20 days from the date of the Postal Service's filing for public comment. 39 CFR 3010.13(a)(5). Comments by interested persons are due no later than November 7, 2011.

Commission rule 3010.13(b) further provides that public comments are to focus primarily on whether the planned price adjustments comply with the following mandatory requirements under the PAEA:

(1) Whether the planned rate adjustments measured using the formula established in section 3010.23(b) are at or below the annual limitation established in section 3010.11; and

(2) whether the planned rate adjustments measured using the formula established in section 3010.23(b) are at or below the limitations established in section 3010.28.

Participation and designated filing method. Participation in some Commission proceedings requires interested persons to file notices of intervention prior to, or in conjunction with, submitting other documents. This approach does not apply in this type of case. Instead, interested persons are to submit comments electronically via the Commission's Filing Online system, unless a waiver is obtained. Instructions for obtaining an account to file documents online may be found on the Commission's Web site (*http://www.prc.gov*), or by contacting the Commission's Docket Section staff at (202) 789–6846.

Persons without access to the Internet or otherwise unable to file documents electronically may request a waiver of the electronic filing requirement by filing a motion for waiver with the Commission. The motion may be filed along with any comments the person may wish to submit in this docket. Persons requesting a waiver may file hardcopy documents with the Commission either by mailing or by hand delivery to the Office of the Secretary, Postal Regulatory Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001 during regular business hours by the date specified for such filing. Any person needing assistance in requesting a waiver may contact the Docket Section at (202) 789–6846. Hardcopy documents will be scanned and posted on the Commission's Web site.

Official publication. The Commission directs the Secretary to arrange for prompt publication of this order in the **Federal Register**.

Appointment of Public Representative. In conformance with 39 U.S.C. 505, the Commission appoints Cassandra L. Hicks to represent the interests of the general public in this proceeding.

VII. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2012–3 to consider planned price adjustments in rates and fees for market dominant postal products and services identified in the Postal Service's October 18, 2011 Adjustment Notice.

2. Comments by interested persons on the planned price adjustments are due no later than November 7, 2011.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Cassandra L. Hicks to represent the interests of the general public in this proceeding.

4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–28214 Filed 10–31–11; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65631; File No. SR–MSRB–2011–19]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change Consisting of Amendments to Rule G–16 on Periodic Compliance Examination and Rule G–9 on Preservation of Records

October 26, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 13, 2011, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') 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. 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 MSRB is filing with the SEC a proposed rule change consisting of amendments to Rule G–16, on periodic compliance examination, in order to permit the examination of brokers, dealers, and municipal securities dealers (''dealers'') that are members of the Financial Industry Regulatory Authority (''FINRA'') at least once each four calendar years, rather than at least once each two calendar years as currently prescribed by Rule G–16. Further, the MSRB is filing with the SEC a proposed rule change consisting of amendments to Rule G–9, on preservation of records, which would require dealers to retain certain records for four years, rather than three years as currently prescribed by Rule G–9.

The text of the proposed rule change is available on the MSRB's Web site at *http://www.msrb.org/Rules-and-Interpretations/SEC–Filings/2011–Filings.aspx,* 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 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

1. Purpose

The purpose of the proposed rule change is to facilitate the modernization of the examination process for dealers and to permit greater flexibility in the administration of periodic compliance examinations in order to focus more closely on those dealers that, by virtue of various identified factors, pose the greatest risk to investors and other market participants, as well as to the municipal securities market on a systemic basis.

Periodic examinations of regulated entities are an important component of the regulatory oversight process. Examinations are intended to detect wrongful conduct, including violations of the federal securities laws and self-regulatory organization rules. Pursuant to Section 15B(b)(2)(E) of the Securities Exchange Act of 1934 (the '' Exchange Act''), MSRB rules must provide for the periodic examination of municipal securities brokers, municipal securities dealers, or municipal advisors (''regulated entities'') to determine

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

compliance with Section 15B of the Exchange Act, the rules and regulations thereunder, and MSRB rules. The same provision requires that the MSRB specify the minimum scope and frequency of the examinations and that the examination rules be designed to avoid unnecessary regulatory duplication or undue regulatory burden for any regulated entity.

