

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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 places specified in Item IV below. CBOE 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, Proposed Rule Change

#### 1. Purpose

CBSX proposes to modify its transaction fees for 24 securities currently traded on CBSX (the following symbols: BAC, C, DXD, EMC, EWJ, F, FAX, FAZ, GE, INTC, MOT, MSFT, MU, NOK, Q, QID, S, SIRI, SKF, T, TWM, UNG, UWM, XLF). For these securities, assuming their prices do not drop below \$1, the takers of liquidity will receive a \$0.0014 per share rebate, and makers of liquidity will incur a \$0.0018 charge. The new pricing strategy is designed to incent order routing behavior that selects CBSX as the first destination. By offering customers a significant rebate to "remove" liquidity, the Exchange will offer overall economic benefits far above those received at other markets. The changes will take effect on August 16, 2010.

#### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(4)<sup>6</sup> of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members and other persons using its facilities.

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

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and subparagraph (f)(2) of Rule 19b-4<sup>8</sup> thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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-CBOE-2010-075 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-CBOE-2010-075. 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 Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-CBOE-2010-075 and should be submitted on or before September 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. 2010-21342 Filed 8-26-10; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-62755, File No. SR-MSRB-2010-02]

### Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to MSRB Rule G-34, CUSIP Numbers and New Issue Requirements, To Enhance the Interest Rate and Descriptive Information Currently Collected and Made Transparent by the MSRB on Municipal Auction Rate Securities and Variable Rate Demand Obligations

August 20, 2010.

#### I. Introduction

On March 10, 2010, the Municipal Securities Rulemaking Board ("MSRB"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to enhance the interest rate and descriptive information currently collected and made transparent by the MSRB on municipal Auction Rate Securities ("ARS") and Variable Rate Demand Obligations ("VRDOs"). The

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</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.

proposed rule change was published for comment in the **Federal Register** on April 2, 2010.<sup>3</sup> The Commission received six comment letters about the proposed rule change.<sup>4</sup> On July 9, 2010, the MSRB filed with the Commission, pursuant to Section 19(b)(1) of the Exchange Act<sup>5</sup> and Rule 19b-4 thereunder,<sup>6</sup> Amendment No. 1 to the proposed rule change.<sup>7</sup> The Commission received no comment letters in response to Amendment No. 1. This order approves the proposed rule change as modified by Amendment No. 1.

## II. Description of the Proposed Rule Change, as Modified by Amendment No. 1 to the Proposed Rule Change

The proposed rule change would enhance the interest rate and descriptive information currently collected and made transparent by the MSRB on municipal Auction Rate Securities ("ARS") and Variable Rate Demand Obligations ("VRDOs"). The proposed rule change would: (i) Amend MSRB Rules G-8, books and records, and G-34(c), variable rate security market information, to require brokers, dealers and municipal securities dealers (collectively "dealers") to (a) submit to the MSRB documents that define auction procedures and interest rate setting mechanisms for ARS and liquidity facilities for VRDOs; (b) report to the MSRB ARS bidding information; (c) report to the MSRB additional VRDO information; and (d) communicate to an ARS Program Dealer the fact that an order submitted for inclusion in an auction is on behalf of an ARS issuer or conduit borrower (collectively "rule change proposal"); (ii) amend the MSRB Short-term Obligation Rate Transparency ("SHORT") System Facility to collect and disseminate the documents identified in the rule change proposal ("SHORT System Facility amendment proposal"); and (iii) amend the MSRB EMMA Short-term Obligation

Rate Transparency Service to make the documents collected in the SHORT System Facility amendment proposal available on the MSRB's Electronic Municipal Market Access (EMMA) Web site (the "EMMA Short-term Obligation Rate Transparency Service amendment"). A full description of the proposal is contained in the Notice of Amendment No. 1.

The MSRB has requested that the proposed rule change, which may be implemented in phases, be made effective on such date or dates as would be announced by the MSRB in notices published on the MSRB Web site, which dates would be no later than nine months after Commission approval of the proposed rule change and would be announced no later than sixty (60) days prior to the effective dates.

## III. Summary of Comments Received and the MSRB's Response

### General Comments

The Commission received six comment letters<sup>8</sup> relating to the Original Notice.<sup>9</sup> The MSRB addressed the issues raised by the comment letters on the original proposed rule change in the Notice of Amendment No. 1. The Commission received no comment letters in response to the Notice of Amendment No. 1.

