

including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549-0609. 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 person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to the File No. SR-CHX-99-11 and should be submitted by November 2, 1999.

#### V. Commission Findings and Order Granting Accelerated Approval of the Propose Rule Change

The Commission finds that the portion of the proposed rule change relating to specialist retention periods for listed securities traded on the Exchange is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5)<sup>15</sup> requirements that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.<sup>16</sup>

The Commission finds good cause for approving the portion of the proposed rule change relating to listed securities prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission believes that accelerated approval will promote continuity in specialist retention practices relating to listed securities, as conducted under the recently expired pilot program. In addition, the Commission specifically notes that the pilot program was previously published in the **Federal Register** and operated for several years without comment from the industry or the investing public.

<sup>15</sup> 15 U.S.C. 78o(b)(5).

<sup>16</sup> In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>17</sup> that the portion of the proposed rule change (File No. SR-CHX-99-11) relating to listed securities traded on the CHX is hereby approved on an accelerated basis. For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Jonathan G. Katz,**  
Secretary.

[FR Doc. 99-26525 Filed 10-8-99; 8:45 am]

BILLING CODE 8010-01-M

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41975; File No. SR-MSRB-98-08]

#### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change Relating to Rule G-38, on Consultants, Rule G-37, Political Contributions and Prohibitions on Municipal Securities Business, Rule G-8, on Books and Records, and Revisions to the Attachment Page to Form G-37/G-38

October 4, 1999.

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 June 16, 1998, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Board. On August 26, 1999, the Board filed Amendment No. 1 which replaces and supersedes the proposed rule change.<sup>3</sup> The Commission is publishing

<sup>17</sup> 15 U.S.C. 78s(b)(2).

<sup>18</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> On June 16, 1998, the MSRB submitted its initial proposal which amended G-38 to define the meaning of "reportable contributions," outlined what Consultant Agreements should include, and provided dealers with a "reasonable efforts" defense. The defense would have held that a dealer does not violate Rule G-38 if the dealer fails to receive all required information from its consultant and thus, fails to report such information to the Board, but can demonstrate that it used reasonable efforts in attempting to obtain the information, including a statement in the dealer's Consultant Agreement that Board rules require disclosure of consultant contributions and payments, and send quarterly reminders to its consultants of the deadline for their submissions to the dealer of the required information. After discussions with the Commission, the Board amended the proposal and published it for comment. See Additional Requirements for Pending Amendments on Disclosure of Consultants' Contributions: Rule G-

this notice to solicit comments on the proposed rule change, as contained in Amendment No. 1, from interested persons.

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

The MSRB is proposing to amend Rule G-38, on consultants, Rule G-37, on political contributions and prohibitions on municipal securities business, Rule G-8, on books and records, and to revise the attachment page to Form G-37/G-38. The proposed rule change requires brokers, dealers, or municipal securities dealers ("dealers") to obtain from their consultants information on the consultants' political contributions and payments to state and local political parties and to report such information to the Board on Form G-37/G-38. The Board has requested that the Commission delay the effectiveness of the proposed rule change until April 1, 2000, to provide time for dealers to revise their contracts with their consultants and to put supervisory procedures in place for compliance with the proposed rule change. Below is the text of the proposed rule change. Additions are italicized; deletions are bracketed.

#### Rule G-38. Consultants

(a) Definitions.

(i)-(v) No change.

(vi) The term "reportable political contribution" means:

(A) if the consultant has had direct or indirect communication with an issuer on behalf of the broker, dealer or municipal securities dealer to obtain or retain municipal securities business for such broker, dealer or municipal securities dealer, a political contribution to an official(s) of such issuer made by any contributor referred to in paragraph (b)(i) during the period beginning six months prior to such communication and ending six months after such communication;

(B) the term does not include those political contributions to official(s) of an issuer made by any individual referred to in subparagraph (b)(i)(A) or (B) of this rule who is entitled to vote for such official if the contributions made by such individual, in total, are not in excess of \$250 to any official of such issuer, per election.

(vii) The term "reportable political party payment" means:

38, MSRB Reports, Vol. 19, No. 2 (April 1999) at 3-7. Amendment No. 1, among other things, modifies the "reasonable efforts" defense established in the initial proposal by imposing stricter requirements on dealers in monitoring their consultants' activities.

(A) if a political party of a state or political subdivision operates within the geographic area of an issuer with which the consultant has had direct or indirect communication to obtain or retain municipal securities business on behalf of the broker, dealer or municipal securities dealer, a payment to such party made by any contributor referred to in paragraph (b)(i) during the period beginning six months prior to such communication and ending six months after such communication;

(B) the term does not include those payments to political parties of a state or political subdivision made by any individual referred to in subparagraph (b)(i)(A) or (B) of this rule who is entitled to vote in such state or political subdivision if the payments made by such individual, in total, are not in excess of \$250 per political party, per year.

(viii) The term "official of such issuer" or "official of an issuer" shall have the same meaning as in rule G-37(g)(vi).

(b) Written Agreement

(i) Each broker, dealer or municipal securities dealer that uses a consultant shall evidence the consulting arrangement by a writing setting forth, at a minimum, the name, company, business address, role and compensation arrangement of each such consultant ("Consultant Agreement"). In addition, the Consultant Agreement shall include a statement that the consultant agrees to provide the broker, dealer or municipal securities dealer with a list by contributor category, in writing, of any reportable political contributions and any reportable political party payments during each calendar quarter made by:

(A) the consultant;

(B) if the consultant is not an individual, any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the broker, dealer or municipal securities dealer; and

(C) any political action committee controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the broker, dealer or municipal securities dealer.

(ii) The Consultant Agreement shall require that, if applicable the consultant shall provide to the broker, dealer or municipal securities dealer a report that no reportable political contributions or reportable political party payments were made during a calendar quarter.