Section 15B(c)(7) of the Exchange Act provides that the periodic examination of regulated entities shall be conducted by (a) A registered securities association in the case of dealers that are members of the registered securities association, (b) the appropriate regulatory agency (''bank regulators'') in the case of dealers that are not members of a registered securities association, and (c) the SEC, or its designee, in the case of municipal advisors. There is one securities association registered with the SEC—FINRA. Approximately 1,800 MSRB registered dealers are members of and examined by FINRA, with the remaining dealers registered with the SEC as municipal securities dealers and examined primarily by the various federal bank regulators.

Rule G–16 currently provides that, at least once every two calendar years, dealers must be examined in accordance with Section 15B of the Exchange Act, in order to determine whether the dealers are in compliance with all MSRB rules and applicable provisions of the Exchange Act. Separately, FINRA examines its members pursuant to a risk-based approach at least every four calendar years. In order to comply with Rule G–16, FINRA and the MSRB agreed to a protocol allowing for a questionnaire to be completed by certain firms every two calendar years. These dealers are typically less active in the municipal securities market and, therefore, pose less overall risk to market participants. The questionnaire, entitled the Alternative Municipal Examination (''AME'') module, was implemented in 1998, after review by SEC and MSRB staff.

The AME is used as an off-site examination for low-risk dealers that: (a) Conduct a limited municipal securities business; (b) do not conduct a public finance business; and (c) are not otherwise identified as high risk firms for regulatory purposes. The AME is necessarily general and not tailored to the specific business of any one firm. It relies on each responding dealer to self report rule violations and to certify that the information provided is truthful and accurate.

After many years of experience with the AME, the MSRB and FINRA believe that a more risk-based examination protocol should be implemented and that Rule G–16 should be amended to allow for up to a four year examination cycle for FINRA-member firms, consistent with FINRA's requirement for cycle examinations of all other FINRA members. This would also allow FINRA to integrate the municipal securities cycle examination program more closely with its overall cycle examination program, and redeploying staff resources from administering the AME to participating in the risk-based examination program would foster more meaningful oversight. Moreover, over the last few years, there have been significant advances in information technology, particularly with the development of the MSRB's Real-time Transaction Reporting System and Electronic Municipal Market Access system. These advancements in information technology and transparency have enabled FINRA to develop robust automated surveillance reviews of municipal securities transactions. FINRA is now able to review municipal securities transactions and other activity remotely, in order to identify potential MSRB rule violations by dealers. These tools permit FINRA staff to conduct near real-time surveillance of certain municipal securities activities.

It is also apparent that the municipal securities business has changed dramatically over the last few years. The industry has consolidated and a small number of large firms account for the majority of public finance business. The top five underwriters accounted for over 50 percent, by par amount, of primary offerings in 2010 and 2011.[3] The top 10 underwriters accounted for over 70 percent of the underwritings, by par amount, in 2010 and 2011, and the top 200 accounted for almost 100 percent of the underwritings, by par amount, in 2010 and 2011. According to data gathered by the MSRB, the top 10 dealers executed approximately 55 percent of all municipal securities transactions reported to the MSRB in 2010 and 2011. The top 50 dealers executed approximately 80 percent of all such transactions in 2010 and 2011, and the top 200 dealers executed approximately 96 percent of all such transactions. By par amount, the top 200 dealers executed approximately 98 percent of all municipal securities transactions reported to the MSRB in 2010 and 2011. The remaining approximately 1,600 firms are less active in the municipal securities market, engage solely in the sale of interests in 529 College Savings Plans, or effect municipal securities transactions primarily as an accommodation to their customers. Generally, these firms are not engaged in financial advisory activities or municipal securities underwriting, research, or trading. They, therefore, do not pose systemic risk to the market in these areas.

