III. 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 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–98–09 and should be submitted by June 18, 1998.

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

Within 35 days of the publication of the 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 such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

V. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that part of the Exchange's proposal modifying the price improvement algorithm amending SuperMAX is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[9] which requires that the rules of an exchange be designed, among other things, 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 securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[10] The Commission believes, in light of the industry's move to trading in finer increments last year, that CHX's modification to its price improvement algorithms will provide investors a meaningful opportunity for price improvement when securities trading in 1/16ths have a spread of 1/8 point or greater. In addition, the Commission finds that the new SuperMAX and Enhanced SuperMAX rules provide greater price improvement opportunities for investors because the criteria for when such opportunities are available has been simplified. The Commission believes that because the opportunity for price improvement is automatic and without any specialist intervention, SuperMAX[11] and Enhanced SuperMAX facilitate order interaction and enhance the execution of customer orders consistent with Section 6(b)(5) of the Act. The Commission notes that while SuperMAX and Enhanced SuperMAX are voluntary programs that specialists choose to participate in for Dual Trading Systems issues, providing a greater number of investors an opportunity to achieve price improvement is compatible with the view expressed in the Order Handling release.[12]

The Commission therefore finds good cause for granting partial approval to the proposed rule change (SR–CHX–98–09) with respect to the adoption of a new SuperMAX prior to the thirtieth day after date of publication of notice of filing thereof in the **Federal Register.** The Commission is granting this partial approval on a temporary basis, until August 20, 1998.

The Commission is therefore granting accelerated approval for the new SuperMAX algorithm on a temporary basis, until August 20, 1998.[13] The Commission is deferring action on the new Enhanced SuperMAX to provide interested parties an opportunity to comment on the proposal. In addition, the Commission and the CHX will have the opportunity to review the implementation of the new SuperMAX algorithm.

The changes to the SuperMAX algorithm will be phased in during the next month. Until the Enhanced SuperMAX proposal is adopted, the existing Enhanced SuperMAX algorithm will continue to apply. In those instances where a security is both on the new SuperMAX algorithm and the old Enhanced SuperMAX algorithm, the size of the order will determine which algorithm is used. The introductory paragraph of existing Rule 37(e) that describes the interaction between SuperMAX and Enhanced SuperMAX for a security on both systems shall be deemed to be amended such that if an order is for between 100 shares and 499 shares, the new SuperMAX algorithm shall apply, and if the order is for 500 shares or more (up to the 2099 shares or such greater amount specified by the specialist and approved by the Exchange), the old Enhanced SuperMAX algorithm shall apply.

It is Therefore *Ordered,* pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–CHX–98–09) be, and hereby is, approved in part and on a temporary basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14113 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–M

[9] 15 U.S.C. 78f(b)(5).

[10] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] The CHX presently has the ability to install the new SuperMAX algorithm.

[12] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

[13] The proposal to permanently adopt the new SuperMAX will be considered with the proposal to approve the adoption of the new Enhanced SuperMAX.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(1)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40014; File No. SR–MSRB–98–1]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Relating to Interpretation of Rule G–38 on Consultants Concerning Bank Affiliates and the Definition of Payment

May 20, 1998.

I. Introduction

On January 12, 1998,[1] the Municipal Securities Rulemaking Board (''Board''

[1] On November 13, 1997, the Board filed the same proposal as a Q&A under Section 19(b)(3)(A) of the Act, which rendered the proposal effective upon receipt of the filing by the Commission. *See* Securities Exchange Act Rel. No. 39391 (December

or ''MSRB'') submitted to the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to provide an interpretation of Rule G–38 on consultants relating to bank affiliates and the definition of payment. Notice of the proposed rule change appeared in the **Federal Register** on January 20, 1998.[4]

The Commission received five comment letters specifically addressing the proposed rule change.[5] The Commission, however, received ten comment letters in total which addressed either the proposed rule change or the proposed rule change that was withdrawn.[6] All commenters opposed this interpretation, citing discriminatory effect against banks and bank-affiliated municipal securities dealers and focusing on the MSRB's jurisdiction concerning the banking industry. On March 3, 1998, the Board submitted Amendment No. 1 to the proposed rule change.[7] This order approves the proposed rule change. Also, Amendment No. 1 is approved on an accelerated basis.