(iii) The Consultant Agreement shall require that the consultant provide the

reportable political contributions and political party payments for each calendar quarter, or report that no reportable political contributions or political party payments were made for a particular calendar quarter, to the broker, dealer or municipal securities dealer in sufficient time for the broker, dealer or municipal securities dealer to meet its reporting obligations under paragraph (e) of this rule.

(iv) [Such] The Consultant Agreement must be entered into before the consultant engages in any direct or indirect communication with an issuer on behalf of the broker, dealer or municipal securities dealer.

(c) Information Concerning Political Contributions to Official(s) of an Issuer and Payments to State and Local Political Parties Made by Consultants.

(i) A broker, dealer or municipal securities dealer is required to obtain information on its consultant's reportable political contributions and reportable political party payments beginning with a consultant's first direct or indirect communication with an issuer on behalf of the broker, dealer or municipal securities dealer to obtain or retain municipal securities business for such broker, dealer or municipal securities dealer. The broker, dealer or municipal securities dealer shall obtain from the consultant the information concerning each reportable political contribution required to be recorded pursuant to rule G-8(a)(xviii)(F) and each reportable political party payment required to be recorded pursuant to rule G-8(a)(xviii)(G) or, if applicable, a report indicating that the consultant made no reportable political contributions and no reportable political party payments required to be recorded pursuant to rule G-8(a)(xviii)(H).

(ii) The requirement to obtain the information referred to in paragraph (c)(i) of this rule shall end upon the termination of the Consultant Agreement.

(iii) A broker, dealer or municipal securities dealer will not violate this section if it fails to receive from its consultant all required information on reportable political contributions and reportable political party payments and thus fails to report such information to the Board if the broker, dealer or municipal securities dealer can demonstrate that it used reasonable efforts in attempting to obtain the necessary information. Reasonable efforts shall include:

(A) a statement in the Consultant Agreement that Board rules require disclosure of consultant contributions to

issuer officials and payments to state and local political parties;

(B) the broker, dealer or municipal securities dealer sending quarterly reminders to its consultants of the deadline for their submissions to the broker, dealer or municipal securities dealer of the information concerning their reportable political contributions and reportable political party payments;

(C) the broker, dealer or municipal securities dealer including in the Consultant Agreement provisions to the effect that:

(1) the Consultant Agreement will be terminated by the broker, dealer or municipal securities dealer if, for any calendar quarter, the consultant fails to provide the broker, dealer or municipal securities dealer with information about its reportable political contributions or reportable political party payments, or a report noting that the consultant made no reportable political contributions or no reportable political party payments, and such failure continues up to the date to be determined by the dealer, but no later than the date by which the broker, dealer or municipal securities dealer is required to send Form G-37/G-38 to the Board with respect to the next succeeding calendar quarter, such termination to be effective upon the date the broker, dealer or municipal securities dealer must send its Form G-37/G-38 to the Board (i.e., January 31, April 30, July 31 or October 31); and

(2) no further payments, including payments owed for services performed prior to the date of termination, shall be made to the consultant by or on behalf of the broker, dealer or municipal securities dealer as of the date of such termination; and

(D) the broker, dealer or municipal securities dealer enforcing the Consultant Agreement provisions described in paragraph (c)(iii)(C) of this rule in a full and timely manner and indicating the reason for and date of the termination on its Form G-37/G-38 for the applicable quarter.

(d) Disclosure to Issuers. Each broker, dealer or municipal securities dealer shall submit in writing to each issuer with which the broker, dealer or municipal securities dealer is engaging or is seeking to engage in municipal securities business, information on consulting arrangements relating to such issuer, which information shall include the name, company, business address, role and compensation arrangement of any consultant used, directly or indirectly, by the broker, dealer or municipal securities dealer to attempt to obtain or retain municipal securities business with each such issuer. Such

information shall be submitted to the issuer either:

(i)-(ii) No change.

[(d)] (e) Disclosure to Board. Each broker, dealer and municipal securities dealer shall send to the Board by certified or registered mail, or some other equally prompt means that provides a record of sending, and the Board shall make public, reports of all consultants used by the broker, dealer or municipal securities dealer during each calendar quarter. Two copies of the reports must be sent to the Board on Form G-37/G-38 by the last day of the month following the end of each calendar quarter (these dates correspond to January 31, April 30, July 31, and October 31). Such reports shall include, for each consultant, in the prescribed format, the consultant's name, company, *business address*, role, [and] compensation arrangement, *any municipal securities business obtained or retained by the consultant with each such business listed separately, and, if applicable, dollar amounts paid to the consultant connected with particular municipal securities business.* [In addition, s] Such reports shall indicate the *total* dollar amount of payments made to each consultant during the report period [and, if any such payments are related to the consultant's efforts on behalf of the broker, dealer or municipal securities dealer which resulted in particular municipal securities business, then that business and the related dollar amount of the payment must be separately identified]. *In addition, such reports shall include the following information to the extent required to be obtained during such calendar quarter pursuant to paragraph (c)(i) of this rule:*

(i)(A) *the name and title (including any city/county/state or political subdivision) of each official of an issuer and political party receiving reportable political contributions or reportable political party payments, listed by state; and*

(B) *contribution or payment amounts made and the contributor category of the persons and entities described in paragraphs (b)(i) of this rule; or*

(ii) *if applicable, a statement that the consultant reported that no reportable political contributions or reportable political party payments were made; or*

(iii) *if applicable, a statement that the consultant failed to provide any report of information to the dealer concerning reportable political contributions or reportable political party payments.*

Once a contribution or payment has been disclosed on a report, the dealer should not continue to disclose that

*particular contribution or payment on subsequent reports.*

#### Rule G-8. Books and Records To Be Made by Brokers, Dealers and Municipal Securities Dealers

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

(i)-(xvii) No change.

