ninety 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 GSCC consents, the Commission will:

(A) By order approve such filing or

(B) Institute proceedings to determine whether the rule filing should be disapproved.

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, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the File No. SR–GSCC–98–01 and should be submitted by May 12, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–10421 Filed 4–20–98; 8:45 am]

BILLING CODE 8010–02–M

[9] 17 CFR 200.3–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39873; File No. SR–MSRB–97–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rules G–11, on Sales of New Issue Municipal Securities During the Underwriting Period, G–12, on Uniform Practice, and G–8, on Books and Records

April 14, 1998.

On December 23, 1997, 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–97–15), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder.[2] 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 an amendment to Rule G–11, on sales of new issue municipal securities during the underwriting period, G–12, on uniform practice, and G–8, on books and records (hereinafter referred to as the ''proposed rule change''). The proposed rule change, among other things, requires the managing underwriter of a syndicate to maintain a record of all issuer syndicate requirements; requires the managing underwriter to complete the allocation of securities within 24 hours of the sending of the commitment wire; requires the managing underwriter to disclose to syndicate members all available designation information; requires the managing underwriter to disclose to members of the syndicate, in writing, the amount of any portion of the take-down that is directed to each member of the syndicate by the issuer; and shortens the deadline for payment of designations to 30 calendar days after the issuer delivers the securities to the syndicate.

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 Board 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 Board 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

As part of the Board's review of the underwriting process, the Board has determined to adopt the proposed rule change to further strengthen the integrity of the syndicate practices process.

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

[2] 17 CFR 240.19b–4.

Issuer Syndicate Requirements

Issuer requirements involving syndicate formation, order review, designation policies and bond allocations have become much more prevalent in the municipal securities market. Such requirements are significant because they help to determine which dealers, and ultimately which investors, obtain the bonds. As issuer syndicate requirements can affect the functioning of the syndicate, and at times the final costs to the issuer of the new issue, the Board believes that records of such requirements should be maintained so that any problems or concerns regarding the functioning of the syndicate arising from these requirements can be identified and addressed and the information should be provided to syndicate members and others, upon request.

The proposed rule change amends Rules G–8(a)(viii) and G–11(f) to require the managing underwriter to maintain a record of all issuer syndicate requirements. If the requirements are in a published guideline, such guidelines should be maintained by the dealer and supplemented by a statement of any additional requirements that arise prior to settlement. If the requirements are not in published form, the managing underwriter must create a written detailed statement of such requirements and maintain such statement in its records. The managing underwriter must provide a copy of the published guidelines or underwriter prepared statement of issuer syndicate requirements to syndicate members prior to the first offer of any securities by the syndicate. Syndicate members must furnish this summary promptly to others, upon request. In addition, the managing underwriter must provide the issuer with a copy of any such statement for its review.

Allocation of Securities

The proposed rule change amends Rule G–11(g) to require the managing underwriter to complete the allocation of securities within 24 hours of the sending of the commitment wire. Delays in allocations seem to be a growing problem in the municipal securities market. Many delays in allocations appear to be the result of issuers and financial advisors failing to review orders and proposed allocations in a timely fashion. Investors complain that they have difficulty finalizing their portfolio positions when their orders

remain unfilled for as long as two or more days after the end of the order period. During volatile market conditions, delays in allocations hurt the prospect for a successful underwriting. The Board adopted the proposed rule change to ensure a timely allocation process in the industry.

Disclosure of Designation Information

There currently is no Board rule requiring the disclosure to syndicate members of all designations to members. The proposed rule change amends Rule G–11(g) to require that the managing underwriter disclose to syndicate members all available designation information within 10 business days following the date of sale and all information with the sending of the designation checks.

Disclosure of Take-Down

A small number of issuers are setting aside, or holding back, at their discretion, a portion of the take-down to direct to syndicate members. The Board believes that because this issuer ''set-aside'' is part of the take-down, it should be disclosed to syndicate members in the same manner as customer designations. The proposed rule change amends Rule G–11(g) to require the managing underwriter to disclose to members of the syndicate, in writing, the amount of any portion of the take-down that is directed to each member of the syndicate by the issuer. Such disclosure must be made by the later of 15 business days following the date of sale or three business days following receipt by the managing underwriter of notification of such set-asides by the issuer.

Payment of Designations

The proposed rule change amends Rule G–12(k) to move the deadline for payment of designations from 30 business days following delivery of the securities to the customer to 30 calendar days after the issuer delivers the securities to the syndicate. The Board adopted this amendment to provide for more efficient operation of syndicate accounts.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.[3]

[3] Section 15B(b)(2)(C) states that the rules of the Board shall 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.

