related systems within the broker dealer, including those that relate to clearance and settlement, trade confirmations and dissemination of disclosure documents.

Annual Roll-Out of RTRS Enhancements

Changes to one system usually require cascading changes throughout multiple systems due to related logic. Any systems changes require the dedication of resources, including financial resources and staff time, to make the change as well as adequate time for testing. Such resources may need to be allocated as much as a year ahead of time. Due to the complexity of these systems, resources are needed to alter them every time any small change is made. Taking into account the regulatory risks incurred if changes are not made properly or fully tested prior to being implemented, the Association requests that future effective dates for RTRS changes occur only once per year. This annual "roll-out" of RTRS enhancements would allow for operations professionals to adequately plan, implement and test changes to RTRS reporting systems and all related systems in a systematic fashion.

Please be advised that the systems being described are not all within the control of regulated dealers. Dealers use a variety of outsourced software vendors, data processing vendors and information vendors to aid in trade reporting, all of which need to make the required changes in their systems. Additionally, outside vendors and systems receiving the transaction reporting data from MSRB for transparency products will need to make necessary changes. As such, an annual rollout of RTRS enhancements would allow for a more coordinated approach between broker dealers and the vendors that support the municipal securities market infrastructure.

DTCC New Issue Information Dissemination Service Project

Historically, concerns have persisted regarding the dissemination of new bond issue information relating to municipal securities. There are a multitude of reasons for these concerns, including the lack of infrastructure and standardized file formats for electronic dissemination of the information and the lack of a centralized information source. As the MSRB is aware, since MSRB Notice 2004-18 was released, the Association has been working with industry participants in earnest to improve new bond issue information dissemination in municipal securities. MSRB Notice 2006-12 describes the most recent and major undertaking of the Association, DTCC and the industry to this end. In sum, at the request of the Association, DTCC is developing a New Issue Information Dissemination Service to collect new issue information in an electronic and real-time format from dealers and to redistribute that information on to information vendors. Fast and accurate new issue information dissemination will also necessarily aid broker dealers in reporting new issue trades on the first day of trading within 15 minutes of the time of

execution once the 3-hour exception lapses by ensuring that dealers have the information they need to report transactions in a timely basis.³

Major operational systems changes are currently being planned by broker dealers as a result of the DTCC New Issue Information Dissemination Service, which will enhance the availability of new issue information in the municipal securities market. The system changes necessary for broker dealers to report their new issue information to DTCC are scheduled to be in place by July 31, 2007, and as such we respectfully request that any future proposed changes to RTRS only become required after that time.

Time of Formal Award Generally

Further, as MSRB Rule G-34 is currently written, underwriters are required to announce, as promptly as possible, CUSIP numbers and the time of formal award in a manner reasonably designed to reach market participants that may trade the new issue. There is anecdotal evidence that the time of formal award, in particular, on a large number of new issues has not been reaching the information service providers and getting incorporated into their systems uniformly. If market participants don't have access to the time of formal award, it is impossible to know when trade executions are permitted to occur and whether to code those transactions with a special condition indicator. The DTCC New Issue Information Dissemination Service will not only speed the transmission of new issue information and make it available in an electronic format, but it also will improve the standardization of information available regarding each new issue. The members of the municipal securities industry have been working diligently to define a set of data fields that are critical to disseminate on new issues, and the time of formal award has been included in that field set.

In the Notice, the MSRB solicited comments on the definition of time of formal award specifically. The time of formal award currently is defined by MSRB Rule G-34(ii)(C)(2) to be "for competitive issues, the time the issuer announces the award, and, for negotiated issues, the time the contract to purchase the securities from the issuer is executed." The time of formal award is determined by the issuer, and trade executions are possible after this time unless the lead or managing underwriter states that the "time of first execution" is later, typically due to the formal award being late in the day. The "time of formal" award standard does not take into account the practical realities of

³ In MSRB Notice 2005-03, it was noted that two exceptions in Rule G-14 apply to certain transactions executed on the first day of trading in a new issue. The first exemption applies to syndicate managers and members that effect trades at list offering price, and provides that they may report trades by the end of the first day of trading. The second exemption provides relief for dealers that are not syndicate managers or members, have not traded an issue in the previous year, and do not have the CUSIP information or indicative data for that issue in their security master file (the "3-hour exception"). The second exemption is scheduled to sunset on December 31, 2007 for "when, as and if" issued transactions, and to December 29, 2006 for all other transactions. See also MSRB Notice 2005-62.

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whether trade executions in this security can be made. Particularly for competitive issues, additional steps may be necessary to report transactions in this new issue. For instance, a dealer might find out that it won a competitively bid transaction, but learns that since there was no regulated dealer financial advisor, CUSIP numbers were not yet applied for or assigned. The Association feels that the conditional trading commitment indicator should be used up to the point of the time of first execution. The time of first execution is neither currently uniformly disseminated nor incorporated into information vendors' systems. The time of first execution is a required field for dealers to enter into DTCC's upcoming New Issue Information Dissemination System though, and that crucial piece of information will be disseminated upon implementation of that project.