(xviii) Records Concerning Consultants Pursuant to Rule G-38. Each broker, dealer and municipal securities dealer shall maintain:

[(i)] (A) a listing of the name, company, *business address*, role and compensation arrangement of each consultant;

[(ii)] (B) a copy of each Consultant Agreement referred to in rule G-38(b);

[(iii)] (C) a listing of the compensation paid in connection with each such Consultant Agreement;

[(iv)] (D) where applicable, a listing of the municipal securities business obtained or retained through the activities of each consultant;

[(v)] (E) a listing of issuers and a record of disclosures made to such issuers, pursuant to rule G-38 [(c) (d)], concerning each consultant used by the broker, dealer or municipal securities dealer to obtain or retain municipal securities business with each such issuer; [and]

[(vi)] (F) records of each reportable political contribution (as defined in rule G-38(a)(vi)), which records shall include:

(1) *the names, city/county and state of residence of contributors;*

(2) *the names and titles (including any city/county/state or other political subdivision) of the recipients of such contributions; and*

(3) *the amounts and dates of such contributions;*

(G) *records of each reportable political party payment (as defined in rule G-38(a)(vii)) which records shall include:*

(1) *the names, city/county and state of residence of contributors;*

(2) *the names and titles (including any city/county/state or other political subdivision) of the recipients of such payments; and*

(3) *the amounts and dates of such payments;*

(H) *records indicating, if applicable, that a consultant made no reportable political contributions (as defined in rule G-38(a)(vi)) or no reportable*

*political party payments (as defined in rule G-38(a)(vii));*

(I) *a statement, if applicable, that a consultant failed to provide any report of information to the dealer concerning reportable political contributions or reportable political party payments; and*  
(J) *the date of termination of any consultant arrangement.*

(xix) No change.

(b)-(f) No change.

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

(a)-(d) No change.

(e)(i)(A)-(C) No change.

(D) any information required to be disclosed pursuant to section [(d)](e) of rule G-38; and

(E) No change.

(ii)-(iii) No change.

(f)-(i) No change.

\* \* \* \* \*

## 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 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

#### 1. Background

Rule G-37<sup>4</sup> among other things, prohibits a dealer from engaging in municipal securities business with an issuer within two years after certain contributions to an official of such issuer made by the dealer, any municipal finance professional associated with such dealer, or any political action committee ("PAC") controlled by the dealer or any municipal finance professional. Rule G-37(d) prohibits a dealer and any municipal finance professional from doing any act indirectly which would result in a violation of the rule if done directly by the dealer or municipal finance professional. Thus, a dealer would violate Rule G-37 by engaging in municipal securities business with an

<sup>4</sup>MSRB Manual, General Rules, Rule G-37 (CCH) 3681.

issuer after directing any person to make a contribution to an official of such issuer. As indirect activities are often difficult to prove, the Board believes that additional information about consultant arrangements should be made available to issuers and the public in order to maintain the integrity of the market. Accordingly, the Board adopted Rule G-38.<sup>5</sup>

Rule G-38 requires dealers who use consultants<sup>6</sup> to evidence the consulting arrangement in writing (referred to as a "Consultant Agreement").<sup>7</sup> Rule G-38(c) requires each dealer to disclose to an issuer with which it is engaging or seeking to engage in municipal securities business, in writing, information on consulting arrangements relating to such issuer. The written disclosure must include, at a minimum, the name, company, role and compensation arrangement with the consultant or consultants. Dealers are required to make such written disclosures either prior to the issuer's selection of any dealer in connection with the municipal securities business being sought, or at or prior to the consultant's first direct or indirect communication with the issuer for any municipal securities business. Rule G-38(d) requires dealers to submit to the Board, on a quarterly basis, reports of all consultants used by the dealer.<sup>8</sup> For each consultant, dealers must report the consultant's name, company, role and compensation arrangement, as well as the dollar amount of any payment made to the consultant during the quarterly reporting period.<sup>9</sup>

As mentioned above, one of the reasons the Board adopted Rule G-38 was because of its concern that dealers might be circumventing Rule G-37 by using consultants to make political

contributions. There also was concern about dealers hiring consultants who had made their own contributions to issuer officials.<sup>10</sup> The Rule G-38 reporting and recordkeeping requirements seek to make information public about the consultants that dealers have hired and the municipal securities business obtained through such consultants. One reason the Board sought this public disclosure was so that reporters and others could investigate further whether there was a connection between contributions given by consultants and the business they obtained for the dealers that hired them. The Board determined to adopt the proposed rule change to Rule G-38 because of concern that, given the increased enforcement of Rule G-37, more dealers may seek to circumvent Rule G-37 by hiring consultants who make substantial contributions to issuer officials.

## 2. Summary of Proposed Rule Change

The proposed rule change would require a dealer to receive and report certain contribution and payment information from: the consultant; any partner, director, officer or employee of the consultant who communicates with an issuer to obtain municipal securities business on behalf of the dealer; and, any PAC controlled by the consultant or any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer.<sup>11</sup> A dealer would be

required to include within its Consultant Agreement a statement that the consultant agrees to provide the dealer each calendar quarter with a listing of reportable political contributions to official(s) of an issuer and reportable payments to political parties of states and political subdivisions during such quarter, or a report that no reportable political contributions or reportable political party payments were made, as appropriate.<sup>12</sup>

The proposed rule change would require a dealer to obtain information from its consultants about the contributions made to issuer officials only if the consultant has had direct or indirect communication with such issuer to obtain municipal securities business on behalf of the dealer.<sup>13</sup> The political party payments required to be reported are limited to those made to political parties of states and political subdivisions that operate within the geographic area of the issuer with whom the consultant communicates on behalf of the dealer (e.g., city, county and state parties). The date that establishes the obligation for the collection of contribution information is the date of the consultant's communication with the issuer to obtain municipal securities business on behalf of the dealer.

