

# MSRB REPORTS

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Municipal Securities Rulemaking Board

May 1990

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**Amendments Approved: Rule G-35**

The amendments alter and more clearly define the duties and role of the Director of Arbitration and reconstitute the Board's Arbitration Committee to eliminate its role in reviewing case-specific decisions of the Director of Arbitration and to remove non-Board members.

## Richard D. Thayer Elected to Vacated Board Seat

The Board announces that Richard D. Thayer, Senior Vice President of the Securities Department at South Carolina National Bank in Columbia, South Carolina, has been elected to fill the seat on the Board vacated by Louis Betanzos, who resigned from the Board in February of this year. He will serve on the Board until September 30, 1992.

Prior to joining the bank in 1988, Mr. Thayer was President of Citizens & Southern Securities Corp. He is also on the Board of the Bank Capital Markets Association and BHC Securities, Inc. and a member of the Money Market Committee of the Public Securities Association.

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## Board Priorities

To ensure the integrity and efficiency of the municipal securities market and to carry out its rulemaking activities, the MSRB believes that it must take whatever steps are necessary:

1. to provide market participants (investors, dealers, and issuers) with more information regarding the description of securities,
2. to provide market participants with more information about the issuers of securities,
3. to provide market participants with more information about the value of securities,
4. to increase the responsibility of issuer agents (e.g., financial advisors, trustees, transfer agents, paying agents, and bond attorneys) to the market,
5. to raise the ethical standard of the industry and ensure the vigorous enforcement of Board rules,
6. to improve the clearance and settlement system for municipal securities consistent with national goals.

## Staff Appointment

Harold L. Johnson has been appointed Deputy General Counsel. Mr. Johnson has been with the Board since 1984, serving as Assistant General Counsel and Associate General Counsel. Before coming to the Board, he was Legislative Assistant to the Hon. Walter B. Jones of the U.S. House of Representatives. Prior to that, he held a law clerkship with the Institute of Government of North Carolina. Mr. Johnson received his law degree in 1980, and his undergraduate degree in 1976, from the University of North Carolina

## New Issue of *MSRB Manual*

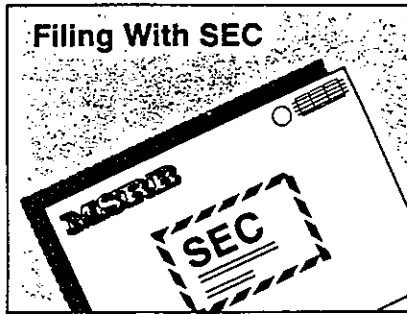
The updated soft-cover edition of the *MSRB Manual*, dated April 1, 1990, now is available.

The *MSRB Manual*, published by Commerce Clearing House, includes the Securities Exchange Act of 1934, the Securities Investor Protection Act of 1970, Board rules and interpretations, pertinent regulations of other agencies and samples of forms.

Copies of the updated *Manual* may be obtained from the Board's offices by submitting a completed order form along with payment in full for the amount due. An order form is located on page 20 of this issue. The cost of the *Manual* is \$5.00.

### Calendar

<b>February 6</b>	— Effective date of G-35 on administrative changes to arbitration
	— Effective date of G-32 technical changes
<b>July 1</b>	— Effective date of revisions to principal exam
<b>July 16</b>	— Effective date of rules G-27 and G-9 on supervision requirements
<b>Pending</b>	— G-36 and G-8 on delivery of official statements to the Board
	— G-35 on definitions of industry and public arbitrators


**Route to:**

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
- Training
- Other \_\_\_\_\_

## Public Access Facility for Official Statements: Rule G-36

### Amendments Filed

The amendments would provide a public access facility for review of official statements and would require underwriters to provide the Board with two copies of an official statement.

