

("P&I Task force").⁴ The purpose of the proposed rule change is to update DTC's issue eligibility requirements.⁵

DTC's operational arrangements include requirements that all payments to DTC of principal and income be made in same-day funds on payment date by 2:30 p.m. Eastern Time ("ET") and that CUSIP information be provided in automated form early enough to allow the funds received to be matched with the related issues. In order to help assure that these requirements are met, the operational arrangements have been modified to require issuers to remit funds for all principal and income payments to paying agents or intermediaries by 1:00 p.m. ET or by such earlier time as required by the paying agent to guarantee that DTC will receive payment in same-day funds by 2:30 p.m. ET on payable date.⁶

In addition, the current operational arrangements require the submission of individual letters of representations ("LORs") each time an issuer wants to distribute securities of a type for which DTC requires an LOR. DTC uses sixteen different LORs for various types of municipal and corporate securities and money market instruments. The modified arrangements introduce the use of a blanket LOR which an issuer only needs to submit to DTC once for all issues. A blanket LOR eliminates the need for the submission of individual LORs each time the issuer wishes to distribute certain securities.⁷

The proposed rule change replaces only three of the LORs with the blanket LORs: the book entry only municipal bond LOR, the book entry only municipal note LOR, and the book entry only municipal variable rate demand obligation LOR.⁸ As issuers gain experience with the use of blanket

LORs, DTC will eliminate additional individual LORs.

DTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F)⁹ in that it should maximize the number of issues that can be made depository eligible while ensuring orderly processing and timely payments to participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC 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 on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The subject principal and income guidelines incorporated in the proposed operational arrangements have been endorsed by the Corporate Trust Advisory Board of the American Bankers Association, the Bank Depository User Group, the Corporate Trust Advisory Committee of the Corporate Fiduciaries Association of New York City, the New York Clearing House Securities Committee, The Bond Market Association, and the Securities Industry Association.

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

Because the foregoing rule change constitutes an interpretation with respect to the meaning, administration, or enforcement of an existing rule of DTC, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act¹⁰ and Rule 19b-4(e)(1) thereunder.¹¹ At any time within sixty days of the 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, including whether the proposed rule change is consistent with the Act. 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 Section, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the DTC. All submissions should refer to the File No. SR-DTC-97-23 and should be submitted by May 19, 1998.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-11168 Filed 4-27-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39904; File No. SR-MSRB-97-14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G-32, on Disclosures in Connection With New Issues

April 22, 1998.

On March 12, 1998,¹ 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-97-14), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

¹² 17 CFR 200.30-3(a)(12).

¹ The Board initially filed this proposal on December 22, 1997. However, a substantive amendment was requested to restore rule language that had been deleted. The Board filed Amendment No. 1 on March 12, 1998. Pursuant to section 19(b), Amendment No. 1 is subject to notice and comment; thus, the proposed rule change is deemed filed as of the date of the amendment. 15 U.S.C. 78s.

On April 22, 1998, the Board filed Amendment No. 2 clarifying the underwriter's obligation if it prepares the official statement on behalf of issuers. See letter from Ernesto A. Lanza, Assistant General Counsel, MSRB, to Katherine A. England, Esq., Assistant Director, Division of Market Regulation, SEC, dated April 22, 1998.

⁴ The U.S. Working Committee of the Group of Thirty is an organization consisting of representatives from broker-dealers, banks, and financial intermediaries charged with analyzing the existing clearance and settlement systems in the U.S.

⁵ DTC included the text of its updated operational arrangements as an exhibit to its proposed rule change which is available for inspection and copying at the Commission's public reference room and through DTC.

⁶ If an issuer or agent continually fails to make payments and provide the related payment detail in a timely manner, DTC may decide not to allocate such payments to participants on the payable date.

⁷ DTC undertakes to make available to issuers that execute blanket LORs any future modifications in the operational arrangements. Upon review, issuers will have the opportunity to withdraw their blanket LORs.

⁸ These LORs were chosen to be replaced first because these securities types account for the highest volume of repeat requests for DTC eligibility from issuers.

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 15 U.S.C. 78s(b)(3)(A)(i).

¹¹ 17 CFR 240.19b-4(e)(1).

("Act"),² and Rule 19b-4 thereunder.³ The proposed rule change and Amendment Nos. 1 and 2 (collectively referred to herein as the "proposed rule change") are 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 has filed with the Commission a proposed rule change consisting of amendments of Rule G-32, on disclosures in connection with new issues. The proposed rule change will strengthen the provisions of the rule relating to dissemination of official statements among dealers and incorporate a long-standing Board interpretation relating to disclosures required to be made to customers in connection with negotiated sales of new issue municipal securities. Below is the text of the proposed rule change. Additions are italicized; deletions are in brackets.

