

require the auto-execution parameter to be set at 1099 shares or greater and the auto-acceptance parameter to be set at 2099 shares or greater. As proposed, the auto-execution and auto-acceptance parameters for Nasdaq/NM securities will be set at 1000 shares or greater.

CHX Specialist Quoting at NBBO

When an Exchange specialist is disseminating the best bid or offer in a Nasdaq/NM security, market orders and marketable limit orders in that security will be automatically executed up to the size of the specialist's disseminated bid or offer, as the case may be, and the size of such bid or offer will automatically be decremented by the size of the execution. When the specialist's quote is exhausted, the system will generate an autoquote at $\frac{1}{8}$ point away from the NBBO for 1000 shares.

CHX Specialist Not Quoting at NBBO

In the event that the CHX specialist is not quoting a Nasdaq/NM security at the NBBO, all MAX market and marketable limited orders in that security that are of a size equal to or less than the auto-execution threshold will automatically be executed at the NBBO after a twenty second delay unless the specialist elects to manually handle the order in accordance with the requirements set forth in proposed Rule 43 (d) of Article XX. In this regard, proposed Rule 43(d) requires a specialist to either manually execute the order at the NBBO or better during this twenty second period or to act as a agent for the order in seeking to obtain the best available price for the order on a marketplace other than the Exchange.⁵ If the specialist decides to act as agent for the order, the rule requires the specialist to use order routing systems where appropriate. Market and marketable limit orders that are greater than the auto-execution threshold will not be subject to these requirements.

⁵ The Commission notes that, while the present proposal does not specify whether the "NBBO" for the purposes of this rule is the best price at the time the order is enter or at the time it is executed, the Exchange plans to amend the proposal to clarify that market and marketable limit orders in a Nasdaq/NM security of a size equal to or less than the auto-execution threshold are to be priced at the NBBO at the time the order is entered into the MAX system, and that the order must be executed at that price or better. Telephone conversation on June 24, 1996 between David Rusoff, Attorney, Foley & Lardner, and George A. Villasana, Attorney, Division of Market Regulation, SEC.

The Commission further expects that these orders will be provided an opportunity for price improvement during the period between the time that the order is entered and the time it is executed which should include, at a minimum, an opportunity to receive a better price if the NBBO improves before the order is executed.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

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

The CHX does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were either solicited or received.

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

Within 35 days of the 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 the 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. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-96-16 and should be submitted July 23, 1996.

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

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-37361; File No. SR-MSRB-96-4]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Fees for Annual Subscription and Backlog Document Collections of Its Official Statement/Advance Refunding Document Subsystem of the Municipal Securities Information Library

June 25, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 28, 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-96-4). The proposed rule change is described in Items, I, II, and III below, which Items have been prepared by the Board. 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 Board is filing herewith a proposed rule change to change certain fees relating to the operation of its Official Statement/Advance Refunding Document ("OS/ARD") subsystem of the Municipal Securities Information Library™ ("MSIL™") system.¹ The Board is changing from \$12,000 to \$14,000 (plus postage or delivery charges) the annual subscription fee for magnetic tapes of images of official statements and advance refunding documents. In addition, the Board is establishing a price of \$9,000 (plus delivery or postage charges) for its 1995 document collection of official statements and refunding documents, sold as a "backlog" collection.

¹ MUNICIPAL SECURITIES INFORMATION LIBRARY and MSIL are registered trademarks of the Board. The MSIL system, which was approved in Securities Exchange Act Release No. 29298 (June 13, 1991) 56 FR 28194, is a central facility through which information about municipal securities is collected, stored and disseminated.

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

In its filing with the Commission, the Board 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 texts of these statements may be examined at the places specified in item IV below. The Board has prepared summaries, set forth in Section 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 OS/ARD subsystem, which was activated on April 20, 1992, is a central electronic facility through which information collected and stored pursuant to MSRB rule G-36 is made available electronically and in paper form to market participants and information vendors.² Since 1992, the annual subscription fee for daily tapes of images of current year documents from the OS/ARD system has been \$12,000.³ The Board proposes to increase the annual subscription fee to \$14,000 because of the rise in the cost of operation of the system since the subscription fee was first instituted.

The fees for backlog document collections are substantially less than fees for an annual subscription because an annual subscription requires the Board to send a computer tape to the subscriber each business day, but a backlog collection requires fewer tapes.⁴ The Board is establishing a price of \$9,000 (plus delivery or postage charges) for the 1995 backlog collection.

The daily tape subscription service currently has eight subscribers. The \$14,000 yearly subscription fee for the daily tape of images will not cover the

complete costs of operation of the OS/ARD system. In its prior filings with the Commission, the Board stated that it intends to use its general revenues to help fund collecting, indexing and storing the OS/ARD subsystem's documents. However, the Board states its intention that the costs of producing and disseminating magnetic tapes (and paper copies) would be completely covered by user fees.⁵ The Board is increasing the annual subscription fee and establishing the 1995 backlog fee to defray its costs of disseminating the collection tapes. This is consistent with the Commission's policy that self-regulatory organizations' fees be based on expenses incurred in providing information to the public. The Board believes that employing cost-based prices is in the public interest since it will ensure that a complete collection of vital information will be available, at fair and reasonable prices, for the life of the municipal securities.

2. Statutory Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which requires, in pertinent part, that the Board'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 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 MSIL system is designed to increase the integrity and efficiency of the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available official information about that issue. The Board believes that the annual subscription fee and the 1995 backlog fee are fair and reasonable in light of the costs associated with disseminating the information, and that the services provided by the MSIL system are available on reasonable and nondiscriminatory terms to any interested person.

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.

C. Self-Regulatory Organization's Statement of 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 rule change is effective upon filing pursuant to Section 19(b)(3)(A) of the Act, because the proposal is "establishing or changing a due, fee or other charge." At any time within sixty days of filing of the proposed rule change, the Commission may summarily abrogate such 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 submissions, 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-96-4 and should be submitted by July 23, 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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² Rule G-36 requires underwriters to provide copies of final official statements and advance refunding documents within certain specified time frames for most new issues issued since January 1, 1990.

³ This fee was filed with the Commission. See Securities Exchange Act Release No. 30306 (Jan. 30, 1992) 57 FR 4657.

⁴ Currently, several business day's worth of documents are on each tape in an annual collection. The backlog fee plus delivery costs for 1994 is \$7,000; 1993 is \$9,000; 1992 is \$7,000; 1991 is \$8,000; 1990 is \$6,000. These fees were filed with the Commission. See Securities Exchange Act Release Nos. 35848 (June 14, 1995) 60 FR 32817 (1994 fee); 32482 (June 16, 1993) 58 FR 34115 (1992 and 1990 fees); 34602 (Aug. 25, 1994) 59 FR 45319 (1993 and 1991 fees). The fees for the backlog collections vary based on the number of documents received and processed in any given year.

⁵ See Securities Exchange Act Release No. 28197 (July 12, 1990) 55 FR 29436.