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

The Board does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because 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

In May 1997, the Board published a notice (the ''Notice'') that, among other things, proposed for comment draft amendments to Rules G–11, G–12 and G–8 in three areas: (1) Recordkeeping and disclosure of issuer syndicate requirements; (2) timing and disclosure of allocations and designation; and (3) timing of settlement of syndicate accounts.[4]

In response to its request for comments, the Board received comment letters addressing the draft amendments from the following 13 commentators:

- Artemis Capital Group (''Artemis'')
- City of Chicago (''City of Chicago'')
- Edward Jones (''Edward Jones'')
- Franklin Templeton Group (''Franklin Templeton'')
- Goldman, Sachs & Co. (''Goldman Sachs'')
- Government Finance Officers Association (''GFOA'')
- Lehman Brothers Inc. (''Lehman Brothers'')
- Newman & Associates, Inc. (''Newman'')
- Prudential Securities (''Prudential'')
- Rauscher Pierce Refsnes, Inc. (''Rauscher Pierce'')
- Smith Barney Inc. (''Smith Barney'')
- The Bond Market Association (''BMA'')
- Wachovia Bank, N.A. (''Wachovia'')

Some commentators had general comments opposing any amendments to rules concerning syndicate practices. One commentator questioned the ''necessity for regulatory intervention in this area'' because the amendments will offer no benefit to issuers or investors but ''[r]ather, it is syndicate members who would be the economic beneficiaries of these changes and senior managers who would bear the cost.'' [5] Another commentator stated that ''dealers should be granted some discretion in conducting their business'' and that ''the dealer community is capable of and should remain responsible for developing mutually acceptable standards and practices in their dealings with one another through the negotiation of contractual obligations.'' [6] This commentator also believes that ''the business relationship of dealers, which does not serve the interest of investor protection * * * is not an area which should be subject to rulemaking by the MSRB.'' Two commentators [7] noted general concern about the Board proposing rules requiring dealers to ''police'' other market participants when dealer compliance with certain of the draft amendments is dependent upon the actions of others (e.g., issuers and financial advisors) to complete certain actions within specified timeframes.

The Board has determined, however, to adopt most of the proposed amendments because the proposed rule change would improve the syndicate process and thus, be a benefit both to investors and syndicate members. Specific comments on the draft amendments are summarized below.

Rule G–8(a)(viii): Managing underwriter must maintain a record of all issuer syndicate requirements. If the requirements are in a published guideline, such guidelines should be maintained by the dealer and supplemented by a statement of any additional requirements that arise prior to settlement. If the requirements are not in published form, the managing underwriter must create a written detailed statement of such requirements and maintain such statement in its records.

Rule G–11(f): Managing underwriter must provide a copy of the published guidelines or underwriter prepared statement of issuer syndicate requirements to syndicate members prior to the first offer of any securities by the syndicate. Syndicate members must furnish this summary promptly to others, upon request. Managing underwriter must provide the issuer with a copy of any such statement for its review.

Five commentators indicated general support for these amendments without commenting on the specific components.[8] GFOA noted that ''[t]he regulatory system should facilitate, not hinder, activism on the part of issuers and GFOA believes that the proposed changes help to improve communications about issuer directions and are consistent with its recommendations to issuers'' and that it ''believes it is particularly important that issuers be provided with a copy of any underwriter-prepared statement of issuer requirements in advance of distribution for approval. It urges issuers, however, to take responsibility themselves to provide clear directions

[4] See *MSRB Reports*, Vol. 17, No. 2 (June 1997) at 3–16, ''Board Review of Underwriting Process.''

[5] Smith Barney.

[6] Prudential.

[7] BMA and Lehman Brothers.

[8] Artemis, City of Chicago, GFOA, Rauscher Pierce and Wachovia.

about allocation designations in writing to underwriters.'' [9] One commentator noted support for maintaining a record of issuer syndicate requirements and for requiring the managing underwriter to provide a copy of the issuer requirements to syndicate members prior to the first offer of any securities by the syndicate.[10]

Five commentators expressed general support for disclosure of issuer policies and requirements, but they noted concerns on how the information would be disclosed (e.g., by using the Agreement Among Underwriters or a dealer-prepared statement).[11] Four commentators are opposed to requiring the managing underwriter to create a written detailed statement of issuer syndicate requirements if they are not in published form.[12] Two commentators noted the time and cost that would be involved in requiring the managing underwriter to prepare such a statement.[13] One commentator stated that the managing underwriter should be allowed to use the Agreement Among Underwriters instead of being required to create a written statement.[14] Two commentators [15] are not opposed to requiring syndicate managers to provide copies of issuer policies to syndicate members once the issuer has prepared these policies in written form and made them available.[16] One commentator noted that, for liability purposes, issuers often do not provide their allocation requirements in writing.[17]

Most commentators agree that recording and disclosing issuer policies and requirements would be beneficial. Managing underwriters currently take issuer direction on syndicate matters and relate such information to the members. The Board believes the formalization of this process should not be a burden; therefore, the Board has determined to propose the draft amendment.

