

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.

In particular, the Commission finds that the proposed rule change will increase transparency and facilitate the fair pricing of municipal securities transactions. The Commission believes that the Historical Data Product will provide more information on infrequently traded issues and will help achieve a wider dissemination of transaction information that will help ensure the fairest and most accurate pricing of municipal securities transactions.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-MSRB-2004-05) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50692; File No. SR-MSRB-2004-07]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board To Establish Implementation Plan for Real-Time Transaction Reporting and Price Dissemination

November 18, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 15, 2004, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The MSRB has designated this proposal as constituting a stated policy, practice, or interpretation with respect

to the meaning, administration, or enforcement of an existing rule of the MSRB under Section 19(b)(3)(A)(i) of the Act<sup>3</sup> and Rule 19b-4(f)(1) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 proposal to establish the implementation plan for its real-time transaction reporting and price dissemination, which includes the amendments to Rule G-14, on transaction reporting, and Rule G-12(f), on automated comparison of inter-dealer transactions. No changes to the text of MSRB rules are required by this proposal.

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

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

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

###### 1. Purpose

On August 31, 2004, the SEC approved a proposed rule change relating to the MSRB's implementation of real-time transaction reporting and price dissemination—the Real-Time Transaction Reporting System or "RTRS."<sup>5</sup> That rule change includes amendments to Rule G-14 and Rule G-

12(f), which will become effective concurrently with the operation of RTRS, that will require dealers to report most municipal securities transactions to the MSRB within 15 minutes of the time of trade execution rather than by midnight on trade date, as is currently required,<sup>6</sup> and to submit inter-dealer transactions to the central comparison system within the same time frame. The new requirements are designed to increase price transparency in the municipal securities market and to enhance the surveillance database and audit trail used by enforcement agencies.<sup>7</sup> In that filing, the MSRB stated that it expected to make a second filing on the RTRS facility in the future, stating the date of effectiveness, describing the technical means of data dissemination, and proposing fees to be charged for RTRS data products.

On October 25, 2004, the MSRB filed a proposal describing the proposed RTRS service for dissemination of real-time transaction price data (which is named the Real-Time Transaction Price Service) and proposed an annual subscription fee of \$5,000.<sup>8</sup> That filing also described the fees, if any, associated with other RTRS data products. Thus, this proposal addresses the final remaining aspect of RTRS by establishing the implementation plan.

#### Implementation Plan

As announced in MSRB Notice 2003-44, dated December 11, 2003, the MSRB is implementing its real-time transaction reporting requirements for brokers, dealers and municipal securities dealers (collectively, "dealers") in January 2005. The implementation plan for the January transition is described below.

<sup>6</sup> For operational reasons, the rule will allow dealers more than 15 minutes to report certain kinds of transactions. These transactions still will be reported to subscribers immediately upon receipt at RTRS.

<sup>7</sup> The RTRS filing noted that certain trade reports made by dealers, which are coded by the dealers to indicate that the trade is for a specific reason not done at a market price, will not be disseminated but will be available to regulators as part of the surveillance function offered by RTRS. The RTRS Notice also noted that certain other types of "transactions" that are required to be reported exclusively for audit trail purposes (relating to clearing brokers and their correspondents in certain fully-disclosed clearing arrangements where the correspondent does not take a principal position) also will not be disseminated but will be available to regulators.

<sup>8</sup> File No. SR-MSRB-2004-06. See "Notice of Filing to Create the Real-Time Transaction Price Service and Establish an Annual Subscription Fee," MSRB Notice 2004-35 (October 26, 2004), at <http://www.msrb.org>.

It should be noted that the transaction data will be available free-of-charge through The Bond Market Association's Web site at <http://www.investinginbonds.com>, as well as through other means.

<sup>6</sup> 15 U.S.C. 78s(b)(2).

<sup>7</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>5</sup> Exchange Act Release No. 50294 (August 31, 2004), 69 FR 54170 (September 7, 2004); see

"Approval by the SEC of Real-Time Transaction Reporting and Price Dissemination: Rules G-12(f) and G-14," MSRB Notice 2004-29 (September 2, 2004), at <http://www.msrb.org>.

The text of the rule change, along with a description of the RTRS facility, can be found in the MSRB's notice announcing its filing with the SEC. See "Real-Time Transaction Reporting: Notice of Filing of Proposed Rule Change to Rules G-14 and G-12(f)," MSRB Notice 2004-13 (June 1, 2004), at <http://www.msrb.org>.