Timing of Announcement of "Time of Formal Award"

The Association feels that the sole, lead or managing underwriter should be given the discretion to determine the time of first execution, and that there exists sufficient incentive to have the time of first execution occur at the earliest possible time. It is in the best interest of the underwriter to execute the pending conditional trading commitments promptly and transfer the risks associated with having the conditional trading commitments pending on its books. Concerns also currently exist, however, regarding the amount of lead time the industry is given between notification of the upcoming time of first execution on a particular new issue and that actual time of first execution. There are currently no rules or standards in the industry regarding the amount of lead time necessary for broker dealers to comply with real-time transaction reporting once they are informed of the time of first execution. The Association plans to develop uniform practices in this area in conjunction with the release of the New Issue Information Dissemination System.

B. The Proposed CTC Indicator

The CTC indicator would require substantial operational changes to the broker dealers' systems, and thus we request that use of this indicator only become required after July 31, 2007 to coincide with the implementation of the DTCC New Issue Information Dissemination Project. New issue information dissemination is currently a major focus of the Association, and we continue to work with DTCC well in advance of the New Issue Information Dissemination Service implementation. As stated above, currently new issue information dissemination concerns exist in the municipal securities industry.

Pursuant to the Notice, all trades agreed to before the signing of the bond purchase agreement will necessarily be marked with a CTC indicator, even if the dealer is not the syndicate manager. As described above, if a member of the syndicate, or a non-syndicate member dealer, receives conditional allocations of new issue securities, it is unclear whether it will have knowledge of the time of formal award and be able to properly code its transactions for RTRS using currently available information sources. The Association feels that currently the time of formal award is not adequately available for broker dealers to comply with the proposed requirements to identify CTC transactions at this time and

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believes that implementation of the DTCC New Issue Information Dissemination Service should alleviate this concern.

Order Times

For large new issues, conditional trading commitments are known by a syndicate's senior manager, and the information on these commitments is typically kept in a syndicate book-running system. The Association estimates that over 90% of the municipal securities market by dollar volume comes to the market via a syndicate system. These syndicate systems currently do not differentiate which trade executions will occur as a result of conditional trading commitments nor do they forward that information on to broker dealers in the syndicate. These syndicate systems typically are not capturing electronically the times that orders were taken nor are they uniformly integrated with trading and trade reporting systems.

The MSRB asked in its notice whether order time of a conditional trading commitment could be included in a trade report. At this time, broker dealers are not ready to report order time of a conditional trading commitment even on transactions not utilizing a syndicate system, as those order times are typically recorded in systems other than the systems that handle trade reporting to RTRS. Required reporting of order times would require significant additional programming time and resources, including staff behavior modification, substantially above the time and resources needed to implement the proposed changes in the Notice.

Uniformity of Treatment

Another issue the MSRB requested comment on is whether there should be different treatment for conditional trading commitments depending on the time lag between pricing of the issue and the time of formal award. Ostensibly, when formal award occurs relatively soon after pricing, there is not as much time for the prices at which the commitments are entered into to get "stale" compared with situations when there is a relatively long time lapse between the pricing and formal award. The Association feels that bright-line tests are the easiest to implement and achieve uniformity of reporting across all dealers. Any subjective test requiring the reporting firm to determine the "staleness" of the price at which the conditional trading commitment was entered into adds an untenable amount of complexity to a process that is required to be done in "real-time." Many firms can only handle the volume of transactions in the market in "real-time" by implementing automated rules-based decisions and standards, as described above, and thus we support treating all conditional trading commitments entered into prior to the formal award uniformly.

End-Of-Day Exception for CTC Marked Trades

Finally, we propose that transactions coded with a CTC special condition indicator be allowed an end-of-day exception for trade reporting purposes. Transactions marked with

a CTC indicator are, by definition, are at a price agreed upon prior to the time of formal award, before which executions cannot be made pursuant to MSRB Rule G-34. CTC marked trades will not be helpful for transparency purposes to determine current secondary market pricing levels; transactions that are reported on a real time basis using contemporaneous market prices are the true indicators of current pricing levels on that security. Thus, requiring CTC coded trades to be reported within 15 minutes of the time of execution is an undue regulatory burden for dealers when weighed against the fact that such reporting does not provide additional value to price transparency.

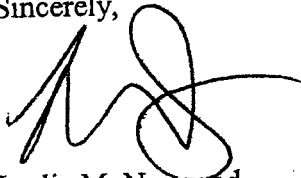
C. The Proposed LOP/TD Indicator

The LOP/TD indicator is an easier indicator to implement than the CTC indicator, due to the fact that its use is only required by syndicate members, and it affects a finite number of transactions within the syndicate. The Association is appreciative of the MSRB's recognition that takedown trades only reflect the primary market activity in the new issue, and do not reflect secondary market activity in that security, and thus an end-of-day exception is warranted for LOP/TD trades. The rationale stated for the changes is that users of the RTRS transparency feeds will be able to differentiate between the primary market transactions and the secondary market transactions. It is important to note, however, that currently the use of the List Offering Price indicators is optional, and broker-dealers use the indicator to avail themselves of the end-of-day reporting deadline. The change to making the LOP/TD indicator a required indicator when dealers submit transactions to RTRS and one that is picked up by transparency users of the transaction data will require significant effort by industry members. The Association believes that the industry needs at least six months—until December 31, 2006—to incorporate the LOP/TC indicator into RTRS reporting. Noting that any changes to RTRS reporting will affect multiple systems, this time frame would allow adequate time for broker dealers to dedicate resources, implement the changes, and test the changes as needed.

