

consultations will be held between ITS participants to explain to each of them the necessity of making system changes to accommodate the trading through ITS of CBOE instruments priced under \$10.<sup>7</sup>

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general and with Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, and to protect investors and public interest.

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

The CBOE does not believe that the proposed rule change will impose any burden on competition.

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

No written comments were either solicited or received.

## III. 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 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-95-18 and should be submitted by [insert date 21 days from date of publication].

<sup>7</sup> At the February 1995 meeting of the ITS Operating Committee, the ITS participants approved enhancements to ITS to permit trading in sixteenths for Amex-listed securities priced under \$10.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change to increase from \$1 to \$10 the price level below which equity securities may be traded in sixteenths, and at or above which equity securities may be traded in eighths, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b) and 11A.<sup>8</sup> The Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest. Additionally, the Commission believes that the proposal is consistent with Section 11A, which requires the Commission to facilitate the establishment of a national market system. Pursuant to Section 11A, a national market system should assure, among other things, fair competition between the exchanges, economically efficient execution of securities transactions and the practicability of brokers executing investors' orders in the best market.

Although the CBOE currently does not trade any securities that would be affected by the proposal, the rule change to allow trading in sixteenths for securities priced under \$10 will make the CBOE's Rule consistent with the recently approved Amex Rule, and will allow the Exchange to trade any future equity listings in sixteenths.

The Commission generally believes that market quality should be enhanced by applying a minimum fractional change of  $\frac{1}{16}$ , rather than  $\frac{1}{8}$ , to securities selling below \$10. The Commission believes that decreasing such trading variations should help to produce more accurate pricing of such securities and can result in tighter quotations. In addition, if the quoted markets are improved by the reduced minimum tick fluctuations, the change could result in added benefits to the market such as increased liquidity in stocks priced below \$10.<sup>9</sup> The Commission believes that decreasing

<sup>8</sup> 15 U.S.C. 78f(b) and 78k-1 (1988).

<sup>9</sup> The rule change is consistent with the recommendation of the Division of Market Regulation (the "Division") in its Market 2000 Study, in which the Division noted that the  $\frac{1}{8}$  minimum variation can cause artificially wide spreads and hinder prices inside the prevailing quote. See Division of Market Regulation, SEC, Market 2000: An Examination of Current Equity Market Developments (January 1994), at 18.

such trading variations should help to produce more accurate pricing of such securities and can result in tighter quotations.

In addition, the Commission believes that the proposal could lead to increased competition between the exchanges pursuant to Section 11A of the Act. As noted above, ITS participants now have the capability to trade securities priced below \$10 in sixteenths.<sup>10</sup> Should the CBOE begin trading equity securities, customers should be able to receive a better, more competitive price in securities priced below \$10 if they are quoted in sixteenths.

The Commission finds good cause for approving the proposed rule change prior the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in order to allow the CBOE to permit equities priced below \$10 to be traded in sixteenths. Further, the Amex proposal to allow trading in sixteenths for Amex-listed securities priced below \$10 was noticed previously in the **Federal Register** for the full statutory period and the Commission did not receive any comments on it.<sup>11</sup>

*It Is Therefore Ordered*, pursuant to Section 19(b)(2)<sup>12</sup> that the proposed rule change is hereby approved on an accelerated basis.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-8090 Filed 3-31-95; 8:45 am]

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[Release No. 34-35544; File No. SR-MSRB-95-02]

## **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G-37 on Political Contributions and Prohibitions on Municipal Securities Business**

March 28, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder, notice is hereby

<sup>10</sup> See Amex Order, *supra* note 4.

<sup>11</sup> See Securities Exchange Act Release No. 35338 (February 7, 1995), 60 FR 8432 (February 14, 1995) (File No. SR-Amex-95-02).

<sup>12</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>13</sup> 17 CFR 200.30-3(a)(12) (1994).

given that on March 23, 1995, 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. The purpose of the proposed rule change is to provide interpretative guidance concerning rule G-37 on political contributions and prohibitions on municipal securities business. The Board 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 Board under section 19(b)(3)(A) of the Act, which renders the proposal effective upon receipt of this filing by 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 Board is filing the proposed rule change to provide interpretative guidance concerning rule G-37 on political contributions and prohibitions on municipal securities business.<sup>1</sup> Proposed new language is in italics.

#### **Rule G-37 Questions and Answers**

\* \* \* \* \*

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

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

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

*Q&A numbers 1, 2 and 3 in the December 1994 issue of MSRB Reports (Vol. 14, No. 5), CCH Manual paragraph 3681.*

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

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

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

\* \* \* \* \*

### **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 text 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**

On April 7, 1994, the Commission approved Board rule G-37, concerning political contributions and prohibitions on municipal securities business.<sup>2</sup> Since

that time, the Board has received numerous inquiries concerning the application of the rule. In order to assist the municipal securities industry and, in particular, brokers, dealers and municipal securities dealers in understanding and complying with the provisions of the rule, the Board published three prior notices of interpretation which set forth, in question-and-answer format, general guidance on rule G-37.<sup>3</sup> In prior filings with the Commission, the Board stated that it will continue to monitor the application of rule G-37, and, from time to time, will publish additional notices of interpretations, as necessary.<sup>4</sup> In light of questions recently received from market participants concerning certain provisions of the rule, the Board has determined that it is necessary to provide further guidance to the municipal industry. Accordingly, the Board is publishing this fourth set of questions and answers which focuses on those provisions of the rule relating to: (1) solicitation of municipal securities business; and (2) the definition of municipal finance professional. As previously stated, the Board will continue to monitor the application of rule G-37, and, from time to time will publish additional notices of interpretations, as necessary.