With respect to the collection of contribution and payment information, the proposed rule change contains a six-month "look-back" as well as a six-month "look-forward" provision from the date of communication with an issuer. Thus, a consultant must disclose to the dealer the contributions and payments made by the consultant

with issuers to obtain municipal securities business on behalf of the dealer.

<sup>12</sup>The *de minimis* exception for contributions to official(s) of an issuer provides that a consultant need not provide to a dealer information about contributions made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer to any official of an issuer for whom such individual is entitled to vote if such individual's contributions, in total, are not in excess of \$250 to each official of such issuer, per election. Similarly, the *de minimis* exception for payments provides that a consultant need not provide to a dealer information about payments to political parties of a state or political subdivision made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer who is entitled to vote in such state or political subdivision if the payments by the individual, in total, are not in excess of \$250 per political party, per year.

<sup>13</sup>A dealer must disclose contributions with respect to those issuers from which a consultant seeking municipal securities business on behalf of the dealer, regardless of whether contributions are going to and communications are occurring with the same or different personnel within that particular issuer.

<sup>10</sup>In October 1993, at the urging of SEC Chairman Arthur Levitt, 19 major dealers agreed to a Statement of Initiative ("Initiative") to support the principle that political contributions which are intended to influence the awarding of municipal securities should be prohibited. Within a few months, another 36 dealers "signed on" to the Initiative. Interpretation No. 1 was issued on December 6, 1993, and among other things, provides requirements for a dealer that uses a consultant to obtain or retain municipal securities business. This interpretation requires, among other things, that a dealer have a written agreement with the consultant and that such agreement prohibit the consultant, its officers, directors, partners, and non-clerical employees from making any political contributions or other payments, directly or indirectly, for the purposes of obtaining or retaining municipal securities business.

<sup>11</sup>A "consultant" in Rule G-38 can refer to an individual or a company (e.g., a bank affiliated with a bank dealer). For example, if an individual is a consultant, this individual would report to the dealer only his or her contributions and payments and the contributions of any PAC controlled by such individual. If the consultant is a company, the company would report its contributions and payments to the dealer, as well as those made by any partner, director, officer or employee of the consultant who communicates with issuers to obtain municipal securities business on behalf of the dealer, and any PAC controlled by the consultant or any partner, director, officer or employee of the consultant who communicates

<sup>5</sup>MSRB Manual, General Rules, Rule G-38 (CCH) 3686.

<sup>6</sup>Rule G-38(a)(i) defines the term "consultant" as any person used by a dealer to obtain or retain municipal securities business through direct or indirect communication by such person with an issuer on the dealer's behalf where the communication is undertaken by such person in exchange for, or with the understanding of receiving, payment from the dealer or any other person.

<sup>7</sup>Rule G-38 requires that the Consultant Agreement, at a minimum, include the name, company, role and compensation arrangement of each consultant used by the dealer. The Consultant Agreement must be entered into before a consultant engages in any direct or indirect communication with an issuer on the dealer's behalf.

<sup>8</sup>Such reports must be filed on Form G-37/G-38.

<sup>9</sup>In addition, if any payment made during the reporting period is related to the consultant's efforts on behalf of the dealer which resulted in particular municipal securities business, whether the municipal securities business was completed during that or a prior reporting period, then the dealer must separately identify that business and the dollar amount of the payment.

during the six months prior to the date of the consultant's communication with the issuer.<sup>14</sup> So too, if the consultant's communication with an issuer continues, any reportable contributions and payments would be required to be disclosed. Once communication ceases, the consultant still must disclose contribution and payment information for six months.<sup>15</sup> The Board believes these provisions are important in providing information for a minimum period of one year about any consultant contributions to officials of an issuer with whom the consultant communicated on behalf of a dealer to obtain municipal securities business. This should help to identify any situations in which contributions could have influenced the awarding of municipal securities business. The proposed rule change would require dealers to keep records under Rule G-8 of all reportable political contributions and all reportable political party payments.

A dealer's requirement to collect contribution and payment information from its consultants ends when a Consultant Agreement has been terminated.<sup>16</sup> Of course, dealers should not attempt to avoid the requirements of Rule G-38 by terminating a consultant relationship after directing or soliciting the consultant to make a political contribution to an issuer official after such termination. Rule G-37(d) prohibits a dealer from doing any act indirectly which would result in a violation of Rule G-37 if done directly by the dealer. Thus, a dealer may violate Rule G-37 by engaging in municipal securities business with an issuer after directing or soliciting any person to make a contribution to an official of such issuer.

The proposed rule change would require that the information obtained by dealers concerning their consultant's contributions and payments be submitted by dealers to the Board on Form G-37/G-38.<sup>17</sup> The disclosures required by the proposed rule change are reflected in the draft changes to Form G-37/G-38. The draft changes require dealers to disclose on the

attachment sheet for each consultant used by the dealer the contributions and payments covered by the rule or that no such contributions or payments were made for such quarter. Further, a dealer must disclose if a consultant has failed to provide it with a report concerning its contributions and payments. When completing the form, a dealer must disclose, in addition to the other required information, the calendar quarter and year of any reportable political contributions and reportable political party payments that were made prior to the calendar quarter of the form being completed (e.g., contributions and payments made in a prior quarter that are reportable as a result of the six-month look-back). Reportable "look-back" contributions and payments also must be disclosed on the Form G-37/G-38 for the quarters in which the consultant has communicated with an issuer to obtain municipal securities business on behalf of a dealer.<sup>18</sup> Once a contribution or payment has been disclosed on a report, a dealer should not continue to disclose that particular contribution or payment on subsequent reports. The attachment page to Form G-37/G-38 also has been revised to require dealers to separately identify all of the municipal securities business obtained or retained by the consultant for the dealer.<sup>19</sup>