II. Description of the Proposal

Recently, the Board has received inquiries from market participants concerning the definition of payment, as used in Rule G–38, and whether bank affiliates and their employees may, under certain circumstances, be deemed consultants for purposes of the rule.[8] Specifically, a bank and its employees communicate with an issuer on behalf of an affiliated dealer to obtain municipal securities business. The affiliated dealer issues credits to identify, for internal purposes, the source of business referrals; however, these credits do not involve any direct or indirect cash payments from the dealer to the bank or its employees. The issue is whether the credits received by a bank and its employees from an affiliated dealer qualify as ''payment'' under Rule G–38, thus requiring the dealer to designate the bank or its employees as consultants and comply with the requirements of Rule G–38.

Rule G–38 defines a consultant as any person used by a dealer to obtain or retain municipal securities business through direct or indirect communication by such person with an issuer on behalf of the dealer where the communication is undertaken by the person in exchange for, or with the understanding of receiving, payment from the dealer or any other person.[9] The term payment, as used in Rule G–38, means any gift, subscription, loan, advance, or deposit of money or anything of value.[10] Under the Board's interpretation of payment in this proposed rule change, the absence of an immediate transfer of funds or anything of value, such as credits, to an affiliate or individual employed by the affiliate would not exclude the credits from the definition of payment if such credits eventually (*e.g.*, at the end of the fiscal year) result in compensation to the affiliate or individual employed by the affiliate for referring municipal securities business to the dealer. In this regard, the compensation may be in the form of cash (*e.g.*, a bonus) or non-cash. In either case, if the dealer or any other person[11] eventually gives anything of value (*i.e.*, makes a ''payment'') to the affiliate or individual, based even in part on the referral, then the affiliate or individual is a consultant for purposes of Rule G–38 and the dealer must comply with the various requirements of the rule.

III. Summary of Comments

All of the comment letters addressing the proposed rule change opposed the proposed rule change, raising several issues.[12] At the Commission's request, the Board submitted a response which addresses these issues.[13]

Most commenters contend that the Board's interpretation is an impermissible extension of rule G–38 to banks' soft dollar compensation programs.[14] These commenters are concerned that this interpretation would infringe upon the most effective method used by financial institutions to cross-sell their various products and services to a wide range of customers.[15] According to the MSRB, this interpretation merely clarifies what is already required and is reasonably and fairly implied by the rule; it does not reflect a change in MSRB policy.[16] The rule requires disclosure of the ''compensation arrangement'' of any consultant used by a dealer to obtain or

---

3, 1997), 62 FR 65114 (December 10, 1997) (SR–MSRB–97–8). The Commission received four comment letters on the filing. *See infra* note 6. To provide additional time to fully air the concerns raised by the commenters, the Board agreed to withdraw this filing and resubmit it, pursuant to Section 19(b)(2). *See* letter from Diane G. Klinke, General Counsel, Municipal Securities Rulemaking Board, to Katherine A. England, Assistant Director, Division of Market Regulation, dated January 9, 1998.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Rel. No. 39541 (January 12, 1998), 63 FR 3010.

[5] *See* letter from Sarah A. Miller, Senior Government Relations Counsel, Trust and Securities, American Bankers Association, to Jonathan G. Katz, Secretary, SEC, dated February 10, 1998 (''ABA Letter No. 2''); letter from Mae A. Cavoli, Senior Vice President, Senior Managing Counsel, KeyCorp Management Company, to Jonathan G. Katz, Secretary, SEC, dated February 10, 1998 (''KeyCorp Letter''); letter from William E. Marquis, Associate Counsel, Mellon Bank Corporation, to Jonathan G. Katz, Secretary, SEC, dated February 9, 1998 (''Mellon Bank Letter No. 2''); letter from Robert J. Nagy, Senior Counsel, NationsBank, to Jonathan G. Katz, Secretary, SEC, dated February 10, 1998 (''NationsBank Letter No. 2''); letter from Victor M. DiBattista, Chief Regional Counsel, PNC Bank, N.A., dated February 10, 1998 (''PNC Letter No. 2'').

[6] These letters were resubmitted; they were originally submitted to address SR–MSRB–97–8. Letter from Sarah A. Miller, Senior Government Relations Counsel, Trust and Securities, American Bankers Association, to Jonathan G. Katz, Secretary, SEC, dated December 30, 1997 (''ABA Letter No. 1''); letter from Michael E. Bleier, General Counsel, Mellon Bank Corporation, to Jonathan G. Katz, Secretary, SEC, dated January 12, 1998 (''Mellon Bank Letter No. 1''); letter from Robert J. Nagy, Senior Counsel, NationsBank, to Jonathan G. Katz, Secretary, SEC, dated December 31, 1997 (''NationsBank Letter No. 1''); letter from Victor M. DiBattista, Chief Regional Counsel, PNC Bank, N.A., to Jonathan G. Katz, Secretary, SEC, dated January 2, 1998 (''PNC Letter No. 1'').

