

19(b)(3)(A)(ii) of the Act,<sup>9</sup> and paragraph (f)(2) of Rule 19b-4 thereunder<sup>10</sup> because it establishes or changes a due, fee, or other charge among its members. At any time within 60 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. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-ISE-2006-29 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-ISE-2006-29. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with 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 such filing also will be available for inspection and copying at the ISE. 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-ISE-2006-29 and should be submitted on or before July 6, 2006.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.<sup>11</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53947; File No. SR-MSRB-2006-04]

#### **Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendment to Rule A-11, on Indemnification of Members and Employees**

June 6, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 25, 2006, the Municipal Securities Rulemaking Board ("MSRB" or "Board"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the MSRB. The MSRB has filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 Commission a proposed rule change consisting of an amendment to Rule A-11, on indemnification of members and employees, to delete the entire rule language. The text of the proposed rule change is available on the MSRB's Web site (<http://www.msrb.org>), at the MSRB's principal office, and at the Commission's Public Reference Room.

<sup>11</sup> 17 CFR 200.30(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

#### **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 place specified in Item IV below. The MSRB 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 A-11, on Indemnification of members and employees, states that each member and employee of the MSRB shall be indemnified and held harmless against all liabilities and related expenses incurred in connection with the performance of his or her official duties, provided that such member or employee has acted, or omitted to act, in good faith and within the scope of his or her authority. The MSRB recently approved expanding the indemnification provisions for Board members and employees. Because the language of the expanded provisions was broader than the indemnification provided under Virginia law, where the MSRB is incorporated as a nonstock corporation, the expanded provisions needed to be included in the MSRB's Articles of Incorporation in order to be effective. The SEC recently approved a proposed rule change consisting of the MSRB's Restated Articles of Incorporation and By-Laws, which included the expanded indemnification provisions in the Restated Articles of Incorporation.<sup>5</sup> Thus, the proposed rule change removes the indemnification provisions from Rule A-11 (and By-Law Article 11).<sup>6</sup>

##### **2. Statutory Basis**

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(I) of the Act,<sup>7</sup> which

<sup>5</sup> See Securities Exchange Act Release No. 53804 (May 15, 2006), 71 FR 29194 (May 19, 2006).

<sup>6</sup> The MSRB stated in its filing of the Restated Articles of Incorporation and By-Laws that, once the MSRB obtains approval for the Restated Articles of Incorporation by the Commonwealth of Virginia, the MSRB would file with the SEC to delete Rule A-11 (and B-Law Article 11) for immediate effectiveness. See File No. SR-MSRB-2006-02, Securities Exchange Act Release No. 53616 (April 7, 2006), 71 FR 19571 (April 14, 2006).

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

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

authorizes the MSRB to adopt rules that provide for the operation and administration of the MSRB. The MSRB believes that the proposed rule change is consistent with this provision because it is concerned solely with the operation and administration of the MSRB.

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

The MSRB 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 only applies to the operation and administration of the MSRB.

#### *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 proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(3) thereunder<sup>9</sup> because it is concerned solely with the administration of the MSRB. At any time within 60 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.<sup>10</sup>

### **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. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2006-04 on the subject line:

#### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission,

Station Place, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-MSRB-2006-04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. 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-2006-04 and should be submitted on or before July 6, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-53961; File No. SR-MSRB-2005-11]**

### **Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Definition of Solicitation Under MSRB Rules G-37 and G-38**

June 8, 2006.

On June 10, 2005, the Municipal Securities Rulemaking Board ("MSRB" or "Board"), filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act

of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change consisting of an interpretive notice relating to the definition of solicitation for purposes of MSRB Rules G-37 and G-38. On December 7, 2005, the MSRB filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, incorporating Amendment No. 1 (the "original proposed rule change"), was published for comment in the **Federal Register** on December 20, 2005.<sup>4</sup> The Commission received one comment letter regarding the proposal.<sup>5</sup> On March 17, 2006, the MSRB filed Amendment No. 2 to the proposed rule change in response to comments on the original proposed rule change.<sup>6</sup> The proposed rule change, incorporating Amendment No. 2, was published for comment in the **Federal Register** on May 5, 2006.<sup>7</sup> The Commission received no comment letters on the proposed rule change as amended by Amendment No. 2. This order approves the proposed rule change as amended by Amendment Nos. 1 and 2.

The proposed rule change makes clear that the central element in determining whether a communication is a solicitation is whether the communication occurs with the purpose of obtaining or retaining municipal securities business. In addition, the proposed rule change consolidates the MSRB's guidance on the definition of solicitation for purposes of Rules G-37 and G-38.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 clarifies that the central element in determining whether a communication is a solicitation is whether the communication occurs with the purpose of obtaining or retaining municipal securities business, and makes certain other changes.

<sup>4</sup> See Securities Exchange Act Release No. 52948 (December 13, 2005), 70 FR 75514 (December 20, 2005) (the "Commission's Original Notice").

<sup>5</sup> See letter to Jonathan G. Katz, Secretary, Commission, from Leslie M. Norwood, Vice President and Assistant General Counsel, The Bond Market Association, dated January 10, 2006.

<sup>6</sup> Amendment No. 2 deletes the footnote in the original proposed rule change referencing guidance on the meaning of solicitation under Rule G-37 previously provided in certain Question and Answer interpretations (the "Rule G-37 solicitation Qs&As") and instead inserts the substantive language of such Qs&As into the text of the solicitation guidance provided in proposed rule change. The MSRB filed a companion proposed rule change (see File No. SR-MSRB-2006-01) to withdraw the Rule G-37 solicitation Qs&As and the former Rule G-38 Question and Answer interpretations relating to consultants.

<sup>7</sup> See Securities Exchange Act Release No. 53747 (May 1, 2006), 71 FR 26575 (May 5, 2006).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(3).

<sup>10</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(c).

<sup>11</sup> 17 CFR 200.30-(a)(12).