The conversion to real-time transaction reporting requires dealers and the MSRB to implement new systems and procedures for transaction reporting. Trade reporting will be accomplished through a new MSRB system—the Real-Time Transaction Reporting System (“RTRS”). The two major components of RTRS with which dealers will interface are: (i) The RTRS Web Portal for inputting trade data and reviewing the status of trade reports within RTRS; and (ii) the message-based trade input and feedback facility operated by National Securities Clearing Corporation (the “Message Portal”). These are described in the RTRS Operational Plan contained in MSRB Notice 2003–44 and in the RTRS Message Specifications and other explanatory documents subsequently published at [www.msrb.org](http://www.msrb.org).

To facilitate a smooth transition to dealer use of the Web Portal and the Message Portal, implementation will occur in two phases on January 10 and January 31, 2005. Dealers will be required to incorporate use of the RTRS Web Portal into their transaction reporting procedures on January 10, on which date the MSRB also will convert its internal production processing and dealer-feedback systems to RTRS formats. Accomplishing this transition on January 10 will allow the MSRB and dealers to resolve any implementation issues associated with these system changes prior to the January 31 date for mandatory real-time trade reporting by all dealers. On January 31, the amendments to Rule G–12(f) and Rule G–14 that require real-time inter-dealer comparison and transaction reporting will become effective, use of the Message Portal will become mandatory, and the MSRB will begin real-time dissemination of trades in transparency reports.

Further details on the changes that will occur on January 10 and January 31 as part of the implementation plan are described below.

*January 10, 2005*—On this date, the MSRB will convert its own production system for processing transaction reports to RTRS. Dealers will not be required by rule to report in real-time on this date but will be encouraged to do so to ease the transition when real-time reporting becomes mandatory on January 31. On January 10, the RTRS database will become the “database of record” and dealers will need to employ the RTRS Web browser in their production environment. It should be noted that dealers that have tested successfully can already convert to real-time comparison and trade reporting procedures, although without all of the

“feedback” functionally that will become available in the production environment on January 10. The MSRB’s conversion to RTRS as the production processing system on January 10 will allow the MSRB to give these dealers full RTRS “feedback” capability on that date.

There will be no change in the timing of transparency reports on January 10. However, subscribers to the existing transparency reports can begin receiving T+1 reports in the RTRS revised record formats (including the new fields of trade information offered by RTRS) on that date. The following features of the existing transaction reporting system will be changed or terminated on January 10:

- The old “batch” style formats for reporting inter-dealer and customer trades through NSCC will still be accepted, but the deadline for reporting customer trades will be changed from midnight to 10:00 p.m. The deadline for inter-dealer trade reports will remain 8:00 p.m.

- Because of the MSRB’s change to RTRS as the production processing system, dealers must use 16-digit (rather than 20-digit) control numbers to identify trades, both in real-time and in batch trade reports. Only 16-digit control numbers will be returned to dealers in message feedback.

- Regardless of whether a dealer is using the new RTRS formats or old batch style formats, the MSRB will discontinue sending “feedback” information in batch files and faxes for customer trades. Real-time system responses, e-mails and RTRS Web instead will be available to provide feedback to dealers on their trade reports.

- Dealers who submit their low-volume trade input through the current “TRS dial-up” facility must convert to the RTRS Web Portal by January 10.

*January 31, 2005*—On this date, the amendments to Rule G–14, on transaction reporting, and Rule G–12(f), on automated comparison of inter-dealer transactions, will become fully effective, requiring securities transactions to be reported, in most cases, within 15 minutes of the time of trade execution. Use of RTRS trade reporting formats and procedures will become mandatory and the old “batch” style reporting formats will no longer be compliant with Rules G–12(f) and G–14. (The MSRB will discontinue its support of the non-compliant trade reporting methodology soon after January 31.) The MSRB will make real-time transaction price data available to subscribers to its Real-Time Transaction Price Service beginning on this date.

2. **Statutory Basis** The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Act,<sup>9</sup> which authorizes the MSRB to adopt rules that 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 has a long-standing policy to increase price transparency in the municipal securities market, with the ultimate goal of disseminating comprehensive and contemporaneous pricing data. Since 1995, the MSRB has expanded the scope of its public transparency reports in several steps, and each step has provided industry participants and the public with more information about municipal securities transactions. This process has culminated in the RTRS system. The implementation plan establishes the date on which dealers will be required to report their municipal securities transactions to the MSRB in real-time and RTRS will formally begin operating. The MSRB encourages the redistribution of the data obtained through RTRS and believes that achieving the widest possible dissemination of transaction information will help ensure the fairest and most accurate pricing of municipal securities transactions.