While the commenters indicated general support for the MSRB's effort to increase transparency of ARS and VRDO, four commenters on the original proposed rule change expressed concerns about various aspects of the proposal or suggested alternatives.<sup>10</sup> Two other commenters who have invested in ARS described problems they had experienced in that market.<sup>11</sup> Mr. Drozdoff fully supported the proposal, noting that he held positions in two ARS and has been unable to obtain certain information about them. Mr. Drozdoff further stated that the lack of transparency creates the opportunity for manipulation and unfair dealing.

### Additional VRDO Information

The original proposed rule change would increase the information that a VRDO Remarketing Agent would be required to report to the SHORT System. SIFMA expressed concern with the requirement in the proposed rule change for VRDO Remarketing Agents to report the identity of each tender agent and liquidity provider and maintain the accuracy of that information. SIFMA

noted that the Remarketing Agent is not in privity of contract with the tender agent or the liquidity facility provider, that the identities of these parties may change and that the Remarketing Agent may not receive timely notification of such changes. SIFMA suggested that Remarketing Agents only be required to report such information on a "best efforts" basis.

The MSRB stated that it does not believe that it is appropriate for VRDO Remarketing Agents to be required only to exercise best efforts to report this information. Under the terms of the original proposed rule change, the VRDO Remarketing Agent would be required to modify any past submissions to the SHORT System in the event updated information about the tender agents and liquidity providers becomes known. In response to this comment, the MSRB provided in Amendment No. 1 that the requirement to report these identities is based upon information known to the VRDO Remarketing Agent as of the time of the interest rate reset. The Commission believes that Amendment No. 1 adequately addresses this concern.

SIFMA also expressed concern that the VRDO Remarketing Agent does not necessarily know the par amount of VRDOs, if any, held by a liquidity provider ("Bank Bonds") at any point in time so that the VRDO Remarketing Agent would be able to obtain and report accurate information. SIFMA noted that VRDO Remarketing Agents may not know the precise amount of securities held as Bank Bonds as a result of revised amortization schedules for securities held as Bank Bonds as well as instances when holders tender securities directly to a tender agent. The MSRB noted in Amendment No. 1 that the proposal already adequately addresses SIFMA's concern as it only requires VRDO Remarketing Agents to report the par amount of Bank Bonds based upon information available to the VRDO Remarketing Agent as of the time of the interest rate reset. The Commission agrees that the requirement is reasonable because the reporting requirement is limited to information available to the VRDO Remarketing Agent.

### ARS Bidding Information

Saber Partners and SIFMA both stated that ARS bidding information required to be reported by ARS Program Dealers should be reported as individual data elements instead of as a word-searchable document. Saber Partners stated that greater transparency about the auctions would address some of the investor confidence issues created by

<sup>3</sup> See Securities Exchange Act Release No. 61793 (March 26, 2010), 75 FR 16878 ("Original Notice") (the "original proposed rule change").

<sup>4</sup> See letters from: Vladimir Drozdoff, Centerport, New York, dated April 4, 2010 ("Drozdoff Letter"); Joseph S. Fichera, Saber Partners, LLC, New York, New York ("Saber Partners"), dated April 12, 2010 ("Saber Letter"); Heather Traeger, Associate Counsel, Investment Company Institute ("ICI"), dated April 23, 2010 ("ICI Letter"); Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association ("SIFMA"), dated April 23, 2010 ("SIFMA Letter"); Robert J. Stracks, Counsel, BMO Capital Markets GKST Inc. ("BMO Capital"), dated April 23, 2010 ("BMO Letter") and Nik Mainthia, dated July 12, 2010 ("Mainthia Letter").

<sup>5</sup> 15 U.S.C. 78s(b)(1).

<sup>6</sup> 17 CFR 240.19b-4.

<sup>7</sup> See Securities Exchange Act Release No. 62550 (July 22, 2010), 75 FR 44296 ("Notice of Amendment No. 1").

<sup>8</sup> See *supra* note 4.

<sup>9</sup> See *supra* note 3.

<sup>10</sup> See Saber Letter, ICI Letter, SIFMA Letter and BMO Letter.

<sup>11</sup> See Drozdoff Letter and Mainthia Letter.

the 2008 crisis and would encourage secondary market trading. Saber Partners also noted a large volume of ARS still outstanding that could benefit from additional market transparency. The MSRB agreed that having ARS bidding information collected as data elements would be a preferred method of data collection. The MSRB noted that collection of data elements would facilitate data analysis and the computation of statistics, such as a bid-to-cover ratio, that would provide meaningful information about the demand for a specific ARS.