Rule G-32. Disclosures in Connection with New Issues

(a) Disclosure Requirements. No broker, dealer or municipal securities dealer shall sell, whether as principal or agent, any new issue municipal securities to a customer unless such broker, dealer or municipal securities dealer delivers to the customer no later than the settlement of the transaction:

(i) No change.

(ii) in connection with a negotiated sale of new issue municipal securities, the following information concerning the underwriting arrangements:

(A)-(B) No change.

(C) the initial offering price for each maturity in the issue that is offered or to be offered in whole or in part by the underwriters, *including maturities that are not reoffered.*

In the event an official statement in final form will not be prepared by or on behalf of the issuer, an official statement in preliminary form, if any, shall be sent to the customer with a notice that no final official statement is being prepared.

Every broker, dealer or municipal securities dealer shall *send, upon request*, [promptly furnish] the documents and information referred to in this section (a) to any broker, dealer or municipal securities dealer to which it sells new issue municipal securities

[, upon the request of such broker, dealer or municipal securities dealer.] *no later than the business day following the request or, if an official statement in final form is being prepared but has not been received from the issuer or its agent, no later than the business day following such receipt. Such items shall be sent by first class mail or other equally prompt means, unless the purchasing broker, dealer or municipal securities dealer arranges some other method of delivery and pays or agrees to pay for such delivery.*

(b) Responsibility of Managing Underwriters, and Sole Underwriters and Financial Advisors. (i) Managing Underwriters and Sole Underwriters. When an [a final] official statement *in final form* is prepared by or on behalf of an issuer, the managing underwriter or sole underwriter, upon request, shall *send to* [provided] all brokers, dealers and municipal securities dealers that purchase the new issue *municipal securities* [with] an official statement *in final form* and other information required by paragraph (a)(ii) of this rule and not less than one additional official statement in final form per \$100,000 par value of the new issue purchased by the broker, dealer or municipal securities dealer and sold to customers. *Such items shall be sent no later than the business day following the request or, if an official statement in final form is being prepared but has not been received from the issuer or its agent, no later than the business day following such receipt. Such items shall be sent by first class mail or other equally prompt means, unless the purchasing broker, dealer or municipal securities dealer arranges some other method of delivery and pays or agrees to pay for such delivery. In addition, the managing underwriter or sole underwriter, upon request*, [and] shall provide all purchasing brokers, dealers and municipal securities dealers with instructions on how to order additional copies of the [final] official statement *in final form* directly from the printer. [A managing underwriter or sole underwriter that prepares an official statement on behalf of an issuer shall print the final official statement and other information required by paragraph (a)(ii) of this rule and make them available promptly after the date of sale of the issue but no later than two business days before the date all securities are delivered by the syndicate manager to the syndicate members.]

(ii) Financial Advisors. A broker, dealer or municipal securities dealer that, acting as financial advisor, prepares an [a final] official statement *in final form* on behalf of an issuer, shall

make that official statement in final form available to the managing underwriter or sole underwriter promptly after the *issuer approves its distribution*. [award is made. If the financial advisor is responsible for printing the final official statement, it shall make adequate copies of the final official statement available to the managing underwriter or sole underwriter promptly after the award is made but no later than two business days before the date all securities are delivered by the syndicate manager to the syndicate members to permit their compliance with paragraph (b)(i) of this rule.]

(c) No change.

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 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 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

Rule G-32, on disclosures in connection with new issues, provides that no broker, dealer or municipal securities dealer ("dealer") shall sell any new issue municipal securities to a customer unless such dealer delivers to the customer no later than the settlement of the transaction a copy of the official statement in final form, if one is being prepared. In connection with a negotiated sale of new issue municipal securities, dealers are also required to deliver to their customers, by no later than settlement with the customer, information regarding, among other things, the initial offering price for each maturity in the new issue (termed the "Offering Price Disclosure Provision"). Managing underwriters and other dealers that sell new issue municipal securities to purchasing dealers are required to furnish copies of the official statement to such purchasing dealers upon request, and dealers acting as financial advisors are also required to ensure that official statements are made available to the underwriters in a timely

² 15 U.S.C. 78s(b)(1).

³ 17 CFR 240.19b-4.

manner (termed the "Dealer Dissemination Provisions"). The Board is proposing amendment to Rule G-32 to strengthen the Dealer Dissemination Provisions and to explicitly incorporate into the Offering Price Disclosure Provision a long-standing Board interpretation of such provision.

