

customers that customer orders will be filled within 10 seconds or less. These customers represent a significant portion of the orders that are routed to the CHX, and their respective business models dictate such execution time guarantees.

Under the existing Rule, an order for a Dual Trading System issue generally is not eligible for immediate automatic execution given the requirement that 15 seconds elapse before execution, in order to permit exposure of the order to the market. Under the proposed rule, specialists trading Dual Trading System issues would be permitted to reduce this 15-second period to zero seconds (*i.e.*, permit an immediate execution), so long as there was no person physically present at the specialist's post expressing market interest.

It is anticipated that the proposed rule change would satisfy the concerns of order-sending firms that require immediate executions, while still preserving the fundamental protections of an auction market environment.

*Refinement of Automatic Execution Sequences and Price Improvement Algorithms for Partial Orders.* Following implementation of a proposed rule change previously approved by the Commission relating to automatic execution of partial orders and price improvement of portions of orders,<sup>5</sup> Exchange staff has worked extensively with specialist firm management and order-sending firm representatives to further refine applicable automatic execution sequences and price improvement algorithms.

Simply stated, the proposed refinements would continue to provide for automatic execution of partial orders if an order-sending firm elects partial executions, with potentially varying price improvement consequences based on the size of the order. An order-sending firm that declines partial executions would remain eligible for price improvement if its order is automatically executed, and the specialist would be precluded from providing multiple price improvement treatments for portions of the order.

Finally, the proposed rule change corrects previous typographical errors and notations, and deletes rule provisions that have been rendered obsolete by subsequent rule changes and interpretations.

## 2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the

requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and with the requirements of section 6(b).<sup>6</sup> In particular, the Exchange believes the proposed rule is consistent with section 6(b)(5) of the Act<sup>7</sup> in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

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

The Exchange 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 date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the CHX 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.

The Commission is considering granting accelerated approval of the proposed rule change at the end of a 15-day comment period.

## 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, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-2001-32 and should be submitted by August 30, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-20683 Filed 8-14-02; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46324; File No. SR-MSRB-2002-08]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Electronic Mail Contacts, Operative on September 8, 2002

August 8, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 7, 2002, 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-2002-08). 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 relating to a technical amendment to its Rule G-40 and Form G-40, on electronic mail contacts. The proposed rule change will become operative on September 8, 2002. Below is the text of the proposed rule

<sup>5</sup> See Securities Exchange Act Release No. 44778 (September 7, 2001), 66 FR 48075 (September 17, 2001)(SR-CHX-2001-11).

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

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

change. Proposed new language is italicized; proposed deletions are in brackets.

Rule G-40. Electronic Mail Contacts.

(a)(i) Each broker, dealer or municipal securities dealer shall appoint a[n] *Primary* Electronic Mail Contact to serve as the official contact person for purposes of electronic mail communication between the broker, dealer or municipal securities dealer and the MSRB. Each *Primary* Electronic Mail Contact shall be a registered municipal securities principal of the broker, dealer or municipal securities dealer.

(ii) *Each broker, dealer or municipal securities dealer may appoint an Optional Electronic Mail Contact for purposes of electronic mail communication between the broker,*

*dealer or municipal securities dealer and the MSRB.*

(b)(i) Upon completion of its Rule A-12 submissions and assignment of an MSRB Registration Number, each broker, dealer or municipal securities dealer shall submit to the MSRB by mail a completed Form G-40 setting forth, in the prescribed format, the following information:

(A) The name of the broker, dealer or municipal securities dealer, and the date.

(B) The MSRB Registration Number of the broker, dealer or municipal securities dealer.

(C) The name of the *Primary* Electronic Mail Contact, and his/her electronic mail address, telephone number and Individual Central Registration Depository (CRD) Number.

(D) *The name of the Optional Electronic Mail Contact, if any, and his/her electronic mail address and telephone number.*

(E) The name, title, signature and telephone number of the person who prepared the form.

(ii) A broker, dealer or municipal securities dealer may change the name of its Electronic Mail Contacts or other information previously provided by electronically submitting to the MSRB an amended Form G-40.

(c) Each broker, dealer or municipal securities dealer shall update information on its Electronic Mail Contacts periodically as requested and prescribed by the MSRB and shall submit such information electronically to the MSRB.

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Form G-40  
ELECTRONIC MAIL CONTACTS

MSRB Registration Number \_\_\_\_\_

Name of Dealer: \_\_\_\_\_

Date: \_\_\_\_\_

The dealer named above designates (name) \_\_\_\_\_  
as its Primary Electronic Mail Contact for purposes of electronic communications with  
the MSRB. This Primary Contact person is a registered municipal securities principal  
with the dealer.