Accordingly, in response to these comments, Amendment No. 1 requires ARS bidding information to be reported to the SHORT System as individual data elements. The Commission believes Amendment No. 1 adequately addresses their concerns.

SIFMA also expressed concerns with the requirement to report orders submitted by an issuer or conduit borrower. SIFMA noted that some issuers or conduit borrowers utilize a third party, such as an investment adviser or registered representative, for submitting orders to an ARS Program Dealer. In these cases, the ARS Program Dealer may not know that such orders are on behalf of issuers or conduit borrowers. To ensure ARS Program Dealers are provided with this information, Amendment No. 1 includes a new requirement for any dealer that receives an order for inclusion in an auction for ARS from an issuer or conduit borrower of such ARS to disclose this fact when submitting the order to an ARS Program Dealer. In Amendment No. 1, the MSRB also amended the original proposed rule change by removing the requirement to identify whether orders placed by an issuer or conduit borrower were executed. The MSRB noted that ARS Program Dealers would not be able to reliably ascertain whether orders on behalf of an issuer or conduit borrower submitted by a third-party dealer were executed, particularly if the third-party dealer submits more orders than just those on behalf of the issuer or conduit borrower and only some of those orders are filled.

SIFMA also suggested that the requirement to disclose the interest rate(s) and aggregate par amount(s) of orders to sell at a specific rate should be amended to read "hold at a rate" to conform to current practice and documentation. SIFMA noted that when the rate drops below that customer's "hold at" rate, the order is automatically converted into a sell order. The MSRB acknowledged in Amendment No. 1 that this requirement could be consolidated

to simplify the rule language. The MSRB stated that Amendment No. 1 removes the requirement to report "sell at rate" orders as the remaining "hold at rate" and "sell at any interest rate" categories of orders should provide for the reporting of all sell orders.

#### *ARS and VRDO Documents*

The original proposed rule change would require ARS Program Dealers and VRDO Remarketing Agents to submit to the MSRB current and any new or amended versions of ARS documents defining auction procedures and interest rate setting mechanisms and VRDO documents consisting of liquidity facilities, including Letter of Credit Agreements and Stand-by Bond Purchase Agreements.

For existing documents, the original proposed rule change would require VRDO Remarketing Agents to make and document best efforts to obtain existing VRDO documents and specified a timeframe of ninety business days from the date of effectiveness of a rule change for dealers to submit such documents to the MSRB. For ARS documents, ARS Program Dealers would be required to submit existing documents to the MSRB no later than ninety business days from the date of effectiveness of a rule change. On an ongoing basis, the original proposed rule change included a requirement to submit new or amended versions of ARS and VRDO documents no later than one business day after receipt by the dealer.

ICI stated that timing is vital to the value of collecting and disseminating this information to investors. Accordingly, ICI supported the MSRB's original proposed submission deadline of 30 days from the date of the proposed rule change instead of the proposal's 90-day submission deadline. The MSRB agreed that it is important to have a centralized source of ARS and VRDO documents as soon as practical. Nonetheless, the MSRB believes that ninety days is an appropriate timeframe for having such documents submitted to the MSRB given the large number of documents that would need to be submitted to the MSRB and the fact that, for outstanding issues, dealers may need time to request documents from third parties.

ICI also stated that they strongly support the one-business-day submission requirement for new or amended versions of the ARS and VRDO documents. By contrast, SIFMA suggested that the deadline for submitting such new or amended documents be five business days after receipt. SIFMA stated that a one-business-day time frame is unduly

burdensome for a broker dealer to submit documents to which it is not a party, noted the lack of a uniform manner in which dealers receive such documents from issuers and liquidity facility providers, indicated that it could take a couple of days internally at a broker dealer for these documents to get routed to the proper place and stated that there are approximately 16,500 outstanding VRDO transactions that are serviced by approximately 80 different Remarketing Agents. The MSRB concluded that a five-business-day deadline would be consistent with the timeframe for submitting advance refunding documents to the MSRB and would be an appropriate timeframe, at least initially, for such new or amended versions of ARS and VRDO documents to be submitted to the MSRB.

Accordingly, in response to this comment, Amendment No. 1 provides a five-business-day deadline for submitting new or amended versions of ARS and VRDO documents to the MSRB. The Commission finds that the 90-business-day and the five-business-day submission deadlines are reasonable, at least initially.