Amendments to Dealer Dissemination Provisions

All dealers selling new issue municipal securities to customers, not just dealers that participated in the underwriting of the new issue, are required to deliver official statements to their customers by no later than settlement of their transactions. As a result, the Dealer Dissemination Provisions were included in Rule G-32 to make official statements for new issues available to all dealers so that they may fulfill their customer delivery obligation under the rule. Dealers that are not part of the underwriting group have indicated from time to time that they have had some difficulty in obtaining official statements from the managing underwriter or other selling dealers on a timely basis. The Board, therefore, is proposing amendments to the Dealer Dissemination Provisions of Rule G-32 to provide a specific timeframe and method for delivery of official statements to purchasing dealers.

The proposed rule change would retain the existing responsibility of the managing underwriter under the rule to provide, upon request, one copy of the official statement to purchasing dealers, together with the disclosure information required for negotiated offerings, and one additional official statement per \$100,000 par value purchased for resale to customers. The managing underwriter also would continue to be required to provide purchasing dealers, upon request, with instructions on how to order copies of the official statement from the printer.⁴ The amendments would add a requirement that the official statement be sent by the managing underwriter to the purchasing dealer no later than the business day after the request or, if the official statement has not been received from the issuer or its agent, the business day after receipt. The managing underwriters would be required to send official statements by first class mail or other equally prompt means unless the

purchasing dealer arranges some other method of delivery at its own expense. These obligations of the managing underwriter would continue to apply with respect to all purchasing dealers, even where the managing underwriter did not sell the securities to the purchasing dealer.

In addition, the proposed rule change would retain the existing requirement that every dealer selling a new issue municipal security to another dealer must furnish the official statement to such purchasing dealer upon request. The amendments would add a requirement that the selling dealer send the official statement to the purchasing dealer within the same timeframe and by the same means as would be required of the managing underwriter.

The Board believes that the proposed rule change will help dealers to comply with their obligation to deliver official statements to their customers by settlement and will more effectively ensure rapid dissemination of official statements to customers and to the marketplace generally than is occurring in many instances under the current version of the rule. In particular, the Board believes that the provisions of the proposed rule change and of The Bond Market Association's Standard Agreement Among Underwriters would effectively obligate the managing underwriter to send the official statement to syndicate members within one business day of its receipt from the issuer.⁵ Furthermore, although the proposed amendment removes specific references in the existing rule to underwriters that prepare official statements on behalf of issuers, the Board is of the view that an underwriter that prepares an official statement on behalf of an issuer would be deemed to have received the official statement from the issuer immediately upon such issuer approving the distribution of the

completed official statement in final form.⁶

The proposed rule change would retain the existing requirement under Rule G-32 that a dealer acting as financial advisor that prepares an official statement on behalf of an issuer must make that official statement available to the managing or sole underwriter, but would change the timing for such availability from promptly after the award is made, as provided in the current rule, to promptly after the issuer approves distribution of the official statement in final form. However, as the Board cannot prescribe the content, timing, quantity or manner of production of the official statement by the issuer or its agents, the portions of the existing rule that would regulate such production on behalf of an issuer by a dealer acting as financial advisor would be deleted. The Board is proposing this amendment to ensure that, once the official statement is completed and approved by the issuer for distribution, dealers acting as financial advisors will be obligated to commence the dissemination process promptly.⁷ The Board urges issuers that utilize the services of non-dealer financial advisors to hold such financial advisor to the same standards for prompt delivery of official statements to the underwriters.

Amendment to Offering Price Disclosure Provision

Since January 1983,⁸ the Board has interpreted the Offering Price Disclosure Provision to require that the initial offering price of all maturities of a new issue of municipal securities in a negotiated offering must be disclosed to customers, even for maturities that are not reoffered. The proposed amendment to the Offering Price Disclosure Provision of Rule G-32 would incorporate into the rule language this

⁶ See *supra* note 1, Amendment No. 2.

⁷ Of course, this amendment would not relieve dealers acting as financial advisors of their obligations to comply with their contractual arrangements entered into with issuers and with all applicable state and federal statutes, regulations and common law. Thus, in particular, in instances where a dealer, acting as financial advisor, has a contractual or other legal duty to assist an issuer in complying with its contractual obligation to deliver final official statements within the timeframe and in the quantities set forth in Rule 15c2-12(b)(3) under the Act, such obligation would not be diminished by operation of the revised amendment.

⁸ See *MSRB Reports*, Vol. 3, No. 1 (Jan. 1983), "Rule G-32 + Frequently Asked Questions Concerning Disclosures in Connection with New Issues," at 25-27. See also *MSRB Reports*, Vol. 6, No. 4 (Sept. 1986), "Disclosure Requirements for New Issue Securities: Rule G-32," at 17-20 and *MSRB Reports*, Vol. 16, No. 3 (Sept. 1996), "Disclosures in Connection with New Issues: Rule G-32," at 19-23.