With input from the MSRB, consistent with Section 15B(b)(4) of the Exchange Act, FINRA is enhancing its risk assessment approach to rank dealers by certain risk factors, as well as by size and scope of business, to determine their examination cycle frequencies, which under the proposed rule change would range from one to four years, rather than every two years as currently prescribed by Rule G–16. It is anticipated that, based on the analysis of the various identified risks and related factors, those firms that represent higher risks, as well as firms that pose a systemic threat based on the scope and scale of their underlying municipal securities activities, would be examined on an annual basis. Other firms would be examined less frequently, every two to four years, depending on the risk ranking and size of their municipal securities business and the firm's overall business model. At a minimum, all firms would be examined at least once every four calendar years. Cycle examination frequencies for dealers would be re-assessed at least on an annual basis. FINRA would continue to conduct off-site surveillance of municipal securities activity and ''cause'' examinations as needed. ''Cause'' examinations are event-driven and typically initiated as a result of customer complaints, regulatory tips, and other information sources identified by FINRA via its regulatory oversight process.

The MSRB believes that using quantitative and qualitative criteria to rank dealers by appropriately identified risk measures and size no less frequently than on an annual basis provides better protection for investors, municipal entities, and other market participants, since FINRA's resources will be focused on those firms that pose the greatest risk to investors, municipal entities and the market. Such firms will be subject to in-depth examinations tailored to the specific municipal securities activities they conduct.

Finally, the MSRB has proposed a rule change requiring dealers that are FINRA members to retain certain records for four years, rather than for three years, under Rule G–9 in order to ensure that the records are available at

[3] All 2011 figures are through September 2011. Underwriting statistics are provided by Thomson Reuters.

those firms that are examined every four calendar years.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(E) of the Exchange Act, which provides that the MSRB's rules shall:

> provide for the periodic examination in accordance with subsection (c)(7) of municipal securities brokers, municipal securities dealers, and municipal advisors to determine compliance with applicable provisions of this title, the rules and regulations thereunder, and the rules of the Board. Such rules shall specify the minimum scope and frequency of such examinations and shall be designed to avoid any unnecessary regulatory duplication or undue regulatory burdens for any such municipal securities broker, municipal securities dealer, or municipal advisor.

Section 15B(c)(7) of the Exchange Act further provides that periodic examinations of dealers shall be conducted by a registered securities association, in the case of dealers that are members of such association. FINRA is currently the only registered securities association.

The proposed rule change will accomplish this mandate by providing FINRA with the flexibility to establish a risk-based examination program for municipal securities that is consistent with its other examination programs. By conforming the municipal securities examination program to FINRA's other examination programs and integrating the municipal securities examination program into FINRA's overall examination protocol, the new program should reduce regulatory duplication and undue burden on dealers that are FINRA members by fostering an integrated regulatory examination protocol and targeting those firms for more frequent examinations that pose a greater risk to investors and other market participants and have a greater impact on the marketplace.

With input from the MSRB, consistent with Section 15B(b)(4) of the Exchange Act, FINRA is enhancing its risk assessment approach to rank dealers by certain risk factors, as well as by size and scope of business, to determine their examination cycle frequencies, which under the proposed rule change would range from one to four years, rather than every two years as currently prescribed by Rule G–16. It is anticipated that, based on the analysis of the various identified risks and related factors, those firms that represent higher risks, as well as firms that pose a systemic threat based on the scope and scale of their underlying municipal securities activities, would be examined on an annual basis. Other firms would be examined less frequently, every two to four years, depending on the risk ranking and size of their municipal securities business and the firm's overall business model. At a minimum, all firms would be examined at least once every four calendar years. Cycle examination frequencies for dealers would be re-assessed at least on an annual basis. FINRA would continue to conduct off-site surveillance of municipal securities activity and ''cause'' examinations as needed. ''Cause'' examinations are event-driven and typically initiated as a result of customer complaints, regulatory tips, and other information sources identified by FINRA via its regulatory oversight process.

The MSRB believes that using quantitative and qualitative criteria to rank dealers by appropriately identified risk measures and size no less frequently than on an annual basis provides better protection for investors, municipal entities, and other market participants, since FINRA's resources will be focused on those firms that pose the greatest risk to investors, municipal entities and the market. Such firms will be subject to in-depth examinations tailored to the specific municipal securities activities they conduct. The risk-based examination protocol is consistent with Sections 15B(b)(2)(E) and 15B(c)(7) of the Exchange Act in that the examinations by FINRA would be tailored to each individual regulated entity to determine compliance with MSRB rules and applicable federal law and would be designed to avoid any unnecessary regulatory duplication or undue regulatory burdens.