The Board believes that the proposed rule change is consistent with Section 15B(b)(2)(C) 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**

Because the proposed rule change would apply equally to all brokers, dealers and municipal securities dealers, the Board does not believe that

rule applies to contributions made on and after April 25, 1994

<sup>3</sup> See Securities Exchange Act Release No. 34161 (June 6, 1994), 59 FR 30379 (June 14, 1994), Securities Exchange Act Release No. 34603 (Aug. 25, 1994); 59 FR 45049 (Aug. 31, 1994); and Securities Exchange Act Release No. 35128 (Dec. 20, 1994); 59 FR 66989 (Dec. 28, 1994). See also MSRB Reports Vol. 14, No. 3 at 11-16 (June 1994); Vol. 14, No. 4 at 31-32 (August 1994); and Vol. 14, No. 5 at 8 (December 1994)

<sup>4</sup> File Nos. SR-MSRB-94-6, SR-MSRB-94-15 and SR-MSRB-94-16.

<sup>1</sup> The Board plans to publish the interpretations in the April 1995 MSRB Reports (Vol. 15, no. 1).

<sup>2</sup> Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621 (April 13, 1994). The

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 foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b-4 thereunder because the rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Board.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change 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.

### 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, NW., Washington, DC 20549. 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 principal office of the Board. All submissions should refer to File No. SR-MSRB-95-02 and should be submitted by April 24, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-8088 Filed 3-31-95; 8:45 am]

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[Release No. 34-35542; File No. SR-PHLX-94-69]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to a One Year Pilot Program for the Trading, Comparison, Clearing, Settling, Listing, and Delisting of Municipal Securities

March 28, 1995.

On December 20, 1994, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposal to establish a one year pilot program allowing the Exchange to list and trade municipal securities.

Notice of the proposal appeared in the **Federal Register** in Securities Exchange Act Release No. 35308 (January 31, 1995), 60 FR 7251 (February 7, 1995). No comments were received on the proposed rule change.<sup>3</sup>

The PHLX proposes to initiate a one year pilot program for the trading, comparison, clearance, settlement, listing and delisting of municipal securities. Specifically, the PHLX proposes to (1) Amend PHLX Rules 132, "Dealing Outside the Exchange in Securities Dealt in on the Exchange," 501, "Specialist Appointment," 803, "Criteria for Listing—Tier I," and 810, "Suspension and Delisting Policies Based on Exchange Findings;" and (2) add PHLX Rule 309, "Municipal Securities," to provide requirements for trading, comparison, settlement, clearing and listing and delisting of municipal securities.

To be eligible for listing on the Exchange, proposed PHLX Rule

803(c)(5) provides that a municipal debt security must: (1) Have an aggregate market value and principal amount outstanding of at least \$20,000,000; (2) have at least 100 public beneficial holders of record; and (3) be rated as investment grade by at least one nationally recognized rating service.

Proposed PHLX Rule 810(b)(4)(d) allows the Exchange to delist a municipal debt security when the issue is (1) Not rated as investment grade by at least one nationally recognized rating service; (2) does not have at least a market value or principal amount outstanding of \$500,000; or (3) is not held by at least 50 public beneficial holders of record.

The Exchange proposes to assign any municipal security it lists to a specialist<sup>4</sup> and to trade municipal securities in accordance with all PHLX regulations otherwise applicable to the trading of securities on the equities trading floor of the Exchange, except that pursuant to proposed PHLX Rule 132(d)(17) municipal securities shall be exempt from the provisions of the Exchange's off-board trading rule. Under proposed PHLX Rule 309, municipal securities will be compared, settled and cleared in accordance with the applicable regulations of the MSRB.

The PHLX believes that the proposed rule change is consistent with the requirements of section 6(b)(5) under the Act in that it is designed to promote the mechanism of a free and open market and to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6(b)(5),<sup>5</sup> in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest, and to foster cooperation and coordination with persons engaged in regulating, clearing, settling and processing information with respect to, and facilitating transactions in, securities.

With regard to the listing standards for municipal securities proposed by the PHLX, the Commission notes that listing

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4 (1994).

<sup>3</sup> On March 15, 1995, the PHLX amended its proposal to clarify the delisting standards for municipal securities. See Letter from Murray L. Ross, Secretary, PHLX, to Sharon Lawson, Assistant Director, Division of Market Regulation, Commission, dated March 14, 1995 ("Amendment No. 1"). Specifically, Amendment No. 1 indicates that PHLX Rule 810(b)(4)(d), as amended, will apply solely to municipal securities.

<sup>4</sup> The PHLX intends to require specialist units applying for appointment and registration in municipal securities to be in compliance with the Municipal Securities Rulemaking Board ("MSRB") Rule G-3 regulations regarding municipal securities principals and representatives. The National Association of Securities Dealers ("NASD") has authority to enforce MSRB rules for listed municipal securities. The PHLX enforcement in this regard will not preempt or limit in any manner the NASD's authority to act in this area.

<sup>5</sup> 15 U.S.C. 78f(b)(5) (1988).