The proposed rule change includes a "reasonable efforts" provision that allows dealers to rely in good faith on information received from their consultant regarding contributions and payments. The reasonable efforts provision provides that a dealer will not violate Rule G-38 if the dealer fails to receive from its consultant all required contribution and payment information and thus fails to report such information to the Board if the dealer can demonstrate that it used reasonable efforts in attempting to obtain the necessary information. However, to avail itself of the reasonable efforts provision, a dealer must:

(1) State in its Consultant Agreement that Board rules require disclosure of consultant contributions and payment;

(2) Send quarterly reminders to consultant of the deadline for their submissions to the dealer of contribution information;

(3) Include language in the Consultant Agreement to the effect that: (a) The Consultant Agreement will be terminated if, for any calendar quarter, the consultant fails to provide the dealer with information about its reportable contributions or payments, or a report noting that the consultant made no reportable contributions or payments, and such failure continues up to the date to be determined by the dealer but no later than the date by which the dealer is required to send Form G-37/G-38 to the Board with respect to the next succeeding calendar quarter, such termination to be effective upon the date the dealer must send its Form G-37/G-38 to the Board, and (b) the dealer may not make any further payments to the consultant, including payments owed for services performed prior to the date of termination, as of the date of such termination; and

(4) Enforce the Consultant Agreement provisions described above in a full and timely manner and indicate the reason for and date of the termination on its Form G-37/G-38 for the applicable quarter.

The failure by a dealer to include the termination and non-payment provisions in a Consultant Agreement or to enforce any such provisions that may be contained in the Consultant Agreement, would not, in and of itself, constitute a violation of Rule G-38 but would instead preclude the dealer from invoking the reasonable efforts provision as a defense against a possible violation for failing to disclose consultant contribution information, which the consultant may have withheld from the dealer.

Finally, the proposed rule change contains a clarifying amendment to Rule G-38(b)(i)(B), and a technical amendment to Rule G-37(e)(i)(D) to conform to the amendments to Rule G-38.

The Board is very concerned about consultants making contributions to obtain municipal securities business on behalf of the dealer and, while the Board, at this time, is only requiring disclosure of consultants' political contributions and payments to state and local political parties, it will be paying close attention to this issue. The Board will take whatever further steps it feels are necessary to sever the connection between the giving of political

<sup>14</sup> Such contributions and payments become reportable in the calendar quarter in which the consultant first communicates with the issuer.

<sup>15</sup> Contributions and payments made simultaneously with or after the consultant's first communication with the issuer are reportable in the calendar quarter in which they are made.

<sup>16</sup> A dealer that terminates a Consultant Agreement would of course be obligated to obtain information regarding contributions and payments made up to the date of termination.

<sup>17</sup> The proposed rule change also requires dealers to report the consultant's business address on Form G-37/G-38.

<sup>18</sup> If the amendments to Rule G-38 become effective on April 1, 2000, as the Board has requested, on the reports for the second quarter of 2000 (required to be sent to the Board by July 31, 2000) dealers would be required to disclose their consultants' reportable political contributions and reportable political party payments for the second quarter of 2000 and include, pursuant to the six-month look-back, reportable political contributions and reportable political party payments since October 1, 1999.

<sup>19</sup> The existing version of the form requires dealers to list only the municipal securities business obtained or retained by the consultant in which the consultant was paid a specific dollar amount for the particular municipal securities business.

contributions and the awarding of municipal securities business.

The Board believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.<sup>20</sup>

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

The Board does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers and municipal securities dealers.

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

In September 1997, the Board published a notice that proposed for comment draft amendments to Rules G-38 and G-8 and revisions to Form G-37/G-38 that would require dealers to disclose their consultants' political contributions to officials of an issuer and payments to state and local political parties.<sup>21</sup> In response to its request for comments, the Board received comment letters from Cox Newspapers, Piper Jaffray Companies, Inc. ("Piper Jaffray"), and The Bond Market Association ("TBMA").

##### 1. Payments to State and Local Political Parties

TBMA and Piper Jaffray recommended that the draft amendments be modified to make clear that only those contributions to state and local political parties operating within the jurisdiction of the issuer which is the subject of the Consultant Agreement must be reported. TBMA stated that the reporting of all contributions to state and local political parties by consultants (except for the \$250 *de minimis*) "would impose an unfair burden on all dealers employing consultants to monitor and report on all contributions to state and local political parties by independent third party market participants even though there was no nexus or other reasonable relationship between those political parties and the purpose of employing the consultant." Piper Jaffray stated that requiring a dealer to "monitor and report all political contributions to state

and local parties of a consultant and their corporate PAC, even when there is no relationship between the political party and the purpose of employing the consultant, is time consuming."

The Board determined to revise the draft amendments to limit the political party contributions required to be reported to those made to political parties of states and political subdivisions that operate within the geographic area of the issuer with whom the consultant communicates on behalf of the dealer.<sup>22</sup> This is consistent with the requirements for reporting contributions.

##### 2. Consultant's Business Address

Cox Newspaper suggested that Rule G-38 require disclosure of the address and telephone number of the consultant or (when applicable) the address and telephone number of the consultant's company. It noted that such information would help in contacting consultants to ask questions about connections between contributions and business and in checking campaign finance reports. It also noted that this information helps to avoid confusion with other people who have the same name as the consultant. Finally, it noted that the Federal Election Commission ("FEC") regulations require the address of any contributor of \$200 or more as one of the items that must be reported by political committees.

