

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-79239; File No. SR-MSRB-2016-14)

November 4, 2016

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Establish Fees Related to the MSRB Academic Historical Transaction Data Product

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 25, 2016 the Municipal Securities Rulemaking Board (the “MSRB” or “Board”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed amendment to the MSRB’s facility for the Real-Time Transaction Reporting System (“RTRS”) to establish fees related to the MSRB Academic Historical Transaction Data Product (“RTRS Academic Data Product”) (“proposed rule change”).³ The MSRB has designated the proposed rule change as establishing or changing a fee or charge of the MSRB, which renders the proposed rule change effective upon receipt of this filing by the Commission. The effective date of the fees will coincide with the effective date of the RTRS Academic Data Product, which the MSRB will announce in a regulatory notice to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Exchange Act Release No. 78826 (Sept. 13, 2016), 81 FR 64215 (Sept. 19, 2016) (SR-MSRB-2016-09) (“Approval Order”).

be published no later than December 12, 2016, and which will be no later than June 9, 2017.⁴

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The text of the proposed rule change is available on the MSRB's website at www.msrb.org/Rules-and-Interpretations/SEC-Filings/2016-Filings.aspx, at the MSRB's principal office, and at the Commission's Public Reference Room.

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 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 text 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

1. Purpose

Under the Exchange Act, the MSRB is charged with adopting rules with respect to transactions in municipal securities effected by brokers, dealers and municipal securities dealers ("dealers") and the municipal advisory activities of municipal advisors. In addition, the MSRB has undertaken to create various market transparency products in furtherance of its statutory

⁴ See *id.* at 64216 (noting that the effective date of the RTRS Academic Data Product will be announced in a regulatory notice to be published no later than 90 days from the date of the Approval Order, and such effective date will be no later than 270 days following publication of the regulatory notice announcing Commission approval of the proposed rule change); MSRB Notice 2016-22 (Sept. 14, 2016).

duties and its mission, which is, in part, to promote a fair and efficient municipal securities market through the collection and dissemination of market information.

Historically, the MSRB has operated information systems to collect key disclosure documents and transaction data to create a central warehouse of information that in turn made most of these documents and data available to the market—the Electronic Municipal Market Access (EMMA[®])⁵ website. The MSRB makes post-trade transaction data available to the general public through the EMMA website at no cost, and to data vendors, industry utilities and others on a subscription basis through a real-time data feed and on a delayed basis.

MSRB Rule G-14, on transaction reporting, requires dealers to report all executed transactions in municipal securities to RTRS within 15 minutes of the time of trade, with limited exceptions.⁶ The information facility for RTRS serves to outline the high-level parameters by which the MSRB operates the system. The new RTRS Academic Data Product will include the same transactions included in the current RTRS historical transaction data sets, with the inclusion of anonymized dealer identifiers but the exclusion of list offering price and takedown transactions, which are defined such that they generally encompass primary market transactions; will be made available only to academic institutions; and will be highly useful in connection with research activities by allowing academic institutions to attribute transactions to the dealers that facilitated them.

The purpose of the proposed rule change is to establish fees related to the RTRS Academic Data Product. Specifically, the proposed rule change would make the RTRS

⁵ EMMA[®] is a registered trademark of the MSRB.

⁶ Transactions in securities without CUSIP numbers, transactions in municipal fund securities and certain inter-dealer securities movements not eligible for comparison through a clearing agency are the only transactions exempt from the reporting requirements of Rule G-14.

Academic Data Product available to academic institutions for a fee of \$500 per one-year data set (with a one-time initial set-up fee of \$500).⁷ The MSRB customarily waives all fees associated with an MSRB subscription service or historical data product purchase for non-profit organizations (including academic institutions). However, due to the additional legal and operational effort required for the MSRB to offer the RTRS Academic Data Product, the MSRB believes that the \$500 fee per one-year data set and \$500 one-time initial set-up fee is appropriate to help defray these costs, while not overly burdening academic institutions.

