

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*

(a) On January 17, 1996, the Commission approved Board rule G-38 on consultants.<sup>1</sup> Since that time, the Board has received 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 a prior notice of interpretation which set forth, in question-and-answer format, general guidance on rule G-38.<sup>2</sup> In its prior filing with the Commission, the Board stated that it will continue to monitor the application of rule G-38, and, from time to time, will publish additional notices of interpretations, as necessary.<sup>3</sup> In light of questions recently received from market participants concerning the disclosures to be made regarding consultants, the Board has determined that it is necessary to provide further guidance to the municipal securities industry. Accordingly, the Board is publishing this second set of questions and answers concerning rule G-38.<sup>4</sup>

(b) The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.<sup>5</sup>

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

The Board 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 Act, since 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*

Written comments were neither solicited nor received.

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

The Board has designated this proposed rule change 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 proposed rule change effective upon receipt of this filing by the Commission.

At any time within sixty (60) days of the filing of a proposed 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, 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 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-96-11 and should be submitted by December 27, 1996.

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.*

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[Release No. 34-37998; File No. SR-MSRB-96-10]

**Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Reports of Sales and Purchases, Pursuant to Rule G-14**

November 29, 1996.

**I. Introduction**

On August 29, 1996, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-96-10), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), to expand its transparency program. The proposed rule change was published for comment in the Federal Register on October 30, 1996.<sup>1</sup> No comments were received on the proposal.

**II. Description of the Proposal**

The MSRB proposed to amend Board rule G-14 concerning reports of sales and purchases, and to amend Rule G-14 Transaction Reporting Procedures. The purpose of the proposed rule change is to increase transparency in the municipal securities market by adding retail and institutional customer transaction information to the inter-dealer transactions currently included in the Board's Transaction Reporting Program ("Program"). Under the proposed rule change, aggregate data about inter-dealer and customer market activity, and certain volume and price information about all transactions in frequently traded securities, would be disseminated to promote investor confidence in the market and its pricing mechanisms. The Program is designed to accomplish two objectives. The first is to increase the amount of information available about the market value of individual municipal securities. The second purpose of the Program is to provide a centralized audit trail of municipal securities transactions by making available to the National Association of Securities Dealers, Inc.

<sup>1</sup> Securities Exchange Act Release No. 37859 (October 23, 1996), 61 FR 56072.

<sup>1</sup> Securities Exchange Act Release No. 36727 (January 17, 1996); 61 FR 1955 (January 24, 1996). The rule became effective on March 18, 1996.

<sup>2</sup> See MSRB Reports, Vol. 16, No. 2 (June 1996) at 3-5. See also MSRB Manual (CCH) paragraph 3686.

<sup>3</sup> Securities Exchange Act Release No. 36950 (March 11, 1996); 61 FR 10828 (March 15, 1996).

<sup>4</sup> The Board plans to publish the interpretations in the 199 MSRB Reports (Vol. 1, No. 1).

<sup>5</sup> Section 15B(b)(2)(C) states in pertinent part that the rules of the Board "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."

("NASD"), the Commission, and other enforcement agencies a computer database reflecting all municipal securities transactions reported to the Board.

The proposed rule change would require brokers, dealers and municipal securities dealers to (1) obtain an executing broker symbol, if one has not already been assigned, from the NASD, within thirty days after Commission approval of the proposed rule change; (2) provide the Board, on or before July 1, 1997, with the name and telephone number of a person responsible for testing the dealer's capabilities to report customer transaction information; (3) test its capabilities to report such information, between July and December 1997; and (4) report to the Board each day its municipal securities transactions with customers by January 1, 1998. Under the rule proposal, the Program would be fully effective by January 1, 1998.

### III. Discussion

After careful review, the Commission finds that the proposed rule change generally is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the Commission believes the proposal is consistent with Section 15B(b)(2)(C) of the Act, which requires that the Board's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principals of trade, and protect investors and the public interest.

