

believes that the change is “unacceptable” and that smaller investors deserve “full reporting and trade information.”⁷

III. Discussion and Commission Findings

Section 19(b) of the Exchange Act⁸ requires the Commission to approve the proposed rule change filed by the MSRB if the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder. The Commission has reviewed carefully the proposed rule change, and the comments received, and finds that the modification to the transaction threshold on the T+1 Daily Report, as described in the proposed rule change, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that govern the MSRB.⁹ The language of section 15B(b)(2)(C) of the Act requires that the MSRB’s rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, 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 in municipal securities, and, in general, to protect investors and the public interest.¹⁰

The Commission supports the ongoing efforts of the MSRB to increase transparency in the municipal securities market and notes the careful and deliberate manner in which it has proceeded to do so over the last nine years.¹¹ This approach has provided an opportunity for the market to adjust incrementally. It has also permitted the Board, the Commission and market participants to observe whether any

market disruption has been caused by the release of an increasing amount of trading data. No significant disruption has been observed. The Commission expects that market participants will adjust to the release of information regarding all daily trades in a similar manner.

The Commission believes that the proposal will provide the benefit of price transparency to the municipal securities market while addressing the TBMA’s concerns regarding potentially negative effects from disclosure of the size of specific institutional trades. The release of such transaction data facilitates the flow of information for use by market professionals and pricing services.¹² In addition, increased transparency leads to greater market efficiency and increased accuracy in pricing municipal securities being traded in the secondary market. The Commission believes that the proposal is an appropriate preparatory step towards the 2004 implementation of real time disclosure in both the municipal and corporate bond markets.¹³

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Exchange Act,¹⁴ that the proposed rule change (File No. SR-MSRB-2003-02) be and hereby is, approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47881; File No. SR-NYSE-2003-12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto and Order Granting Accelerated Approval of Amended Proposal by the New York Stock Exchange, Inc. To Conform the New York Stock Exchange Listed Company Manual to New York Stock Exchange Rules That Allow Authorized State-Registered Investment Advisers To Receive and Vote Proxy Materials on Behalf of Beneficial Owners

May 16, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and rule 19b-4 thereunder,² notice is hereby given that on April 25, 2003, the New York Stock Exchange, Inc. (“NYSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in items I, II, III below, which items have been prepared by the Exchange. On May 7, 2003, the NYSE submitted Amendment No. 1 to the proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. The Commission has also decided to accelerate approval of the proposed rule change, as described in more detail below.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend sections 402.06 (“Exchange Proxy Rules for Member Organizations (General)”) and 402.10 (“Charges by Member Organizations for Distributing Material”) of its Listed Company Manual to conform such sections to NYSE rules that allow authorized state-registered investment advisers to receive and vote proxy materials on behalf of beneficial owners. The text of the proposed amendment is below. Proposed new language is italicized; deleted language is in brackets.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240-19b-4.

³ See letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (“Division”), Commission, dated May 6, 2003 (“Amendment No. 1”). Amendment No. 1 replaces the original filing in its entirety. Telephone conversation between AnnMarie Tierney, Senior Counsel, Office of the General Counsel, NYSE, and Jennifer Lewis, Attorney, Division, Commission, on May 13, 2003.

⁷ *Id.*

⁸ 15 U.S.C. 78s(b).

⁹ Additionally, in approving this rule, the Commission notes that it has considered the proposed rule’s impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁰ 1015 U.S.C. 78o-4(b)(2)(C).

¹¹ The MSRB began to collect information from reports of inter-dealer trades in 1994 and began issuing a summary report of such trades in January of 1995. In March of 1998, reporting of customer trades began, followed by the release of a summary report of combined inter-dealer and customer trades in August 1998. In January 2000, the Board began releasing a report on T+1 of all bonds that traded four or more times daily. In May 2002, the MSRB lowered the threshold from four to three trades on the T+1 Daily Report. In November 2002, the MSRB lowered the trade threshold to two trades per day. See Release No. 34-34955 (November 9, 1994), 59 FR 59810; Release No. 34-45861 (May 1, 2002), 67 FR 30989; Release No. 34-46819 (November 12, 2002), 67 FR 69779.

¹² The T+1 Daily Report has been well received by market professionals and investors seeking information on market price levels and trading activity for municipal securities and has garnered greater and greater use over time.

¹³ The Commission believes that the MSRB’s real time trade reporting initiative should be accorded the highest priority and implemented as soon as possible, but not later than the current mid-2004 deadline.

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).