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 Exchange Act. The change would provide FINRA with greater flexibility to carry out the periodic compliance examinations of its members mandated by Sections 15B(b)(2)(E) and 15B(c)(7) of the Exchange Act, in accordance with a risk-based approach that is based on the risk posed by regulated entities to investors and the marketplace and the impact of the regulated entity's municipal securities business on the marketplace. All such regulated entities that pose greater risk and have a higher impact on the municipal securities market would be inspected more frequently, and all such regulated entities that pose less risk to the market and have a lower impact on the municipal securities market would be inspected less frequently. All dealers that are members of FINRA would be examined at least every four calendar years.

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 on the proposed rule change.

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

Within 45 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 or disapprove 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 email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2011–19 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–MSRB–2011–19. This file number should be included on the subject line if email 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 Web site viewing and printing 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 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–2011–19 and should be submitted on or before November 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–28243 Filed 10–31–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65626; File No. SR–NYSEAMEX–2011–82]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing of Proposed Rule Change Expanding the Scope of Potential ''Users'' of Its Co-Location Services To Include Any Market Participant That Requests To Receive Co-Location Services Directly From the Exchange and Amending Its Price List To Establish a Fee for Users That Host Their Customers at the Exchange's Data Center

October 26, 2011.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 14, 2011, NYSE Amex LLC (the ''Exchange'' or ''NYSE Amex'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 the Substance of the Proposed Rule Change

The Exchange proposes to expand the scope of potential ''Users'' of its co-location services to include any market participant that requests to receive co-location services directly from the Exchange. In addition, the Exchange proposes to amend its Price List to establish a fee for Users that host their customers at the Exchange's data center. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

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 self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange operates a data center in Mahwah, New Jersey from which it provides co-location services to Users.[4] For purposes of its co-location services, the term ''User'' currently includes any ''ATP Holder,'' as that term is defined in NYSE Amex Options Rule 900.2NY(4) and any ''Sponsored Participant,'' as that term is defined in NYSE Amex Options Rule 900.2NY(77).[5] The Exchange proposes to expand the scope of potential Users of its co-location services to include any market participant that requests to receive co-location services directly from the Exchange.[6] Under the proposed rule change, Users could therefore include ATP Holders, Sponsored Participants, non-ATP Holder broker-dealers and vendors. The Exchange anticipates that the potential additional Users would provide, for example, hosting, service bureau, technical support, risk management, order routing and market data delivery services to their customers while the User is co-located in the Exchange's data center.[7] As is the case with all Exchange co-location arrangements, neither a User, nor any of its customers, would be permitted to submit orders directly to the Exchange unless such User or customer is an ATP Holder or a Sponsored Participant. All existing co-location terms, conditions, facilities, services, and applicable fees would apply to these potential new Users.

The Exchange also proposes to amend its Fee Schedule to establish a fee applicable to Users that provide hosting services to their customers (''Hosted Users'') at the Exchange's data center. ''Hosting'' would be a service offered by a User to a Hosted User and could include, for example, a User supporting its Hosted User's technology, whether hardware or software, through the User's co-location space. Specifically, the Exchange proposes to charge each User a fee of $500.00 per month for each Hosted User that the User hosts in the Exchange's data center. Users would independently set fees for their Hosted Users and the Exchange would not receive a share of any such fees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[8] in general, and furthers the objectives of Section 6(b)(4)[9] and 6(b)(5) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 63274 (November 8, 2010), 75 FR 69722 (November 15, 2010) (SR–NYSEAmex–2010–101).

[5] *Id.* at note 7.

[6] As is the case today, prospective Users must agree to, and be capable of satisfying, any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

[7] The Exchange anticipates that a User's customer(s) could include, under certain circumstances, other Users of the Exchange's co-location services.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).