The proposed rule change will enhance price transparency in the municipal securities market by providing trade information on frequently traded securities. The principle of transparency is a fundamental aspect of investor protection and efficient markets. There are many benefits associated with enhanced market transparency. First, transparency enhances investor protection and encourages greater investor participation in the markets. Second, by encouraging investor participation in the municipal securities market, transparency promotes liquidity. Third, transparency fosters the efficiency of securities markets by facilitating price discovery and open competition, and counteracting the effects of fragmentation. Each of these benefits in turn promotes the fairness of the markets.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-MSRB-96-10) is approved.

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

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-37999; File No. SR-NSCC-96-18]

### **Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change to Modify Procedures Relating to the Reconfirmation and Pricing Service**

December 2, 1996.

On September 30, 1996, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-NSCC-96-18) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the Federal Register on November 1, 1996.<sup>2</sup> On November 21, 1996, NSCC filed an amendment to the proposed rule change.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### **I. Description**

The proposed rule change modifies NSCC's procedures relating to NSCC's Reconfirmation and Pricing Service ("RECAPS").<sup>4</sup> NSCC's Procedure II(G) currently provides that after the processing of initial RECAPS input members have an opportunity to submit supplemental input during the same RECAPS cycle. Prior to this amendment, supplemental input included only advisories, deletes, and as-of trades. An advisory allows a member to acknowledge a contraside submission that has not been reconfirmed. A delete permits a member to delete its own submission from RECAPS. An as-of trade enables a member to submit a transaction to RECAPS if the member failed to submit the transaction as initial

RECAPS input at the start of the RECAPS cycle.

The proposed rule change makes several modifications to NSCC's Procedure II(G) regarding RECAPS supplemental input. First, the proposed rule change expands the range of responses by a member to a contraside submission that has been reconfirmed to include "don't knows" (DKs) and rejects. A member must respond to a contraside submission that has not been reconfirmed on the next business day after the initial submission date by submitting an advisory, a DK, or a reject and in the case of a reject by also indicating the reasons for the rejection (e.g., trade previously settled or different quantity).

The proposed rule change provides that failure to respond to a contraside submission that has not been reconfirmed by the next business day after the initial submission date results in the transaction being deemed DK'ed. The proposed rule change also provides that a DK'ed transaction extinguishes the rights, if any, of the DK'ing member with respect to the transaction. Transactions of a member that have been DK'ed will be subject to the rules of the appropriate marketplace.

The proposed rule change also eliminates deletes as a type of RECAPS supplemental input. In practice, members do not use the delete function.

The proposed rule change adds a RECAPS activity report which NSCC will make available to members at the end of the RECAPS cycle. The RECAPS activity report will contain summary information regarding a member's overall activity during a particular RECAPS cycle, including the number of transactions submitted, the number of transactions that were reconfirmed, and the number of transactions that were DK'ed, rejected, or for which there was no response.

#### **II. Discussion**

Section 17A(b)(3)(F) provides that the rules of a clearing agency must be designed to promote that prompt and accurate clearance and settlement of securities transactions.<sup>5</sup> Prior to this amendment, members which had transactions submitted against them by another party could only submit an advisory to acknowledge the trade. If the member chose not to acknowledge the trade, the contraside did not learn the reason for the trade not being reconfirmed. The expansion in the range of responses to a transaction submitted by a contraside that has not been reconfirmed will help to clarify why

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

<sup>2</sup> Securities Exchange Act Release No. 37877 (October 28, 1996), 61 FR 56595.

<sup>3</sup> Letter from Anthony Davidson, Associate Counsel, NSCC, to Christine Sibille, Special Counsel, Division of Market Regulation, Commission (November 20, 1996). This amendment was a technical amendment that did not require republication of notice.

<sup>4</sup> RECAPS is NSCC's automated system which provides the ability to a member on a quarterly basis to reconfirm and reprice transactions that have been compared but have failed to settle.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F) (1988).