#### *B. Self-Regulatory Organization’s Statement on Burden on Competition*

The MSRB does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

#### *C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

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

The MSRB has designated this proposed rule change as constituting a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of an existing MSRB rule under Section

<sup>9</sup> 15 U.S.C. 78o–4(b)(2)(C).

19(b)(3)(A)(i) of the Act,<sup>10</sup> and Rule 19b-4(f)(1) thereunder,<sup>11</sup> which renders the proposed rule change effective upon filing with the Commission.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>12</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2004-07 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-MSRB-2004-07. 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 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-2004-07 and should be submitted on or before December 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50688; File No. PCAOB-2004-08]

### Public Company Accounting Oversight Board; Order Approving Proposed Conforming Amendments to PCAOB Interim Standards Resulting From the Adoption of PCAOB Auditing Standard No. 2, "An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements"

November 17, 2004.

#### I. Introduction

On September 16, 2004, the Public Company Accounting Oversight Board (the "Board" or the "PCAOB") filed with the Commission proposed *Conforming Amendments to PCAOB Interim Standards Resulting From the Adoption of PCAOB Standard No. 2, "An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements"* ("Conforming Amendments"), pursuant to the Sarbanes-Oxley Act of 2002 (the "Act")<sup>1</sup> and Section 19(b) of the Securities Exchange Act of 1934 (the "Exchange Act"). The Conforming Amendments would change and add to the interim standards certain text, including references, to assist auditors in performing integrated audits of financial statements and internal control and would apply certain concepts developed in Auditing Standard No. 2 to assist an auditor engaged solely to audit the financial statements. Notice of the proposed Conforming Amendments was published in the **Federal Register** on October 13, 2004,<sup>2</sup> and the Commission received two comment letters. For the reasons discussed below,

the Commission is granting approval of the proposed Conforming Amendments.

#### II. Description

The Act establishes the PCAOB to oversee the audits of public companies and related matters, to protect investors, and to further the public interest in the preparation of informative, accurate and independent audit reports.<sup>3</sup> Section 103(a) of the Act directs the PCAOB to establish auditing and related attestation standards, quality control standards, and ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports as required by the Act or the rules of the Commission. Section 103(a)(3) of the Act also states that the Board may adopt any statement of auditing or related professional practice standards developed by a professional group of accountants as interim or transitional standards, with the Board retaining full authority to modify, supplement, revise or subsequently amend, modify or repeal, in whole or in part, any such statements. Pursuant to this authority, the PCAOB adopted the auditing and related professional practice standards of the American Institute of Certified Public Accountants, as they existed on April 16, 2003, as interim or transitional standards (the "interim standards").<sup>4</sup>

The proposed Conforming Amendments specifically identify changes to the interim standards as a result of adopting PCAOB Auditing Standard No. 2. The identification of such changes is intended to help auditors comply with the Board's standards, as well as to eliminate potential confusion and inconsistencies in interpretation with respect to the affected portions of the Board's interim standards.

The Conforming Amendments also supersede AT Section 501, *Reporting on an Entity's Internal Control Over Financial Reporting* ("AT 501")<sup>5</sup> and SAS No. 60, *Communication of Internal Control Related Matters Noted in an Audit* ("SAS No. 60").<sup>6</sup> AT 501 provides guidance for performing an attestation engagement to issue an examination report on the effectiveness of an entity's internal control over financial reporting as of a point in time. The Board believes

<sup>3</sup> Section 101(a) of the Act.

<sup>4</sup> The Commission approved the PCAOB's action in Release No. 34-47745, *Order Regarding Section 103(a)(3)(B) of the Sarbanes-Oxley Act of 2002*, (April 25, 2003).

<sup>5</sup> Statements on Standards for Attestation Engagements ("AT") are codified into the AICPA *Professional Standards*, volume 1.

<sup>6</sup> Statements on Auditing Standards ("SAS") are codified into the AICPA *Professional Standards*, volume 1.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4.

<sup>12</sup> See 15 U.S.C. 78s(b)(3)(C).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> Sections 101, 103 and 107 of the Act.

<sup>2</sup> Release No. 34-50495 (October 5, 2004); 69 FR 60913 (October 13, 2004).