

member notwithstanding a statutory disqualification. When the Exchange exercises this waiver authority, Rule 3.18.01 currently provides that the Exchange Department of Financial and Sales Practice Compliance shall determine whether the Exchange will concur in any the Exchange Act Rule 19h-1 filing made by another SRO. The Exchange is proposing to make two clarifying changes to this provision. First, the Exchange proposes to replace the reference to the "Department of Financial and Sales Practice Compliance" with the "Exchange" because the Exchange no longer has a department by that name. The Exchange is also proposing to include the words "member or" in the last sentence of Rule 3.18.01 to clarify that the Exchange may concur in any Exchange Act Rule 19h-1 filing made by another SRO with respect to a member or an associated person. This change is consistent with the rest of Rule 3.18.01.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Exchange Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act,<sup>10</sup> which requires, among other things, that the Exchange's rules be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that the proposed rule change would better enable the Exchange to streamline the administration of its statutory disqualification program and better protect investors and the public interest by focusing Exchange resources on circumstances sufficient to warrant a statutory disqualification hearing.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is 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, 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 Exchange 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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2009-033 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2009-033. 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, 100 F Street, NE., Washington, DC 20549, on official business days

between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of CBOE. 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-CBOE-2009-033 and should be submitted on or before July 13, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60121, File No. SR-MSRB-2009-05]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change Relating to the Subscription Service for Continuing Disclosure Documents Through the Electronic Municipal Market Access System (EMMA®)

June 16, 2009.

On April 22, 2009, the Municipal Securities Rulemaking Board ("MSRB"), filed with the Securities and Exchange Commission ("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 proposed rule change to establish a real-time subscription to the document collection of the continuing disclosure service of the MSRB's Electronic Municipal Market Access system ("EMMA"). The proposed rule change was published for comment in the **Federal Register** on May 13, 2009.<sup>3</sup> The Commission received no comment letters about the proposal. This order approves the proposed rule change.

The Commission has previously approved the establishment of the continuing disclosure service of EMMA, which will commence operation on July 1, 2009.<sup>4</sup> The proposed rule change

<sup>11</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> See Securities Exchange Act Release No. 59881 (May 7, 2009), 74 FR 22615 (May 13, 2009) ("Commission's Notice").

<sup>4</sup> See Securities Exchange Act Release No. 59061 (December 5, 2008), 73 FR 75778 (December 12,

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

consists of a proposal to establish a real-time subscription to the continuing disclosure document collection. The real-time data stream subscription to the EMMA continuing disclosure service to be provided through a Web service would be made available for an annual fee of \$45,000.<sup>5</sup> The continuing disclosure subscription service would make available to subscribers all continuing disclosure documents and related information provided by submitters through the EMMA submission process that is posted on the EMMA portal. Such documents and information would be made available to subscribers simultaneously with the posting thereof on the EMMA portal.

The MSRB would make the continuing disclosure subscription service available on an equal and non-discriminatory basis. In addition, the MSRB would not impose any limitations on or additional charges for redistribution of such documents by subscribers to their customers, clients or other end-users. Subscribers would be subject to all of the terms of the subscription agreement to be entered into between the MSRB and each subscriber, including proprietary rights of third parties in information provided by such third parties that is made available through the subscription. The MSRB would not be responsible for the content of the information or documents submitted by submitters distributed to subscribers through the continuing disclosure subscription service. The MSRB has requested approval of the proposed rule change on or prior to July 1, 2009. A full description of the proposal is contained in the Commission's Notice.

The Commission has carefully considered the proposed rule change and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB<sup>6</sup> and, in particular, the requirements of

Section 15B(b)(2)(C) of the Act<sup>7</sup> and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Act 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, 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.<sup>8</sup> In particular, the Commission finds that the EMMA continuing disclosure subscription service would serve as a mechanism by which the MSRB works toward removing impediments to and helping to perfect the mechanisms of a free and open market in municipal securities. The subscription service would make the indexed comprehensive collection of continuing disclosure documents of the EMMA continuing disclosure service available to marketplace participants for re-dissemination and for use in creating value-added products and services. Such re-dissemination and third-party use would provide market participants, including investors and the general public, additional avenues for obtaining these key disclosures and would make additional tools available in making well-informed investment decisions. Broad access to continuing disclosure documents through the subscription service, in addition to the public access available through the EMMA Web portal, should further assist in preventing fraudulent and manipulative acts and practices by improving the opportunity for public investors to access material information about issuers, their securities and the prices at which such securities trade.

Furthermore, broader re-dissemination and third-party use of continuing disclosure documents should promote a more fair and efficient municipal securities market in which transactions are effected on the basis of material information available to all parties to such transactions, which should allow for fairer pricing of transactions based on a more complete understanding of the terms of the securities (including any changes thereto), changes in circumstances of issuers and obligated persons, and the potential investment risks arising therefrom.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (SR-MSRB-2009-05), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60112; File No. SR-FINRA-2009-039]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rule 3310 (Anti-Money Laundering Compliance Program) in the Consolidated FINRA Rulebook

June 15, 2009.

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 1, 2009, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) 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 substantially prepared by FINRA. 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

FINRA is proposing to adopt: (1) NASD Rule 3011 (Anti-Money Laundering Compliance Program) as FINRA Rule 3310 (Anti-Money Laundering Compliance Program), without substantive change; (2) NASD IM-3011-1 (Independent Testing Requirements) as supplementary material to proposed FINRA Rule 3310, subject to certain amendments; and (3) NASD IM-3011-2 (Review of Anti-Money Laundering Compliance Person Information) as supplementary material to proposed FINRA Rule 3310, without substantive change. The proposed rule change would delete Incorporated NYSE Rule 445 (Anti-Money Laundering

2008) (File No. SR-MSRB-2008-05) (approving the continuing disclosure service of EMMA with an effective date of July 1, 2009).

<sup>5</sup> The proposed subscription price would cover a portion of the administrative, technical and operating costs of the EMMA continuing disclosure subscription service but would not cover all costs of such subscription service or of the EMMA continuing disclosure service. The MSRB has proposed establishing the subscription price at a fair and reasonable level consistent with the MSRB's objective that subscriptions be made available on terms that promote the broad dissemination of documents and data throughout the marketplace.

<sup>6</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>8</sup> *Id.*

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</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.