⁴ Consistent with the position taken by the Commission in connection with its Rule 15c2-12, the Board recognizes that the official statement is the issuer's document. As a result, the proposed rule change would remove references in the existing rule to the preparation of official statements by underwriters.

⁵ The Bond Market Association's Standard Agreement Among Underwriters provides that syndicate members must place orders for the official statement by the business day following the date of execution of the purchase contract and states that any syndicate member that fails to place such an order will be assumed to have requested the quantity required under Rule G-32(b)(i). See *Agreement Among Underwriters, Instructions, Terms and Acceptance*, The Bond Market Association, (Oct. 1, 1997) at ¶ 3. Thus, except in the rare instances where an official statement in final form is completed and available for distribution on the date of sale, syndicate members will have made or have been deemed to have made their requests for official statements by the time the managing underwriter receives the official statement from the issuer, thereby obligating the managing underwriter under the proposed rule change to send the official statement to syndicate members within one business day of receipt.

long-standing Board interpretation. The Board believes that the application of the Offering Price Disclosure Provision to maturities that are not reoffered permits customers to determine whether the price they paid for a new issue municipal security is substantially different from the price being paid by presale purchasers.

2. Statutory Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.⁹ The Board believes that the proposed rule change would help dealers to comply with their obligation to deliver official statements to their customers by settlement, would improve dissemination of official statements to the marketplace generally during the underwriting period, and would ensure the continued availability of important pricing information to new issue customers.

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, because 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

In September 1996, the Board published a notice (the "Notice") in which the Board proposed certain amendments to Rule G-32 that, among other things, would have strengthened the rule's Dealer Dissemination Provisions and incorporated into the Offering Price Disclosure Provision the Board's interpretation regarding disclosure in a negotiated offering of the initial offering prices of maturities that are not reoffered.¹⁰

⁹ Section 15B(b)(2)(C) states 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.

¹⁰ See MSRB Reports, Vol. 16, No. 3 (Sept. 1996), "Disclosures in Connection with New Issues: Rule G-32," at 19-23.

The proposed amendments described in the Notice included, in addition to the proposed amendments to the Dealer Dissemination Provisions (other than the proposed amendment to require dealers acting as financial advisors to make the official statement available promptly after the issuer approves its distribution) and the Offering Price

In response to its request for comments, the Board received three comment letters,¹¹ each of which addressed the proposed amendments to the Dealer Dissemination Provisions and one of which also addressed the proposed amendment to the Offering Price Disclosure Provision.

One commentator supports the proposed amendments to the Dealer Dissemination Provisions of Rule G-32.¹² This dealer noted that it was already responding to requests from purchasing dealers for official statements within one business day so that the proposed amendments would not pose any operational problems for it. In addition, the dealer stated that placing such an obligation on all dealers would make it possible for dealers to deliver official statements to their customers in a more timely manner.

Two commentators did not object to any of the changes in the proposed amendments, but criticized certain of the existing provisions of the Dealer Dissemination Provisions. One dealer objected to the open-ended requirement that managing underwriters provide purchasing dealers with official statements and proposed that purchasing dealers be required to obtain the official statement from a nationally recognized municipal securities information repository ("NRMSIR") if the managing underwriter has exhausted its supply of official statements.¹³ Another dealer noted that the requirement to provide an official statement to purchasing dealers is limited to one per \$100,000 par value of securities sold to customers and that this limitation puts a heavier burden on regional, retail-oriented firms that are compelled to photocopy additional copies.¹⁴

The Board recognizes that there may not be sufficient quantities of the original printed official statement for every new issue to comply with dealers'

Disclosure Provision, a requirement that official statements for primary offerings of municipal securities subject to Rule 15c2-12 under the Act be sent to customers no later than the date that final money confirmations are sent (the "Customer Delivery Proposal"). In conjunction with this proposed change to the official statement delivery requirement, the Board proposed reorganizing Rule G-32 to address separately those offerings that are subject to Rule 15c2-12 and those that are not. The Board subsequently withdrew the proposed amendments and is not, at this time, filing with the Commission the Customer Delivery Proposal. Furthermore, because the Customer Delivery Proposal is not being filed, the Board also is not proposing to reorganize the rule as described in the Notice.

¹¹ Chase Securities of Texas, Inc. ("Chase"), J.C. Bradford & Co., and Paine Webber Incorporated.

¹² Chase.

¹³ PaineWebber Incorporated.