The Board revised the draft amendments to Rule G-38 to require that the consultant's business address be reported on Form G-37/G-38.<sup>23</sup> This requirement is similar to the FEC regulations. Including the address would be helpful for anyone trying to contact the consultant to inquire about contributions or any other consultant information contained on Form G-37/G-38. The Board believes that requiring dealers to include consultants' telephone numbers could lead to unnecessary calls to the consultant; however, by requiring that the disclosure of addresses for consultants, anyone wishing to call a consultant should be able to obtain the telephone number.

##### 3. Additional Time for Reporting Consultants' Contributions and Payments

TBMA and Piper Jaffray recommended that the draft amendments to Rule G-8 be modified to allow for more time in which to report the information received from consultants pursuant to Rule G-38. TBMA stated that, "[i]n order to meet the 30-day deadline, dealers would have to impose a much earlier deadline on their consultants, which would give consultants less time to collect the information and transmit it to the dealers \* \* \*. This lack of time would make it extremely difficult, and perhaps impossible, for dealers to collect all the required information for reporting in time allowed." TBM and Piper Jaffray stated that it would be more appropriate to require consultant contributions to be included in the report filed for the quarter following the making of any political contributions. TBMA stated that "[t]he additional 90 days would allow dealers to ensure that all of the consultants have reported and that the filed G-37/T-38 forms are completed properly."

The Board understands why dealers would wish more time to report their consultants' contributions and payments. However, the Board is concerned that industry participants could view this delay of up to six months in reports of consultant contributions and payments as a weakening of the rule. Thus, the Board determined not to grant additional time to report consultant contributions and payments.

##### 4. Good Faith Defense

TBMA and Piper Jaffray stated that dealers should not be required to guarantee the accuracy of the information they obtain from their consultants, and TBMA stated that dealers should not "be expected to conduct any investigation into the accuracy or completeness of the information provided to the." TBMA recommended that Rule G-38 "include language which will afford dealers confidence that they may in good faith rely upon the information they receive from their consultants in submitting their reports."

The Board believes it is reasonable to allow dealers to rely in good faith on their consultants' reports and that it would be almost impossible for dealers to investigate for contributions made by their consultants that were not reported. The amendments originally filed with the Commission stated that a dealer will not violate Rule G-38 if it fails to

<sup>20</sup> Section 15B(b)(2)(C) states 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 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.

<sup>21</sup> "Disclosure of Consultants' Political Contributions and Payments," MSRB Reports, Vol. 17, No. 3 (October 1997) at 3-7.

<sup>22</sup> The proposed rule change contains a *de minimis* exception from the reporting of consultants' payments to political parties in which such consultant is entitled to vote if the payments are not in excess of \$250 per political party, per year.

<sup>23</sup> Rule G-8(a)(xviii) was also amended to require a dealer to maintain a record of a consultant's business address.

receive from its consultant all required contribution and payment information and thus, fails to report such information to the Board if the dealer can demonstrate that it used reasonable efforts in attempting to obtain the necessary information. The FEC has similar requirements for reporting of contribution information by various entities. The amendments originally filed with the Commission stated that "reasonable efforts" would include having a dealer: (1) State in the Consultant Agreement that Board rules require disclosure of consultant contributions and payments, and (2) send quarterly reminders to consultants of the deadline for their submissions to the dealer of contribution and payment information.

In January 1999, the Commission staff recommended to Board staff that the reasonable efforts provisions contain two additional requirements: (1) The dealer must disclose in its quarterly filings any consultant that does not provide a report of the information required by the rule, and (2) the dealer must terminate the contract should the consultant fail to provide such report by the next calendar quarter after it was due, and the dealer must not make any further payments pursuant to the Consultant Agreement. The Commission staff stated that these additional requirements to the reasonable efforts provision should ensure that all required information on contributions is obtained from consultants. On April 19, 1999, the Board published a notice for comment concerning the additional requirements for the amendments pending at the Commission concerning the disclosure of consultants' contributions.<sup>24</sup> The Board received five comment letters in response to its request for comments on these additional requirements. Comment letters were received from the American Bankers Association ("ABA"); First Kentucky Securities Corp. ("First Kentucky"); State Treasurer, State of Washington ("Washington State Treasurer"); TBMA; and Wells Fargo & Company ("Wells Fargo").

In general, none of the commenters offered support for the additional requirements. The Washington State Treasurer stated that he objects to the additional requirements "as both unnecessary and inappropriate." TBMA stated that the additional requirements "represent excessive micromanagement of dealers' business." Specific

comments are summarized and discussed below.

#### 1. De Minimis Exemption From Reporting

Wells Fargo asked that "the Board enlarge the scope of the *de minimis* contribution exemption contained in [r]ules G-37 and G-38." It noted that a "general *de minimis* exemption for all elections and the elimination of the reporting requirements for both *de minimis* contributions and no contributions would greatly ease the reporting burden." In addition, Wells Fargo stated that "[a] more limited approach would be to expand the *de minimis* exemption to the state and/or metropolitan area in which the person making the contribution works or lives."

The ABA also noted that "given the contiguous state borders in many metropolitan areas \* \* \* and the geographic freedom provided by the Internet, it is far more likely that individuals may wish to make contributions outside of those jurisdictions in which they can vote." The ABA "recommends that the *de minimis* exception of \$250 per candidate apply to all elections, rather than to candidates for whom an individual may vote" because "expanding the scope of the exemption would go far toward eliminating the burden of the proposed rule."