This letter, which was also initially submitted to address SR–MSRB–97–8, was not resubmitted. Letter from Alan R. Leach, Senior Vice President and Manager, Dealer Bank Department, Deposit Guaranty National Bank, to Jonathan G. Katz, Secretary, SEC, dated January 5, 1998 (''Deposit Guaranty Letter'').

[7] *See infra* note 13. The Board's response to the comment letters also included an amendment to the interpretation. The amended language clarifies that the consultant may be either the affiliate itself or an individual employed by the affiliate.

[8] To assist brokers, dealers, and municipal securities dealers in understanding and complying with its rules, the Board publishes notices of interpretation, in question-and-answer format, when warranted. Two sets of Q&A's have previously been published providing the Board's interpretation of the application of Rule G–38. *See* Securities Exchange Act Release No. 36950 (March 11, 1996); 61 FR 10828 (March 15, 1996) and Securities Exchange Act Release No. 37997 (Nov. 29, 1996); 61 FR 64781 (Dec. 6, 1996).

See also MSRB Reports Vol. 16, No. 2 (June 1996) at 3–5; and Vol. 17, No. 1 (Jan. 1997) at 15.

[9] Municipal finance professionals and any person whose sole basis of compensation is the actual provision of legal, accounting or engineering advice, services or assistance are exempted from the definition of consultant.

[10] *MSRB Manual*, General Rules, Rule G–38(a)(v) (CCH) ¶ 3686.

[11] The Act defines the term ''person'' as a ''natural person, company, government, or political subdivision, agency, or instrumentality of a government.'' Board Rule D–1 provides that unless the context otherwise specifically requires, the terms used in Board rules shall have the same meanings as set forth in the Act.

[12] *See supra* notes 5 and 6.

[13] *See* letter from Diane G. Klinke, General Counsel, MSRB, to Katherine A. England, Esq., Assistant Director, Division of Market Regulation, SEC, dated March 2, 1998 (''MSRB Letter'' and ''Amendment No. 1'').

[14] ABA Letter No. 2, p. 1, Deposit Guaranty Letter, p. 2, Nationsbank Letter No. 2, p. 2, Mellon Bank Letter, p. 2, and PNC Letter No. 2, p. 2.

[15] *Id.*

[16] MSRB Letter, p. 2.

retain municipal securities business.[17] The Board is aware that consultants are sometimes paid in non-cash compensation, and thus specifically chose the term ''compensation arrangement'' because it did not want to limit the disclosure to cash payments.[18] Thus, the interpretation is not an unwarranted extension to soft dollar compensation arrangements, because the rule already applied to such arrangements.[19] The Commission agrees with the MSRB'S explanation that the dealer's disclosure requirements are specifically delineated in the rule, and that the interpretation is consonant with these requirements.

The commenters also suggest that the interpretation is unworkable when applied to non-traditional compensation programs, given the subjective nature of the calculations, and would significantly discourage traditional banking referral programs.[20] According to these commenters, most compensation programs are based on factors other than the initial credit allocation. Thus, translating credits allocated by the affiliated dealer into a specific dollar amount of the employees' compensation would be difficult because the reports are due quarterly; referral compensation, however, is usually awarded in the form of a year end bonus.[21] The MSRB notes that Rule G–38 requires, among other things, that each broker, dealer, and municipal securities dealer disclose to the Board certain information relating to each consultant used by the dealer during the reporting period to obtain or retain municipal securities business.[22] This definition also includes bank dealers.[23] Furthermore, the Board notes that based on a review of reports submitted, several bank dealers and bank-affiliated dealers have been disclosing the information required by Rule G–38.[24] These dealers have listed as consultants their bank affiliates and bank employees, and have disclosed the compensation arrangements for such consultants (either in dollar or as a formula), as well as dollar amounts paid to consultants.[25]

The commenters contend that rule G–38 should not apply to banks' referral programs because the intent of the rule is to capture traditional cash payments made by municipal dealers to independent consultants (*i.e.*, professionals in the municipal securities arena) whose primary activity is to obtain or retain municipal securities business for the dealer.[26] Moreover, they contend that, as the employee receives no ''payment'' or ''anything of value'' from the dealer, but rather from the financial institution itself, the employee cannot be deemed a consultant for purposes of the rule.[27] The MSRB states that these assertions are erroneous. Under Rule G–38, a consultant is defined as any person used by the dealer to obtain or retain municipal securities business through direct or indirect communication with an issuer on the dealer's behalf where the communication is undertaken by such person in exchange for, or with the understanding of receiving, payment from the dealer or any other person.[28] (emphasis added) The Board drafted the rule language in this manner to ensure that dealers could not circumvent the rule's disclosure requirements by claiming that another party compensated a consultant that referred municipal securities business to the dealer.[29] Furthermore, such compensation is not limited to cash payments; the term ''payment'' is defined as any gift, subscription, loan, advance, or deposit of money or anything of value.[30]