SIFMA also requested clarification of the recordkeeping requirement for VRDO Remarketing Agents to document best efforts to obtain existing VRDO documents and asked whether such documents would be required to contain signatures. The MSRB, in response to this comment, amended the original proposed rule change in Amendment No. 1 to clarify that such records are only required to be kept for those documents that are unable to be obtained. The MSRB also noted that all documents would be required to be final, operative versions of such documents. The MSRB indicated that while this requirement does not necessarily require that the document be signed, the MSRB noted that signatures would provide a clear indication that the document reflects a final version. The Commission believes that Amendment No. 1 adequately clarifies this issue.

#### *Other Comments*

ICI recommended that the MSRB consider expanding the proposed disclosures to ensure a more complete picture of the risks associated with ARS, VRDOs and other variable rate securities, such as "credit enhancement" data and documentation. In addition, ICI recommended that the MSRB create a "miscellaneous" or "catch-all" category of variable rate securities to provide investors with material information about new products. The MSRB noted a separate MSRB initiative to display on

EMMA information offered by credit ratings agencies would provide additional access to credit enhancement features associated with municipal securities on a market-wide basis.<sup>12</sup> The MSRB agrees that new products may benefit from the transparency offered for ARS and VRDO by the SHORT System, and plans to review in the future whether changes to the SHORT System and associated rules could accommodate future products without subsequent system and rule modifications.

With regard to all other issues raised by the commenters, the Commission believes that the MSRB has adequately addressed the commenters' concerns.

#### IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, the comment letters received, and the MSRB's responses to the comment letters and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB<sup>13</sup> and, in particular, the requirements of Section 15B(b)(2)(C) of the Exchange Act<sup>14</sup> and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Exchange Act requires, among other things, that the MSRB's rules 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.<sup>15</sup> In particular, the Commission believes that the proposed rule change would serve as an additional mechanism by which the MSRB works toward removing impediments to and helping to perfect the mechanisms of a free and open market in municipal securities by providing a centralized venue for free public access to information about and documents relating to ARS and VRDO. The proposed rule change would provide greater access to information about and documents relating to ARS and VRDO to

all participants in the municipal securities market on an equal basis thereby removing potential barriers to obtaining such information. These factors serve to promote the statutory mandate of the MSRB to protect investors and the public interest.

#### V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Exchange Act and the rules and regulations thereunder applicable to the MSRB<sup>16</sup> and, in particular, the requirements of Section 15B(b)(2)(C) of the Exchange Act<sup>17</sup> and the rules and regulations thereunder. The proposal will become effective as requested by the MSRB.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Exchange Act,<sup>18</sup> that the proposed rule change (SR-MSRB-2010-02), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

[FR Doc. 2010-21308 Filed 8-26-10; 8:45 am]

**BILLING CODE 8010-01-P**

#### DEPARTMENT OF STATE

[Public Notice: 7119]

#### 60-Day Notice of Proposed Information Collection: Voluntary Disclosures

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Voluntary Disclosures.
- *OMB Control Number:* 1405-0179.
- *Type of Request:* Extension of Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.

- *Form Number:* None.
- *Respondents:* Business and Nonprofit Organizations.
- *Estimated Number of Respondents:* 750.
- *Estimated Number of Responses:* 1,000.
- *Average Hours per Response:* 10 hours.
- *Total Estimated Burden:* 10,000 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Voluntary.

**DATES:** The Department will accept comments from the public up to 60 days from August 27, 2010.

**ADDRESSES:** Comments and questions should be directed to Nicholas Memos, Office of Defense Trade Controls Policy, Department of State, who may be reached via the following methods:

- *E-mail:* [memosni@state.gov](mailto:memosni@state.gov).
- *Mail:* Nicholas Memos, SA-1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522-0112.
- *Fax:* 202-261-8199.

You must include the information collection title in the subject lines of your message/letter.

#### FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the information collection and supporting documents, to Nicholas Memos, PM/DDTC, SA-1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC, 20522-0112, who may be reached via phone at (202) 663-2804, or via e-mail at [memosni@state.gov](mailto:memosni@state.gov).

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

*Abstract of proposed collection:* The export, temporary import, temporary export and brokering of defense articles, defense services and related technical data are licensed by the Directorate of Defense Trade Controls (DDTC) in

<sup>12</sup> See MSRB Notice 2010-13 (May 20, 2010).

<sup>13</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>15</sup> *Id.*

<sup>16</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>17</sup> 15 U.S.C. 78o-4(b)(2)(C).

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</sup> 17 CFR 200.30-3(a)(12).