2. Statutory Basis

Section 15B(b)(3)(B)(ii) of the Exchange Act⁸ provides that the MSRB:

shall not be prohibited from charging commercially reasonable fees for automated subscription-based feeds or similar services, or for charging for other data or document-based services customized upon request of any person, made available to commercial enterprises, municipal securities market professionals, or the general public, whether delivered through the Internet or any other means, that contain all or part of the documents or information, subject to approval of the fees by the Commission under section 19(b).

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(3)(B)(ii) of the Exchange Act⁹ in that it would charge a fee of \$500 per one-year data set (with a one-time initial set-up fee of \$500) for the RTRS Academic Data Product. The MSRB believes these fees are commercially reasonable as a means to help defray the additional legal and operational effort required for the MSRB to offer the RTRS Academic Data Product, while not overly burdening academic institutions.

⁷ Academic institutions would be able to request the one-year data sets on a rolling basis, and any request that is not in a 12-month increment would be charged the full fee for an additional year.

⁸ 15 U.S.C. 78o-4(b)(3)(B)(ii).

⁹ Id.

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

Section 15B(b)(2)(C) of the Exchange Act¹⁰ requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In determining whether these standards have been met, the MSRB was guided by the Board's Policy on the Use of Economic Analysis in MSRB Rulemaking. In accordance with this policy, the Board has evaluated the potential impacts on competition of the proposed rule change, including in comparison to reasonable alternative regulatory approaches, relative to the baseline. The MSRB also considered other economic impacts of the proposed rule change and has addressed comments relevant to these impacts in other sections of this document. The MSRB does not believe that the proposed rule change will impose any additional burdens on competition, relative to the baseline, that are not necessary or appropriate in furtherance of the purposes of the Act. The MSRB notes that the proposed rule change will apply equally to all academic institutions who choose to purchase the RTRS Academic Data Product.

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

The MSRB received 13 comment letters in response to the request for comment that originally proposed the RTRS Academic Data Product.¹¹ As was proposed in the Request for Comment, the RTRS Academic Data Product would have been made available for a fee of \$500 per calendar-year data set (with a one-time initial set-up fee of \$500).¹² Only two of the

¹⁰ 15 U.S.C. 78o-4(b)(2)(C).

¹¹ See MSRB Notice 2015-10 (July 16, 2015) ("Request for Comment").

¹² The MSRB notes that the Request for Comment proposed the availability of the RTRS Academic Data Product in calendar-year data sets, but, as it does with other data products and as described above, the MSRB would make the RTRS Academic Data Product available on a rolling basis in one-year data sets.

commenters addressed the proposed fees.¹³ Specifically, Harris commented that academics should either pay a reduced rate, when compared to the fee charged to industry participants and their various organizations and consultants, or be given access for free because, in his opinion, academics are often not paid to conduct their research while the public obtains a benefit from the research being conducted. ABFM stated that it believes the fee is reasonable. The MSRB notes that there is no occasion to provide the RTRS Academic Data Product at a discount, as it is available only to academic institutions. Further, the MSRB believes that the proposed fees, which are substantially less than the analogous fees for the historical transaction data sets,¹⁴ are fair and reasonable given the expenses incurred to create and facilitate the product, and that the fees would not overly burden academic institutions.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and paragraph (f) of Rule 19b-4 thereunder.¹⁶ 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.

¹³ See letters from: Robert Kravchuk, *et al.*, Association for Budgeting and Financial Management (“ABFM”), dated September 13, 2015; and Lawrence Harris (“Harris”), Professor of Finance and Business Economics, University of Southern California, Marshall School of Business, dated September 6, 2015.

¹⁴ The MSRB provides historical transaction data in one-year data sets for \$2,500 per year and charges a one-time set-up fee of \$2,000.

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f).

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. Please include File Number SR-MSRB-2016-14 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-MSRB-2016-14. 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 website (<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 website 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 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. 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-MSRB-2016-14 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, pursuant to delegated authority.¹⁷

Brent J. Fields
Secretary

¹⁷ 17 CFR 200.30-3(a)(12).