Rule G–11(g): Senior syndicate managers to complete the allocation of securities within 24 hours of the sending of the commitment wire.

Six commentators support this draft amendment.[18] One commentator noted that ''all investors, both retail and institutional, benefit from a more timely allocation process.'' [19] While five commentators noted that support for the prompt completion of allocations, they also noted that a dealer's compliance with the draft amendment is dependent upon the timely actions of others (i.e., issuers and financial advisors) and thus recommended that the amendment not be adopted.[20]

The Board has determined to submit the proposed rule change because it should greatly facilitate the allocation process. The Board believes that, to ensure compliance with the proposed rule change, underwriters will include a provision in the bond purchase agreement that allocations must be completed within the 24 hour timeframe. If issuers or financial advisors wish to review orders and proposed allocations, they will have to do so within this 24 hour time period.

Rule G–11(g): Require disclosure to syndicate members of all designations to members within five business days following the date of sale.

Six commentators [21] support this draft amendment, with five of these recommending changes to the proposed timeframe.[22] Three commentators recommended disclosure within 10 business days following the date of sale to provide more time for the process to be completed.[23] One commentator suggested that the ''timeframe be extended to the later of ten business days after the date of sale, or three business days following receipt by the senior manager of the information.'' [24] One commentator recommended 10 to 15 business days as more feasible.[25]

Two commentators are opposed to syndicate members receiving a statement of designations made to all syndicate members.[26] One of these commentators stated that the draft amendment ''would discourage competition, essentially forcing accounts to go through the manager'' and that ''[s]mall accounts, in particular, would be even more vulnerable to intimidation by the manager and there would be little incentive for any account to work with any member other than the senior manager.'' [27] This commentator also stated that ''decreased competition would hurt issuers by raising the cost of issuance.'' The other commentator stated that ''[s]yndicate members view capital formation from the perspective of their own competitive advantage and would use allocation and designation information to challenge the fairness of decisions made by the senior manager.'' [28] These two commentators are in favor of an amendment to require the senior syndicate manager to disclose to individual syndicate members the amount of their respective designations, with one commentator [29] suggesting it be made within five business days following the date of sale and the other commentator [30] suggesting that it be made within seven business days following the date of sale. One of these commentators also stated that ''[o]ften, syndicate members fail to receive their full designation payments, to the benefit of the senior managers, as a direct result of delays in communicating this information'' and that ''implementation of this amendment is critical as it will

[9] GFOA also noted that in its 1996 recommended practice on ''Pricing Bonds in a Negotiated Transaction,'' it urged ''issuers to communicate to underwriters specific goals to be achieved in the pricing of bonds and expectations regarding the roles of each member of the financing team * * * [and] to give clear directions to underwriters on how bonds should be allocated and to review the Agreement Among Underwriters prior to the sale to ensure that it incorporated the issuer's goals.'' In addition, GFOA suggested that issuers ''approve all information that will be sent out by the underwriter on the preliminary pricing wire, including the allocation of the bonds and the take-down.''

[10] Goldman Sachs.

[11] BMA, Edward Jones, Lehman Brothers, Newman and Smith Barney. Lehman Brothers believed that issuer policies and requirements are more appropriately addressed in the Agreement Among Underwriters. Lehman Brothers noted that BMA recently revised its standard form of Agreement Among Underwriters with comments solicited from the industry and that none of the areas being reviewed by the Board concerning syndicate practices were identified as areas of concern to be addressed in the revised Agreement Among Underwriters; therefore, the amendments concerning syndicate practices are not needed. The Board notes, however, that BMA's notice requesting comment on its draft of a standard Agreement Among Underwriters stated that the ''Agreement does not attempt to address the syndicate proposals included in the recent MSRB Review of the Underwriting Process, since at this time it is impossible to predict whether, or in what form, those proposals might eventually be adopted.''

[12] BMA, Edward Jones, Lehman Brothers and Smith Barney.

[13] BMA and Smith Barney.

[14] Edward Jones.

[15] BMA and Lehman Brothers.

[16] BMA believed that ''[i]ssuers seeking to impose their requirements on syndicates must take the initiative to enunciate such requirements, in writing, and publish them so they are available to all who are involved, or considering becoming involved, in a syndicate for that issuer.'' Lehman Brothers believed that ''[t]o the extent that an issuer has specific designation policies, the issuer should be responsible for providing copies of such policies to the syndicate manager who could make copies available to syndicate members upon request.''

