

general, to protect investors and the public interest.

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

The Exchange 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 Exchange Act.

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

No written comments were solicited or received with respect to the proposed rule change.

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

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

- A. By order approve such proposed rule change, as amended, or
- B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's Internet comment form <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to rule-comments@sec.gov. Please include File No. SR-Amex-2004-25 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-Amex-2004-25. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will

post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2004-25 and should be submitted on or before November 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50557; File No. SR-MSRB-2004-04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to Proposed Amendments To Eliminate Exemptions From the Continuing Education Regulatory Element Requirements

October 18, 2004.

On August 5, 2004, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² to eliminate all currently effective exemptions from the requirement to complete the Regulatory Element of the Continuing Education

("CE") Program. On August 27, 2004, the MSRB filed Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, was published for comment in the **Federal Register** on September 14, 2004.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

MSRB Rule G-3(h) currently provides, in part, that no member shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person, unless such person has complied with the Regulatory Element of the CE requirement set forth in this Rule.⁵ The Regulatory Element component of MSRB Rule G-3(h)(1) requires each registered person to complete a standardized, computer-based, interactive CE program within 120 days of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Board. Registered persons who fail to complete the Regulatory Element are deemed inactive and may not perform in any capacity or be compensated in any way requiring registration.

Currently, two classes of persons are exempt from Regulatory Element requirements under MSRB G-3(h). The first class of persons come within the "grandfathered" exemption which applies to persons who were continuously registered, without serious disciplinary action,⁶ for more than ten years as of the Rule's effective date (*i.e.*, July 1, 1995). The second class of persons come within the "graduated" exemption, which, although discontinued as of July 1998, continues to apply to registered persons who were "graduated" prior to the discontinuation of the exemption.⁷

³ See letter from Ronald W. Smith, Senior Legal Associate, MSRB, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated August 26, 2004. Amendment No. 1 replaced the original rule filing in its entirety.

⁴ See Securities Exchange Act Release No. 50328 (September 7, 2004), 69 FR 55482 (September 14, 2004).

⁵ See MSRB Rule G-3(h).

⁶ For purposes of MSRB Rule G-3(h), a significant disciplinary action generally means a statutory disqualification as defined in Section 3(a)(39) of the Act; a suspension or imposition of a fine of \$5,000 or more; or being subject to an order from a securities regulator to re-enter the Regulatory Element. See MSRB Rule G-3(h)(i)(C).

⁷ When MSRB Rule G-3(h) was first adopted in 1995, the Regulatory Element schedule required registered persons to satisfy the Regulatory Element on the second, fifth, and tenth anniversary of their initial securities registration. After satisfying the tenth anniversary requirement, a person was "graduated" from the Regulatory Element. A graduated principal re-entered the Regulatory Element if he or she incurred a significant

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

However, in response to recommendations made by the Securities Industry/Regulatory Council on Continuing Education (the "Council"), MSRB submitted a proposed rule change to eliminate all currently effective exemptions from required participation in Regulatory Element programs.⁸ The Council believes that there is great value in exposing all registered industry participants to the full benefit of Regulatory Element programs.

The effective date of the MSRB proposed rule change is dependent upon the effective date of a similar proposed rule change filed by NASD⁹ because NASD administers the Regulatory Element computer-based education program. NASD has stated that it will announce the effective date of its proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. NASD stated that the effective date will be (1) not more than 30 days following publication of the Notice to Members announcing Commission approval, (2) not more than 30 days following the implementation of necessary changes to Web Central Registration Depository (Web CRD), or (3) April 4, 2005, whichever date is the latest to occur. The effective date of the MSRB proposed rule change will be the same as the effective date of the NASD's proposed rule change.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.¹⁰ In particular, the Commission finds that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,¹¹ which requires, among other things, that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the

disciplinary action. A graduated person who was not a principal re-entered if he or she acquired a principal registration or incurred a significant disciplinary action.

⁸ The Council recommended at its December 2003 meeting that SRO Rules (e.g., MSRB Rule G-3(h)), be amended to eliminate existing exemptions from the Regulatory Element and to require all "grandfathered" and "graduated" persons to fully participate in future standardized CE programs, according to the Rule's prescribed schedule.

⁹ See Securities Exchange Act Release No. 50204 (August 16, 2004), 69 FR 51873 (August 23, 2004) (SR-NASD-2004-098).

¹⁰ In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹¹ 15 U.S.C. 78o-4(b)(2)(C).

proposed rule change should help to ensure that all registered persons are kept up-to-date on regulatory, compliance, and sales practice-related industry issues. Further, the Commission believes that the proposed rule change will reinforce the importance of compliance with just and equitable principles of trade by exposing all registered industry participants to the full benefits of the Regulatory Element programs, which include a new Regulatory Element module that focuses specifically on ethics.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹² that the proposed rule change (SR-MSRB-2004-04), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50558; File No. SR-NASD-2004-148]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to TRACE Rule 6250

October 18, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 1, 2004, the National Association of Securities Dealers, Inc. ("NASD"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by NASD. The NASD has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(iii) of the Act,³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon filing with the Commission.⁵ The Commission is publishing this notice to

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ The NASD asked the Commission to waive the 30-day operative delay. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

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 is proposing to amend Rule 6250 to continue to disseminate transaction information for certain TRACE-eligible securities during Stage One of the implementation of SR-NASD-2004-094,⁶ notwithstanding that the securities do not meet the frequency standards for such dissemination set forth in Rule 6250(b)(1)(C)(ii). Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

6250. Dissemination of Transaction Information

(a) through (c) No change.

(d) *Dissemination of Transaction Information for Certain Non-Investment Grade TRACE-Eligible Securities*

Until such time as the effective date of (1) Rule 6250(a), (2) the portion of proposed Rule 6250(b)(1)(C)(i) not effective as of October 1, 2004, and (3) Rule 6250(b)(2) (being the effective date of "Stage Two"), information for transactions in Non-Investment Grade TRACE-eligible securities that were subject to dissemination under the Rule 6200 Series prior to October 1, 2004, but that do not meet the frequency standards set forth in Rule 6250(b)(1)(C)(ii), will continue to be disseminated immediately upon receipt of the transaction report. Following the effective date of Stage Two, dissemination of such securities will be subject to all provisions of the Rule 6200 Series then in effect, at which time this paragraph (d) of Rule 6250 shall automatically expire by its own terms.

* * * * *

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 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. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

⁶ See Securities Exchange Act Release No. 50317 (September 3, 2004), 69 FR 55202.