

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39251; File No. SR-MSRB-97-06]

October 16, 1997.

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Political Contributions and Prohibitions on Municipal Securities Business, Consultants, and Recordkeeping

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 30, 1997, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-97-6). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. 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 herewith a proposed rule change to rule G-37, on political contributions and prohibitions on municipal securities business, rule G-38, on consultants, and rule G-8, on recordkeeping (hereafter referred to as the "proposed rule change"). The proposed rule change addresses the definitions of municipal finance professional and executive officer, and when Form G-37/G-38 is due to be filed with the Board.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board 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

During the past year, the Board has received questions regarding certain technical aspects of rules G-37, G-38 and G-8. Specifically, these questions have been concerned with the definitions of municipal finance professional and executive officer, and when Form G-37/G-38 is due to be filed with the Board. The proposed rule change addresses these areas within the rules.

Definitions of Municipal Finance Professional and Executive Officer

The Board believes that some dealers are improperly classifying, for rule G-37 purposes, certain individuals within their firms as executive officers when these individuals actually meet the definition of municipal finance professionals and should be classified as such. Contributions by executive officers must be recorded and reported but, unlike certain contributions by municipal finance professionals, would not cause a prohibition on municipal securities business. The definition of executive officer makes clear that municipal finance professionals cannot also be executive officers. To further underscore this point, the proposed rule change revises the name of the category of individuals currently referred to as "executive officers" to "non-MFP executive officers." This change in name should help dealers avoid any misunderstandings that a person who functions as a municipal finance professional cannot be classified, for purposes of rule G-37, as an executive officer.

Due Date for Form G-37/G-38 to be Filed With the Board

Rules G-37 and G-38 state that Form G-37/G-38 must be submitted to the Board "within thirty (30) calendar days after the end of each calendar quarter (these dates correspond to January 31, April 30, July 31 and October 31)." Because of the inconsistency in the language for those months with 31 days, the proposed rule change revises the rule language to require that the forms be sent "by the last day of the month following the end of each calendar quarter." The forms do not have to be received by the Board by the last day of the month following the end of each calendar quarter, but the proposed rule change requires that dealers must have the forms on their way to the Board by the last day of the month following the end of each calendar quarter in order to

be in compliance with the delivery requirements of the rules.

The proposed rule change also contains non-substantive, technical rule language changes to make similar requirements consistent throughout the rules.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C)² of the Act, which provides that the Board'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.

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

The Board 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

Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the Commission for its review at least five days prior to the filing date; and (iv) does not become operative for thirty (30) days from the date of its filing on September 30, 1997, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder. In particular, the Commission believes the proposed rule change qualifies as a "non-controversial filing" in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition, and because it makes technical clarifying changes to existing Board rule. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears

¹ 15 U.S.C. § 78s(b)(1).

² 15 U.S.C. § 78o-4(b)(2)(C).

to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, 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 persons, 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 the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-97-6 and should be submitted by November 13, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39250; File No. SR-NASD-97-75]

October 16, 1997.

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Distribution of Information Concerning the Availability of the NASD Regulation, Inc. Public Disclosure Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 14, 1997, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed

rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act,² which renders the rule effective upon the Commission's receipt of this filing. 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

NASD Regulation is proposing a rule change to amend Conduct Rule 2280 of the National Association of Securities Dealers, Inc. ("NASD" or "Association"), to postpone the effective date from September 10, 1997, to January 1, 1998. The text of Rule 2280 is not changed.

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

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in the Item IV below. NASD Regulation 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

On February 11, 1997, NASD Regulation proposed Rule 2280, "Investor Education and Protection," which requires certain NASD members to provide customers with specified disclosures regarding NASD Regulation's Public Disclosure Program in writing not less than once every calendar year. NASD Regulation filed Amendment No. 1 on July 31, 1997. The SEC approved Rule 2280 on September 10, 1997, therefore, the rule was effective on that date. Rule 2280 contemplates that the specified disclosures concerning the Public Disclosure Program will be made through customer account statements or in another type of publication at least once each calendar year. The proposed rule change is necessary to provide

members with sufficient time to comply with the Rule.

Members generally send account statements to customers on a monthly basis if there is account activity, or on a quarterly basis if there is none. Rule 2280, with its current effective date of September 10, 1997, is draconian in that it would leave members with very little time in which to modify their account statement production processes to include the disclosures required under Rule 2280. Members would have only a few weeks to comply with a Rule that envisioned a compliance period of up to one year. Many members have already earmarked their account statements for the remainder of the calendar year with pertinent year-end information, such as tax-related notices, and in many cases there may not be sufficient space to include these additional disclosures without incurring substantial costs. Additionally, for members with customers with inactive accounts, a separate mailing would be required because year-end or fourth-quarter account statements would not comply with Rule 2280 since such notices would not be sent until early 1998.

The Commission's Order approving Rule 2280 noted that the Rule was amended to address concerns that compliance with Rule 2280 would impose "significant costs" on firms that normally do not carry customer accounts and hold customer funds or securities. The case for postponing the effective date of Rule 2280 is even more compelling. In the absence of a postponement of the effective date, many members would be required to create an entirely separate mailing to customers to provide the disclosures required under Rule 2280. The cost of such a mailing would be very significant and would be inconsistent with the objective of Rule 2280, which is to allow members to provide the specified disclosures in a cost-effective manner.

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b) of the Act³ in that postponing the effective date of Rule 2280 does not diminish the rule's effectiveness in protecting investors and the public interest.

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

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(i).

³ 15 U.S.C. 78o-3.