¹⁴ J.C. Bradford & Co.

obligations under Board rules. It believes, however, that requiring selling dealers to provide a copy of the official statement to purchasing dealers, upon request, and requiring managing underwriters to provide to purchasing dealers, upon request, one official statement plus one additional official statement per \$100,000 par value purchased for resale to customers serves as a reasonable floor on the number of official statements that are available in the marketplace to meet the requirements of Board rules.¹⁵ If a managing underwriter does not have sufficient printed copies of the official statement to meet its obligations with respect to any particular new issue, it may need to photocopy or otherwise obtain additional copies of the official statement. In addition, if a dealer selling municipal securities to customers is unable to obtain sufficient numbers of official statements from the managing underwriter or from the dealer that sold the securities to it, then this dealer may need to photocopy or otherwise obtain additional copies of the official statement. Such other sources of official statements include, but are not limited to, the Board's Municipal Securities Information Library® (MSIL®) system,¹⁶ the NRMSIRs, or other information vendors.

One commentator supports the proposed amendment to the Offering Price Disclosure Requirement.¹⁷

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, including whether the proposed rule

¹⁵ In addition, Rule G-32 will continue to require that managing underwriters provide all purchasing dealers with instructions on how to order additional copies of the final official statement directly from the printer.

¹⁶ Municipal Securities Information Library and MSIL are registered trademarks of the Board.

¹⁷ Chase

change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 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-97-14 and should be submitted by May 19, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-11208 Filed 4-27-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39900; File No. SR-MSRB-98-4]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G-32, on Disclosures in Connection With New Issues

April 22, 1998.

On March 25, 1998, 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-98-4) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² 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 has filed with the Commission a proposed rule change consisting of amendments to Rule G-32, on disclosures in connection with new issues. The proposed rule change will provide an alternate method of compliance by brokers, dealers and municipal securities dealers with their obligation to deliver official statements in final form to customers by settlement for certain new issues of variable rate demand obligations. Below is the text of the proposed rule change. Additions are italicized; deletions are in brackets.

Rule G-32. Disclosures in Connection With New Issues

(a) Disclosure Requirements. No broker, dealer or municipal securities dealer shall sell, whether as principal or agent, any new issue municipal securities to a customer unless such broker, dealer or municipal securities dealer delivers to the customer no later than the settlement of the transaction:

(i) a copy of the official statement in final form prepared by or on behalf of the issuer or, if an [a final] official statement *in final form* is not being prepared by or on behalf of the issuer, a written notice to that effect *together with a copy of an official statement in preliminary form, if any; provided, however, that if an official statement in final form is being prepared for new issue municipal securities issued in a primary offering that qualifies for the exemption set forth in paragraph (iii) of section (d)(1) of Securities Exchange Act Rule 15c2-12, a broker, dealer or municipal securities dealer may sell such new issue municipal securities to a customer if such broker, dealer or municipal securities dealer:*

(A) delivers to the customer no later than the settlement of the transaction a copy of an official statement in preliminary form, if any, and written notice that the official statement in final form will be sent to the customer within one business day following receipt thereof by the broker, dealer or municipal securities dealer, and

(B) sends to the customer a copy of the official statement in final form, by first class mail or other equally prompt means, no later than the business day following receipt thereof by the broker, dealer or municipal securities dealer; and

(ii) No change.

[In the event an official statement in final form will not be prepared by or on behalf of the issuer, an official statement in preliminary form, if any, shall be sent

to the customer with a notice that no final official statement is being prepared.]

Every broker, dealer or municipal securities dealer shall promptly furnish the documents and information referred to in this section (a) to any broker, dealer or municipal securities dealer to which it sells new issue municipal securities, upon the request of such broker, dealer or municipal securities dealer.

(b) No change.

(c) Definitions [of New Issue Municipal Securities and Official Statement].

For purposes of this rule, the following terms have the following meanings:

(i)-(iii) No change.

(iv) The term "*primary offering*" shall mean an offering defined in Securities Exchange Act Rule 15c2-12(f)(7).

* * * * *

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 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 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 Board is proposing an amendment to Rule G-32, on disclosures in connection with new issues, that would permit brokers, dealers and municipal securities dealers ("dealers"), selling variable rate demand obligations to customers during the underwriting period, to deliver a preliminary official statement by no later than settlement and to send the official statement in final form within one business day of receipt from the issuer, provided these variable rate demand obligations qualify for the exemption provided under subparagraph (d)(1)(iii) of Rule 15c2-12 under the Act ("Rule 15c2-12").

Background. Rule G-32 provides that no dealer shall sell any new issue municipal securities to a customer unless that dealer delivers to the

¹⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.