* * * *

We look forward to discussing these issues further with the MSRB Board and staff and appreciate your consideration of our comments on this proposal. Please contact the undersigned at 646.637.9230 or via email at Lnorwood@bondmarkets.com with any questions that you might have.

Sincerely,



Leslie M. Norwood
Vice President and
Assistant General Counsel

Mr. Justin Pica
Municipal Securities Rulemaking Board
June 5, 2006
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cc: ***Municipal Securities Rulemaking Board***
Mr. Christopher Taylor, Municipal Securities Rulemaking Board
Diane Klinke, Esq., Municipal Securities Rulemaking Board
Hal Johnson, Esq., Municipal Securities Rulemaking Board

The Bond Market Association
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Municipal Legal Advisory Committee
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June 1, 2006

MSRB
1900 Duke Street Suite 600
Alexandria, VA 22314

Attention: Justin Pica, Uniform Practice Specialist

Dear Mr. Pica:

We are writing to comment on the proposal that Rule G-14 be amended to require that certain CTC transactions be identified separately in the trade reporting process. While we understand the motivation behind the current proposal, we view the resulting formalization of CTCs as a potentially disruptive and dangerous first step toward treating CTCs as orders, a treatment which would be fraught with difficulty for both regulators and the regulated. While such a result may not be the intent of the proposal, we believe that it would establish a framework and precedent which would result in CTCs being interpreted as subject to various other rules which presently apply only to orders.

Conditional trading commitments (CTCs) have often in the past been little more than discussions and tentative arrangements between two parties. While some may be more specific and detailed than others, they have typically been treated simply as indications of interest, which we believe to be the most appropriate and useful approach. As such, no formal recordkeeping requirements have applied specifically to them as a class. We believe that giving CTCs a more formal status, especially in the manner proposed, will create a host of regulatory and operational difficulties.

We believe a CTC can become an actual order only after the time of formal award, not least because prior to that time there is legally and technically no security to be the subject of an order. Terms and conditions of an issue can change up until the time of award, and indeed the issue can be withdrawn if the issuer or underwriter so chooses.

The proposed change effectively treats a conditional trading commitment as if it becomes an order at an unspecified point in time prior to the formal award, which we believe is a novel and potentially troublesome approach.

For example, MSRB Rule G-8 requires that a dealer record not only the time and date of execution of an order but also the time that a customer order was received. CTCs are, by definition, conditional. Given their conditional and tenuous nature, and considering that they are often not finalized (especially in terms of quantity) until after

the time of formal award, we do not see how a dealer could reliably determine a date and time of receipt for what is called a CTC but is now to be treated as an order.

Is the time of receipt when the first expression of interest is received from the customer or other dealer? Is it when the two parties come to a meeting of the minds as to price and size even when other terms such as call features remain unspecified? Is it when the bonds are verbally confirmed to the buyer with all details of price, size, call features, etc. and he agrees that he is to buy them once the formal award takes place? Does the 'price' of a CTC refer only to the yield basis (allowing any combination of coupon and dollar price which together provide the agreed-upon yield) or does it refer to a specified coupon at a specified dollar price? Is delivery of the Preliminary Official Statement the definitive factor? Determining the time of receipt for an order (or something like an order), involving securities which do not yet exist is inherently problematic, and we do not envy those assigned to draft the detailed regulatory guidance which would be required.

Even if these questions can be answered clearly, we are also puzzled as to how the data regarding such a formalized CTC is to be recorded and processed in the early stages of its life. Such formalized CTCs would in many cases be made and treated in practice as 'done deals' well before the actual assignment of a CUSIP number, despite the fact that the commitment is technically non-binding. This is not presently a problem because, as an indication of interest, the informal nature of the unwritten CTC does not require an entry in the firm's books and records until the commitment is final, which can only occur after the time of formal award. Without a CUSIP or equivalent identifier, there would be no way to enter and maintain the CTC information in an automated system. Will the industry be expected to create a new class of temporary identifiers to be used internally until official CUSIPs are issued? With tongue in cheek, we might suggest that CTCs could be recorded using firm-created 'CCNs' (Conditional CUSIP Numbers). Alternatively, all CTC records prior to CUSIP assignment could be recorded manually, but that would seem to be a step backward in many ways.

We could go on at length with regard to the practical difficulties arising from regarding CTCs as more akin to orders than to indications of interest. If MSRIB wishes to single them out for special treatment in the trade reporting process, we strongly urge that the resulting requirements specifically preclude the possibility of their being treated for regulatory purpose as 'orders' in any context at any time prior to the time of formal award.

Respectfully submitted,



Christopher Charles
President