*Response:* The *de minimis* exemption in the proposed amendments does not require disclosure of certain contributions to issuer officials for whom a consultant is entitled to vote. This exception is similar to that in Rule G-37. The Commission addressed the issue of the *de minimis* exemption and its scope in Rule G-37 in its order approving that rule.<sup>25</sup> The Commission noted that it

believes that the MSRB's determinations as to the amount of the *de minimis* exemption and limiting its application to contributions to officials for whom the municipal finance professional is entitled to vote are appropriate and reasonable. As discussed, the proposal provides specific guidelines to prevent "pay to play" contributions. The proposal provides an appropriate balance between limiting "pay to play" practices and the ability of dealers and their employees to demonstrate support for state and local candidates. The proposal recognizes that certain contributions made for legitimate political purposes present less risk of a conflict of interest or the appearance of a conflict of interest. Although an individual may have a legitimate interest in making contributions to candidates for whom she is ineligible to vote, there is a greater risk in such circumstances that the contribution is

motivated by an improper attempt to influence municipal officials. Thus, the proposal enables municipal finance professionals to contribute \$250 per election to candidates for whom they are entitled to vote without triggering the proposal's business limitation. As discussed, the proposal does not prevent dealers or their employees from demonstrating support for local and state officials in other ways including volunteer political campaign activity.<sup>26</sup>

Also, the proposed rule change does not require a dealer to obtain information about *all* political contributions made by its consultants. A dealer must obtain information from its consultants about the contributions made to issuer officials *only* if the consultant has had direct or indirect communication with such issuer to obtain municipal securities business on behalf of the dealer. The political party payments required to be reported are limited to those made to political parties of states and political subdivisions that operate within the geographic area of the issuer with whom the consultant communicates on behalf of the dealer (e.g., city, county and state parties). The date that establishes the obligation for the collection of contribution information is the date of the consultant's communication with the issuer to obtain municipal securities business on behalf of the dealer.

#### 2. Requirement To Terminate Consultant Agreement

The Washington State Treasurer stated that requiring dealers to terminate their Consultant Agreements with consultants who fail to provide information about their reportable political contributions "is not in the public's best interest, for it deprives municipal securities dealers of any opportunity to exercise independent judgment."

The ABA stated that "it is unclear from the proposed language \* \* \* whether or not a dealer would be prohibited from paying a consultant whose contract the dealer was required to terminate pursuant to [r]ule G-38, for work that had already been performed under the contract." The ABA "believes that the rule should make clear that even at termination, a dealer may still avail itself of the 'reasonable efforts' defense if it pays a consultant for work that was completed prior to the date of termination." The ABA further stated that "[a]bsent such a clarification, the dealer could find itself liable for breach of the Consultant Agreement with respect to work already performed."

<sup>24</sup> "Additional Requirements for Pending Amendments on Disclosure of Consultants' Contributions," *MSRB Reports*, Vol. 19, No. 2 (April 1999) at 3-7.

<sup>25</sup> Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994).

<sup>26</sup> *Id.*



TBMA states that "it may be impossible to suspend all payments of compensation to the consultant at the time of termination of the contract—if, for example, the consultant has not billed for services previously rendered, or there is a billing dispute that has not been resolved." TBMA believes the "prohibition should more appropriately be limited to payment for services rendered after the date of termination."

*Response:* The Board feels strongly that Rule G-38 should require the disclosure of consultants' contributions and dealers should be able to avail themselves of a reasonable efforts defense if they wish to do so. The provision relating to termination of the Consultant Agreement with a consultant that does not provide the required information is a pre-condition to invoking the reasonable efforts defense. A dealer that does not terminate the Consultant Agreement in these instances does not violate Rule G-38, but it does lose its ability to invoke the reasonable efforts defense.

The Board believes that the issue of a prohibition on further payments to a consultant at the time of termination of the Consultant Agreement can be addressed by dealers including a specific provision in their Consultant Agreements. This provision can indicate that, on the date of termination of the Consultant Agreement by the dealer because of the consultant's failure to report the required information, no further payments will be provided by the dealer to the consultant, including payments for services performed by the consultant prior to the date of termination. In addition, to address any uncertainty in the rule language about payments for prior services, the proposed rule change would amend Rule G-38 to note specifically that the prohibition on further payments at the time of termination of the Consultant Agreement includes payments for services performed prior to the date of termination. It is not clear what TBMA means by limiting payment for services rendered after the date of termination because, presumably, a consultant would not be performing services for which it would expect to be paid after the Consultant Agreement has been terminated.

### 3. Consultant Activities Other Than Seeking Municipal Securities Business

The ABA stated that "it is likely that agreements with consultants may cover activities in addition to municipal securities consulting" and that "[i]n such instances, the requirement to terminate should apply only to that

portion of the contract subject to [r]ule G-38."

*Response:* Rule G-38(b) requires a dealer that uses a consultant to have a written Consultant Agreement. The Consultant Agreement, pursuant to Board rules, addresses a consultant's activities on behalf of a dealer in which the consultant is used to obtain or retain municipal securities business. If a Consultant Agreement includes other activities unrelated to municipal securities activities pursuant to Rule G-38, the requirement to terminate the Consultant Agreement would apply only to the activities covered by Rule G-38. If a dealer has only one contract with a consultant, presumably the dealer could demonstrate to an enforcement agency that, depending upon the facts and circumstances, terminating the consultant's Rule G-38 activities and ceasing payments with respect to such Rule G-38 activities, while the consultant continues other consulting activities and receives payments from the dealer for such activities, would meet the pre-conditions for invoking the reasonable efforts defense. A dealer may wish to consider having a separate contract or contracts with a consultant for these additional activities in addition to the Consultant Agreement that conforms to the requirements of Rule G-38.

### 4. Participation in the Political Process

Wells Fargo stated that it is "very concerned about the chilling effect that the adoption of the proposed rule will have on participation in the political process."

*Response:* The proposed rule change requires dealers to record and report information about certain political contributions and payments to state and local political parties received from their consultants. The proposed rule change does not prohibit political contributions or payments to political parties; therefore, there should be no chilling effect on participation in the political process.

