

general, to protect investors and the public interest.

The MSRB believes that the original proposed rule change, as amended by Amendment No. 2, is consistent with the Act because it will further investor protection and the public interest by ensuring that dealers understand their obligations under MSRB rules designed to maintain standards of fair practice and professionalism, thereby helping to maintain public trust and confidence in the integrity of the municipal securities market.

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

The MSRB does not believe that the original proposed rule change, as amended by Amendment No. 2, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all dealers.

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

Written comments on Amendment No. 2 were neither solicited nor received.

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, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

The MSRB has requested accelerated approval of the proposed rule change. The Commission is not granting accelerated approval at this time in order to allow interested persons to comment on this proposal and on the companion proposed rule change relating to the withdrawal of obsolete Question-and-Answer Interpretive Guidance under former Rule G-38, on consultants, and certain Question-and-Answer Interpretive Guidance relating to the definition of "solicitation" under Rule G-37, on political contributions and prohibition on municipal securities

business.⁹ The MSRB also requested that the Commission approve Amendment No. 2 and the original proposed rule change simultaneously with the companion proposed rule change. The Commission expects to consider these proposals simultaneously after the close of their respective comment periods.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 Number SR-MSRB-2005-11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-MSRB-2005-11. 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 MSRB's offices. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-

2005-11 and should be submitted on or before May 26, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Nancy M. Morris,
Secretary.

[FR Doc. E6-6804 Filed 5-4-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53746; File No. SR-MSRB-2006-01]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change and Amendment No. 1 Relating to Withdrawal of Obsolete Question-and-Answer Interpretive Guidance Under Former Rule G-38, on Consultants, and Certain Question-and-Answer Interpretive Guidance Relating to the Definition of "Solicitation" Under Rule G-37, on Political Contributions and Prohibitions on Municipal Securities Business

May 1, 2006.

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 March 28, 2006, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. On April 20, 2006, the MSRB filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The MSRB is filing with the Commission a proposed rule change to delete obsolete Question-and-Answer ("Q&A") interpretive guidance under former Rule G-38, on consultants, and certain Q&A interpretive guidance relating to the definition of "solicitation" under Rule G-37, on

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 deletes one additional Q&A providing interpretive guidance under Rule G-37 and former Rule G-38.

⁹ See File No. SR-MSRB-2006-01.

political contributions and prohibitions on municipal securities business. The text of the proposed rule change, as amended, is available on the MSRB's Web site (<http://www.msrb.org>), at the MSRB's principal office, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

On August 29, 2005, new Rule G-38, on solicitation of municipal securities business, became effective, superseding former Rule G-38 on consultants.⁴ The MSRB had previously published a number of Q&A interpretations on the former rule, none of which continue to apply to new Rule G-38 since the consultant provisions to which they relate are no longer in effect. Accordingly, the MSRB is deleting all obsolete Rule G-38 Qs&As. In addition, the MSRB is deleting three Qs&As and partially deleting a fourth Q&A under Rule G-37 relating to the definition of solicitation of municipal securities business (the "Rule G-37 solicitation Qs&As").⁵

In December 2005, the Commission published for comment the MSRB's proposed interpretive notice on the definition of "solicitation" under Rules G-37 and G-38 (the "Solicitation Notice").⁶ Among other things, the Solicitation Notice incorporated, by means of footnote 2 thereof and the text accompanying such footnote, guidance on the meaning of solicitation under Rule G-37 previously provided in the Rule G-37 solicitation Qs&As. The Commission received one comment

⁴ SEC Release No. 34-52278 (August 17, 2005); 70 FR 49342 (August 23, 2005).

⁵ The three deleted Rule G-37 solicitation Qs&As are published as Qs&As IV.10, IV.11 and IV.13 in *MSRB Rule Book* (January 1, 2006). In addition, the last sentence of Q&A IV.18, published in *MSRB Rule Book* (January 1, 2006), is deleted.

⁶ SEC Release No. 34-52948 (December 13, 2005); 70 FR 75514 (December 20, 2005).

letter in response to the Solicitation Notice.⁷ The commentator supported the Solicitation Notice but suggested that the MSRB withdraw all of its prior published Q&A guidance regarding the definition of solicitation of municipal securities business in order to avoid potential conflicts between such prior Q&A guidance and the Solicitation Notice.⁸

The MSRB believes that it would be appropriate to consolidate its guidance on the definition of solicitation for purposes of Rules G-37 and G-38 by amending its Solicitation Notice and simultaneously deleting (1) the Rule G-37 solicitation Qs&As, and (2) all obsolete Rule G-38 Q&A guidance relating to consultants. Thus, in addition to the Q&A deletions which are the subject of this filing, the MSRB has submitted to the Commission a companion filing consisting of an amendment to the Solicitation Notice that would delete footnote 2 in the Solicitation Notice, which contains references to the Rule G-37 solicitation Qs&As, and would instead insert the substantive language of those Qs&As into the text of the Solicitation Notice.⁹ Thus, the language of the Rule G-37 solicitation Qs&As which had previously been incorporated by reference would now be explicitly included within the Solicitation Notice. The amendment to the Solicitation Notice and the withdrawal of the Rule G-37 solicitation Qs&As and obsolete Rule G-38 Qs&As do not effect a substantive change in the MSRB's guidance on the definition of solicitation as set forth in the Solicitation Notice.