The Commission agrees with the MSRB's assessment. While these ''credits'' may not be initially transmitted in monetary form, they are a factor in the calculations made to determine eventual monetary compensation, which is something of value. Moreover, a previous interpretation published by the MSRB directly addresses this issue.[31] The MSRB has addressed Q&A No. 7, but Q&A No. 6 is also on point. If an employee of an affiliated company of a bank introduces one of its customers (*i.e.* a municipal issuer) to the bank's dealer department for purposes of engaging in municipal securities business, and that dealer pays the affiliated company for this activity, then that employee is considered a ''finder.'' Any person used by a dealer as a ''finder'' for municipal securities business would be considered a consultant under Rule G–38.

Several commenters stated that the MSRB's proposal unfairly discriminates against bank-affiliated dealers, because it does not apply equally to incentive programs established and operated by financial service firms not affiliated with a bank.[32] These commenters also contend that the MSRB's interpretation is an impermissible extension of its authority into an area exclusively reserved for bank regulators.[33] Moreover, because the MSRB lacks jurisdiction over bank's compensation programs, banks would have to consent to their municipal securities dealer affiliates filing proprietary information with the MSRB, an unlikely occurrence, given the public availability of this information once submitted.[34]

In its response, the MSRB notes that bank dealers, like securities firms, are subject to federal securities laws.[35] Further, all Board rules apply equally to bank dealers and securities firms. Prior Rule G–38 interpretations clearly state that the rule applies to both dealer affiliates and bank affiliates.[36] If a securities firm has an affiliate that refers municipal securities business to the dealer in exchange for ''credits,'' then the affiliate would be a consultant and the dealer must make the required disclosures under Rule G–38, including the consultant's compensation arrangement, even if the payment would be made by ''any other person'' and not by the dealer.[37] The Board disagrees with the argument that the proposal unfairly discriminates against bank-affiliated dealers.[38] In fact, if bank dealers were allowed an exemption from Rule G–38 for referrals by bank affiliates and their employees, the rule would unfairly discriminate against non-bank affiliated dealers.[39] The Commission agrees that the rule and its disclosure requirements apply equally to both dealer affiliates and bank

---

[17] MSRB Manual, General Rules, Rule G–38(c) (CCH) ¶3686.

[18] MSRB Letter, p. 2.

[19] *Id.*

[20] ABA Letter pp. 2–3, Deposit Guaranty Letter, p. 2, Nationsbank Letter No. 2, p. 2, Mellon Bank Letter No. 2, pp. 3–4 and PNC Letter No. 2, p. 1.

[21] *Id.*

[22] MSRB Letter, p. 2.

[23] *Id. See also* 15 U.S.C. 78c(a)(30) (defining the term ''municipal securities dealer'' pursuant to the Act).

[24] MSRB Letter, p. 3.

[25] *See, e.g.*, reports submitted by Sun Trust Bank, Atlanta (3Q 1997); SunTrust Capital Markets, Inc. (3Q 1997); and Norwest Investment Services, Inc. (2Q and 3Q '997) and available for public inspection at the Board's Public Access Facility in Alexandria, Virginia and on the Board's web site at www,msrb.org.

[26] ABA Letter No. 2, pp. 3–5, KeyCorp Letter, Deposit Guaranty Letter, p. 1, NationsBank Letter No. 2, pp. 1–2, Mellon Bank Letter No. 2, p. 1, and PNC Letter No. 2, pp. 1–2.

[27] *Id.*

[28] MSRB Letter, p. 3. *See supra* note 11 for the definition of the term ''person.''

[29] MSRB Letter, p. 3.

[30] Rule G–38(a)(v) states that the term ''payment'' has the same meaning as in Rule G–37(g)(viii).

[31] *See* Securities Exchange Act Release No. 36950 (March 11, 1996), 61 FR 10828 (March 15, 1996) (Q&A No.'s 6 and 7).

[32] ABA Letter No. 2, pp. 3–4, Deposit Guaranty Letter, p. 2, Mellon Bank Letter No. 2, p. 2, and PNC Letter, pp. 1–2.