### 5. Reporting

Wells Fargo stated that it "is concerned about the burden that the proposed reporting requirements will impose." It noted that the "broad definition of 'consultant' in the [r]ule may subject bankers who provide referrals for municipal securities underwriting business to the reporting and disclosure rules." The ABA found that "the proposed requirements to monitor the political contributions of consultants through quarterly reports to the Board and quarterly reminders to non-complaint consultants will impose

significant regulatory burdens on financial institutions operating nationwide that rely on cross-selling of affiliates' products as a significant part of their marketing strategy."

*Response:* Rule G-38 has always required that dealers record and report certain information about their consultants every quarter, the amendments add additional items of information that must be recorded and reported. While the additional information may be an added burden on dealers, the Board believes it is important that dealers obtain and report the information so that consultants' political contributions can be reviewed in order to determine whether there are issues that should be addressed, possibly through future Board rulemaking.

The ABA mentioned the "regulatory burden" of dealers sending "quarterly reminders to *non-compliant* consultants." [emphasis added] One of the requirements of the reasonable efforts provision for dealers that wish to avail themselves of such a defense is that dealers send quarterly reminders to their consultants of the deadline for their submissions to the dealer of their reportable contribution information; there is no reference to non-compliant consultants in this regard.

### 6. Recordkeeping

First Kentucky stated that the amendment to Rule G-8(a)(xviii)(H), which requires dealers to maintain records indicating, if applicable, that a consultant made no reportable political contributions or political party payments, is unnecessary and is another opportunity for the enforcement agencies to cite dealers for improper record retention. Wells Fargo stated that the requirement for dealers to report when no contributions have been made by consultants will be burdensome.

*Response:* The amendments in the original filing required dealers to receive from their consultants reports on any reportable contributions, but the amendments did not contain a requirement for dealers to receive reports if no such contributions were made. To establish a complete record of the information being reported by consultants, Amendment No. 1 revises the amendments in the original filing to require dealers to receive reports every quarter from their consultants listing all reportable contributions or stating that the consultants made no reportable contributions, as appropriate. A dealer would then indicate the contributions reported or that a consultant had no contributions to report, as appropriate, on its Form G-37/G-38 for the



applicable quarter. The proposed rule change requires dealers to disclose if they did not receive a report from a consultant during a particular quarter. Thus, if a consultant does not submit a report to the dealer for a particular quarter, the dealer must report this fact on its Form G-37/G-38.

For recordkeeping purposes, the proposed amendments to Rule G-8 establish a complete record of the reports submitted by consultants. These amendments require a dealer to maintain: (1) Records of each reportable political contribution; (2) records of each reportable political party payment; (3) records indicating, if applicable, that a consultant made no reportable political contributions or no reportable political party payments; and (4) a statement, if applicable, that a consultant failed to provide any report of information to the dealer concerning reportable political contributions or reportable political party payments.

Although some dealers may believe the requirements to report and maintain records indicating that a consultant made no reportable political contributions would be burdensome, such reports and records provide a complete record of a consultant's contributions. If it should be determined later that a consultant did in fact make a reportable contribution after reporting that no reportable contributions were made, the dealer will have a record to demonstrate that the consultant hid the contribution information from the dealer.

#### 7. List of Consultants That Have Been Subject to Termination

TBMA stated that "a dealer will have no way to knowing whether the consultant it uses has complied with similar obligations to other dealers in the past" and it suggested that the Board "could remedy this situation by posting on its website a list of consultants that have been subject to termination as a result of their failure to comply with these disclosure provisions." TMBA noted that "[t]his would also serve to create a strong disincentive to the consultant to disregard its contractual obligations in this manner."

**Response:** The Board posts on its web site the Forms G-37/G-38 it receives. The proposed amendment to Rule G-38 include a requirement for a dealer wishing to rely on the reasonable efforts provision to indicate on its Form G-37/G-38 the reason for the date of termination of the Consultant Agreement in those instances in which a Consultant Agreement has been terminated because the consultant did not provide the required information

concerning reportable political contributions and political party payments. Thus, information about Consultant Agreements terminated for failure to provide the required information will be available for review on the Board's web site. In addition, if a dealer is concerned about whether a potential consultant has provided the required information in the past to other dealers, the dealer can ask the consultant to address the issue and/or the issue can be addressed in the Consultant Agreement.

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

The Board has requested that the Commission delay the effectiveness of the proposed rule change until April 1, 2000. Within 35 days of the date of publication of this notice in the **Federal Register** of 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 appropriated 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

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

#### IV. Solicitation of Comments

Interested people are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. People making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609. 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 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-98-08 and should be submitted by November 2, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>27</sup>

**Johathan G. Katz,**  
Secretary.

[FR Doc. 99-26524 Filed 10-8-99; 8:45 am]

BILLING CODE 8010-01-M

#### SMALL BUSINESS ADMINISTRATION

##### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of reporting requirements submitted for OMB review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before November 12, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

**COPIES:** Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**ADDRESSES:** Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** Jacqueline White, Agency Clearance Officer, (202) 205-7044.

**SUPPLEMENTARY INFORMATION:**  
*Title:* Surety Bond Guarantee Graduation Questionnaire.

*Form No:* 1972.

*Frequency:* On Occasion.

*Description of Respondents:* Surety Companies Participating in the SBA's Surety Bond Guarantee Program.

*Annual Responses:* 29.

*Annual Burden:* 2.5.

Dated: October 5, 1999.

**Jacqueline White,**

Chief, Administrative Information Branch.  
[FR Doc. 99-26560 Filed 10-8-99; 8:45 am]

BILLING CODE 8025-01-U

<sup>27</sup> 17 CFR 200.30-3(a)(12).