E-Mail Address of Primary Contact: \_\_\_\_\_

Phone Number of Primary Contact: \_\_\_\_\_

Individual CRD Number of Primary Contact (NASD member firms only): \_\_\_\_\_

(Optional): The dealer named above designates (name) \_\_\_\_\_  
as its [second] Optional Electronic Mail Contact. [This contact person is a registered  
municipal securities principal with the dealer.]

E-mail Address of [Second Designee] Optional Contact: \_\_\_\_\_

Phone Number of [Second Designee] Optional Contact: \_\_\_\_\_

[Individual CRD Number of Second Designee (NASD member firms only): \_\_\_\_\_]

Name and title of person preparing this Form: \_\_\_\_\_

Signature: \_\_\_\_\_

Telephone number: \_\_\_\_\_

**NEW FORMS MUST BE MAILED TO:**

MSRB  
1900 Duke Street, Suite 600  
Alexandria, VA 22314

**[TO SUBMIT AMENDED FORMS &] UPDATES TO THE FORM SHALL BE  
SUBMITTED ELECTRONICALLY VIA THE G-40 LOG-IN ON THE MSRB'S  
WEB SITE ([www.msrb.org](http://www.msrb.org)) [TO MSRB, PLEASE CALL (703) 797-6600].**

\* \* \* \* \*

## II. Self-Regulatory Organization's Statement of the Terms of Substance of 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 texts of these statements may be examined at the places 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

(a) On June 6, 2002, the Commission approved new MSRB Rule G-40, on electronic mail ("e-mail") contacts, and new Form G-40, as well as related amendments to Rule G-8, on books and records, and Rule G-9, on preservation of records.<sup>3</sup> The new Rule requires each broker, dealer and municipal securities dealer (collectively referred to as "dealers") to use new Form G-40 to appoint an e-mail contact to serve as the official contact person for purposes of electronic communication between the dealer and the MSRB. This E-mail contact must be a registered municipal securities principal with the dealer. Dealers have the option of appointing a second contact who, under the rule as originally adopted, also must be a municipal securities principal with the dealer.

The MSRB recently sent letters to its current list of dealers requesting that they complete new Form G-40. In response to this mailing, the MSRB received numerous phone calls from dealers that have only one municipal securities principal and wish to appoint a second (optional) e-mail contact who is not a principal. Accordingly, the MSRB has determined to amend Rule G-40 and Form G-40 to accommodate these dealers by eliminating the requirement that the second contact must be a municipal securities principal. The amendment also distinguishes between the two e-mail contacts by referring to the official contact person as the "Primary Contact" and the secondary person as the "Optional Contact."<sup>4</sup>

(b) The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(I) of the Act, which authorizes the MSRB to adopt rules that provide for the operation and administration of the MSRB. The MSRB also believes that the proposed rule change will facilitate effective electronic communications between dealers and 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 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

Written comments were neither solicited nor received.

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

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the SEC for its review at least five business days prior to the filing date; and (iv) does not become operative until September 8, 2002, which is more than thirty (30) days after the date of its filing, the MSRB has submitted this proposed rule change to become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.<sup>5</sup> In particular, the MSRB believes the proposed rule change qualifies as a "non-controversial filing" in that the proposed rule change

serve as its official contact person for purposes of communicating with the MSRB, and that such person be a registered municipal securities principal of the dealer. Paragraph (b) requires that each dealer, upon completion of its Rule A-12 submissions and assignment of an MSRB Registration Number, submit by mail to the MSRB a completed Form G-40 setting forth the dealer's name, date, MSRB Registration Number, name of its E-mail contact and his/her e-mail address, telephone number and Individual Central Registration Depository (CRD) Number, and the name, title, signature and telephone number of the person who prepared the Form. Paragraph (b) also provides that the dealer may change its E-mail contact or other information previously submitted by amending its Form G-40 electronically. Paragraph (c) requires each dealer to update information on its E-mail contacts as periodically requested and prescribed by the MSRB and to submit such information electronically to the MSRB.

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A); 17 CFR 240.19b-4(f)(6).

does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate this 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, NW., Washington, DC 20549-0609. 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 offices. All submissions should refer to File No. SR-MSRB-2002-08 and should be submitted by September 5, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated Authority.<sup>6</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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<sup>3</sup> Release No. 34-46043 (June 6, 2002) 67 FR 40762. The effective date of the Rule is September 4, 2002. The MSRB requested a 90-day delayed effective date in order to give current dealers the time necessary to comply with the new requirements.

<sup>4</sup> Paragraph (a) of Rule G-40 requires that each dealer appoint an "Electronic Mail Contact" to

<sup>6</sup> 17 CFR 200.30-3(a)(12).