[33] *Id.*

[34] *Id.*

[35] *See supra* note 23.

[36] *See supra* note 31.

[37] MSRB Letter, p. 4.

[38] *Id.*

[39] *Id.*

affiliates. As the MSRB explains, this proposal would also apply if the circumstance involved a securities firms and its affiliate. The Commission, therefore, supports the MSRB's assessment, as the interpretation ensures an evenhanded application of the rule.

In its letters, NationsBank suggests that the MSRB modify the proposal to clarify that a bank and its employees would only be consultants under circumstances where the bank receives credits for the referral of municipal securities business which are then allocated to employees based on a formulaic fashion.[40] The MSRB disagrees with this interpretation and has, therefore, declined to adopt it.[41] Alternatively, PNC Bank suggests that Rule G–38 be clarified to designate only the financial institution as the consultant in the case of soft dollar compensation programs.[42] In response, the MSRB has amended Rule G–38[43] to say that the consultant may be either the affiliate or an individual employee of the affiliate.[44] The dealer must make this determination and ensure proper compliance with the rule, including the contractual arrangements and requisite disclosures.[45] Thus, the Board has amended the language of the interpretation to clarify that the consultant may be either the affiliate itself or an individual employed by the affiliate.[46]

According to the MSRB, Amendment No. 1 clarifies who is deemed a consultant and the process of designation. The Commission agrees that the onus should be on the dealer to designate the consultant, whether affiliate or employee, and to ensure compliance with the rule. The Commission notes, however, that as amended, the dealer may designate either the bank affiliate or the employee as the consultant. As noted in their comments, most banks are reluctant to disclose what they deem to be proprietary information to the MSRB, and hence, the public.[47] The Commission notes that both the employee and the affiliate benefit from referrals facilitated by these soft dollar compensation programs.

[40] NationsBank Letter No. 1 and NationsBank Letter No. 2, p. 2 and its attached modified interpretation.

[41] MSRB Letter, p. 4.

[42] PNC Letter No. 2, p. 3.

[43] *See supra* notes 8 and 13.

[44] MSRB Letter, p. 4 and Amendment No. 1.

[45] *Id.*

[46] *Id.*

[47] However, several banks are currently complying with Rule G–38. *See supra* note 25.

IV. Discussion

The Commission believes the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder.[48] Specifically, the Commission believes that approval of the proposed rule change is consistent with Section 15B(b)(2)(C)[49] of the Act. This interpretation clarifies the rule's applicability to all broker-dealers engaged in the municipal securities business. The interpretation is necessary to ensure that all persons hired by dealers to solicit municipal securities business will be covered by the rule. This interpretation will require that all consultant activity stemming from attendant soft dollar compensation arrangements, whether those of financial institutions or securities firms, be disclosed. The clarification of Rule G–38 regarding referrals by bank affiliates and their employees will improve the effectiveness of the rule by making explicit that it applies to all consultants and their political contribution activity.

The Commission finds good cause for approving proposed Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Amendment No. 1 clarifies who is deemed a consultant and the process of designation. The Commission agrees that the onus should be on the dealer to designate the consultant, whether bank affiliate or employee thereof, and to ensure compliance with the rule, including contractual arrangements and required disclosures. The dealer's payment of credits to the consultant creates a strong incentive for the consultant to solicit an issuer and refer their business to the dealer. The dealer, therefore, should have the responsibility of documenting its relationship with the consultant and any compensation arrangements that result from or facilitate this relationship. For these reasons, the Commission finds good cause for accelerating approval of the proposed rule change, as amended.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether the amendment 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 Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. Any submissions should refer to File No. SR–MSRB–98–1 and should be submitted by June 18, 1998.

V. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the provisions of the Act, and in particular with Section 15B(b)(2)(C).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[50] that the proposed rule change (SR–MSRB–98–1), be hereby approved including Amendment No. 1, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[51]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–14119 Filed 5–27–98; 8:45 am]

BILLING CODE 8010–01–M

[48] The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. The proposed rule change will add to the information available in the municipal securities market, and thus, competition, in the municipal securities markets because all municipal securities dealers will be required to disclose affiliations and compensation arrangements concerning their relationships with consultants. Efficiency and capital formation will be tangentially improved as enhanced disclosure will likely conserve both capital and personnel resources. 15 U.S.C. 78c(f).

[49] Section 15B(b)(2)(C) requires the Commission to determine that the Board's rules are 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.

[50] 15 U.S.C. 78s(b)(2).

[51] 17 CFR 200.30–3(a)(12).