[17] Newman.

[18] Artemis, Edward Jones, Franklin Templeton, Goldman Sachs, GFOA and Rauscher Pierce. Franklin Templeton believed ''[b]onds should be confirmed no later than 24 hours after the order period has closed.''

[19] Edward Jones.

[20] BMA, Lehman Brothers, Newman, Smith Barney and Wachovia. Smith Barney also noted that 24 hours may not always provide sufficient time for issuers to review the allocations and that ''[i]ssuers have an interest in conducting such review to assure themselves that the book runner is acting fairly.''

[21] BMA, Edward Jones, GFOA, Lehman Brothers, Newman and Wachovia.

[22] GFOA had no comment about the timeframe.

[23] Edward Jones, Lehman Brothers and Newman.

[24] BMA.

[25] Wachovia.

[26] Artemis and Goldman Sachs.

[27] Artemis.

[28] Goldman Sachs.

[29] Goldman Sachs.

[30] Artemis.

considerably reduce the prevalence of this problem and help to ensure that syndicate members receive the full designation credit they have earned.'' [31]

Another commentator opposes the draft amendment in its entirety.[32] It believes that the designation information ''would potentially be used to promote further fixed economics in the municipal bond industry, through the use of set-asides or similar methods of allocation * * * the industry must allow the market system to allocate the economics if dealers are to efficiently allocate their resources.'' It further stated that ''those firms that provide services to investors, such as research, liquidity and analysis, profit by being compensated by those investors in the form of designations'' and fixed economics would provide a deterrent to ''firms from providing services to investors and the market at large.'' It also noted that it opposes the draft amendment because, for senior managers to be in compliance with any timeframe contained within the rule, they would have to rely on buyers making their designations within that timeframe. This commentator stated that, if the Board determines to go forward with the draft amendment, it would support BMA's comment to disclose designations ''upon the later of three days after notice from the buyer or ten days after the date of sale.''

The Board has determined to propose the draft amendment because it believes all syndicate members have the right to the disclosure of all designation information. The Board does not believe the proposed rule change will be used to promote ''fixed economics'' in the municipal securities industry. The Board did decide, however, to change the timeframe to require disclosure to syndicate members of all available designation information within 10 business days following the date of sale and all information with the sending of the designation checks. The Board believes almost all of the information will be available within 10 business days, but the additional time is provided to receive any late information.

Rule G–11(g): Require the senior manager to disclose to members of the syndicate, in writing, within 10 business days following the date of sale, the amount of any portion of the take-down that is directed to each member of the syndicate by the issuer.

Six commentators[33] support this draft amendment with one commentator noting ''this part of the take-down should be disclosed to syndicate members in the same manner as customer designations.'' [34] One commentator is opposed to the amendment noting that it would provide a means for syndicate members to challenge senior managers about their decisions.[35] Another commentator believes that the disclosure of a dealer's take-down should be made only to that dealer.[36] Two commentators suggested that the timeframe be changed to 15 days following the date of sale.[37] One commentator suggested that the timeframe be changed to the later of 15 business days following the date of sale, or three business days following receipt by the senior manager of notification of such set-asides.[38]

The Board has determined to propose the draft amendment because it believes all syndicate members have the right to the disclosure of all take-down information. The Board did decide, however, to change the timeframe to the later of 15 business days following the date of sale or three business days following receipt by the managing underwriter of notification of such set asides.

Rule G–12(k): Move the deadline for payment of designations from 30 business days following delivery of the securities to the customer to 30 calendar days after the issuer delivers the securities to the syndicate.

Eight commentators support this draft amendment.[39] One commentator stated that the amendment ''will greatly streamline the underwriting process.'' [40]

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 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.

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. 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. All submissions should refer to File No. SR–MSRB–97–15 and should be submitted by May 12, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[41]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–10506 Filed 4–20–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39866; File No. SR–NASD–98–31]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Implement the Effective Date of Recently-Approved Amendments to Rules 3010 and 3110

April 14, 1998.

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 7, 1998, the NASD Regulation, Inc. (''NASDR'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASDR. The NASDR

[31] Artemis.

[32] Smith Barney.

[33] BMA, GFOA, Newman, Rauscher Pierce, Smith Barney and Wachovia.

[34] BMA.

[35] Goldman Sachs.

[36] Artemis.

[37] Newman and Wachovia.

[38] BMA.

[39] Artemis, BMA, Edward Jones, Goldman Sachs, Newman, Rauscher Pierce, Smith Barney and Wachovia.

[40] BMA.

[41] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.