2. Statutory Basis

The MSRB believes that the proposed rule change, as amended, is consistent with Section 15B(b)(2)(C) of the Act,¹⁰ which provides that the MSRB'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

⁷ See Letter from Leslie M. Norwood, Vice President and Assistant General Counsel, The Bond Market Association, to Jonathan G. Katz, Commission Secretary, dated January 10, 2006.

⁸ The commentator stated that, in certain respects, the guidance on solicitation and related matters provided in the Solicitation Notice may not be wholly consistent with guidance previously provided by the MSRB and that such prior guidance should be withdrawn. The MSRB addresses this and other statements and concerns in the companion filing to this filing. See Amendment No. 2 (March 17, 2006) to File No. SR-MSRB-2005-11 (June 8, 2005).

⁹ See Amendment No. 2 (March 17, 2006) to File No. SR-MSRB-2005-11 (June 8, 2005).

¹⁰ 15 U.S.C. 78o-4(b)(2)(C).

regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with these provisions in that it will further investor protection and the public interest by ensuring that dealers understand their obligations under MSRB rules designed to maintain standards of fair practice and professionalism, thereby helping to maintain public trust and confidence in the integrity of the municipal securities market.

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

The MSRB does not believe that the proposed rule change, as amended, will result in any burden on competition that is 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

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, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

The MSRB has requested accelerated approval of the proposed rule change. The Commission is not granting accelerated approval at this time in order to allow interested persons to comment on this proposal and on Amendment 2 to a companion proposed rule change relating to the definition of solicitation under MSRB Rules G-37 and G-38.¹¹ The MSRB also requested that the Commission approve the proposal simultaneously with the companion proposed rule change. The

¹¹ See File No. SR-MSRB-2005-11 (the "companion proposed rule change").

Commission expects to consider these proposals simultaneously after the close of their respective comment periods.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 Number SR-MSRB-2006-01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street., NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MSRB-2006-01. 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 MSRB's offices. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-2006-01 and should be submitted on or before May 26, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Nancy M. Morris,

Secretary.

[FR Doc. E6-6807 Filed 5-4-06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53745; File No. SR-NASD-2005-140]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing of Proposed Rule Change Regarding the Nasdaq Crossing Network

May 1, 2006.

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 December 2, 2005, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On February 28, 2006, Nasdaq filed Amendment No. 1 to the proposed rule change.³ On April 24, 2006, Nasdaq filed Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

Nasdaq proposes to establish the Nasdaq Crossing Network for Nasdaq listed and certain exchange listed securities. The text of the proposed rule change is below. Proposed new language is in italics.⁵

* * * * *

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the original filing in its entirety.

⁴ In Amendment No. 2, Nasdaq made certain representations related to the applicability of Rule 11a2-2(T) under the Act and the "Manning Rule" to the proposed rule change. In addition, Nasdaq indicated its plan to request exemptive relief from Rule 10a-1 under the Exchange Act and NASD Rule 3350 ("Short Sale Rule"), as well as from Rule 602 of Regulation NMS ("Quote Rule"). Nasdaq also made clarifying edits to the proposed rule change.

⁵ Changes are marked to the rule text that appears in the electronic NASD Manual found at <http://www.nasd.com>. Prior to the date when The

4716. Nasdaq Crossing Network

(a) *Definitions.* For the purposes of this rule the term:

(1) "Nasdaq Reference Price Cross" shall mean the process for executing orders at a predetermined reference price at a randomly selected point in time during a one minute trading window beginning at 11:00 a.m., 1:00 p.m. and 3:00 p.m. during the regular hours session and at 4:30 p.m. during the after hours session.

(2) "Nasdaq Reference Price Cross eligible securities" shall mean Nasdaq-listed securities and securities listed on the New York Stock Exchange, the American Stock Exchange or a regional exchange.

(3)(A) "Reference Price Cross Order" or "RPC" shall mean a market or limit order to buy or sell in Nasdaq Reference Price eligible securities that may be executed only during a Nasdaq Reference Price Cross. RPC orders shall not be displayed and must be designated with a time-in-force value to participate either:

(i) In the next scheduled regular hours cross with unexecuted shares being immediately canceled back to the market participant after that cross (NXT);

(ii) In all remaining crosses during the trading day with unexecuted shares being immediately canceled back to the market participant after the final regular hours cross (REG); or

(iii) In all remaining crosses in the current day with unexecuted shares being immediately canceled back to the market participant after the after hours cross (ALX).

(B) Starting at 7:30 a.m. Eastern Time until the time of the last after hours session Reference Price Cross, participants may enter, cancel or correct RPC orders, but such orders shall not be available for execution until the next eligible Reference Price Cross. RPC orders must be entered in round lots with a minimum size of one round lot and may designate a minimum acceptable execution quantity. All RPC orders must be available for automatic execution.

(b) *Processing of Nasdaq Reference Price Cross*

(1) Each Nasdaq Reference Price Cross shall occur during the regular hours session or the after hours session window commencing at such times as may be designated by Nasdaq upon prior notice to market participants.

Nasdaq Stock Market LLC ("Nasdaq LLC") commences operations, Nasdaq LLC will file a conforming change to the rules of Nasdaq LLC approved in Securities Exchange Act Release No. 53128 (January 13, 2006).