On February 27, 1990, the Board filed with the Securities and Exchange Commission (Commission) an amendment to proposed rule G-36, regarding the delivery of official statements and other information to the Board or its designee, and a stated policy, pursuant to proposed rule G-36, regarding a public access facility for official statements acquired pursuant to that rule.<sup>1</sup>

### Summary of Amendments

The Board, on November 13, 1989, filed proposed rule G-36, which is intended to begin the collection process for documents to be included in the Municipal Securities Information Library™ or MSIL™ system,<sup>2</sup> an electronic repository for official statements and other documents that would function much like a public library that stores and indexes the documents and provides copies of the documents to parties requesting them for a fee. Proposed rule G-36 would require underwriters of certain municipal securities issues to provide to the Board or its designee a copy of the final official statement and a completed Form G-36.

The Commission staff, after reviewing proposed rule G-36, suggested that the Board provide access to the public to official statements collected pursuant to rule G-36 prior to the time such documents are available from the MSIL system. In response to this suggestion, the Board determined to amend proposed rule G-36 to provide for the establishment of a public access facility open to the public, with a photocopy machine available. In addition, the amendments require underwriters to provide two copies of official statements (and any amended official statements) to the Board, along with two copies of Form G-36. This should ensure that a complete set of documents is available

from the public access facility without causing the documents that are to be included in the MSIL system to be handled excessively. Finally, in response to a commentator, the Board has revised proposed rule G-36(c)(1), with regard to certain issues not subject to rule 15c2-12, to clarify that Form G-36 must be sent to the Board only when an official statement in final form is prepared and sent to the Board.

February 27, 1990

### Text of Amendments\*

#### Rule G-36. Delivery of Final Official Statements and Form G-36 to Board or Its Designee

(a) No change.

(b) *Delivery Requirements for Issues Subject to Securities Exchange Act Rule 15c2-12.* Each broker, dealer or municipal securities dealer that acts as an underwriter in a primary offering of municipal securities subject to Securities Exchange Act rule 15c2-12 shall send to the Board or its designee by certified or registered mail, or some other equally prompt means that provides a record of sending, within one business day after receipt of the final official statement from the issuer or its designated agent, but no later than 10 business days after any final agreement to purchase, offer, or sell the municipal securities, the following documents and written information: ~~one copy~~ two copies of the final official statement; and a two copies of completed Form G-36 prescribed by the Board, including the CUSIP number or numbers for the issue.

(c) *Delivery Requirements for Issues not Subject to Securities Exchange Act Rule 15c2-12.*

(i) Subject to paragraph (ii), below, each broker, dealer, or municipal securities dealer that acts as an underwriter in a primary offering of municipal securities not subject to Securities Exchange Act rule 15c2-12 shall send to the Board or its designee, by certified or registered mail, or some other equally prompt means that provides a record of sending, within one business day of delivery of the securi-

Questions about this notice may be directed to  
 Diane G. Klinke, General Counsel.

<sup>1</sup> SEC File No. SR-MSRB-89-9, Amendment No. 1.

<sup>2</sup> Municipal Securities Information Library and MSIL are trademarks of the MSRB.

\* Underlining indicates new language; strikethrough indicates deletions.

ties by the issuer to the broker, dealer, or municipal securities dealer, the following documents and written information: ~~three~~ two copies of the official statement in final form, if prepared by or on behalf of the issuer; and a, if an official statement in final form is prepared, two copies of completed Form G-36 prescribed by the Board, including the CUSIP number or numbers for the issue.

(ii) This section shall not apply to primary offerings of municipal securities, regardless of the amount of the issue, if the issue qualifies for an exemption set forth in Securities Exchange Act rule 15c2-12(c).

(d) *Amended Official Statements.* In the event a broker, dealer, or municipal securities dealer provides to the Board or its designee an official statement pursuant to sections (b) or (c), above, and the official statement is amended or "stickered" by the issuer during the underwriting period, such broker, dealer, or municipal securities dealer must send to the Board or its designee, by certified or registered mail, or some other equally prompt means that provides a record of sending, two copies of the amended official statement within one business day of receipt from the issuer, along with two copies of a statement including: the CUSIP number or numbers for the issue; the fact that the official statement previously had been sent to the Board or its designee and that the official statement has been

amended.

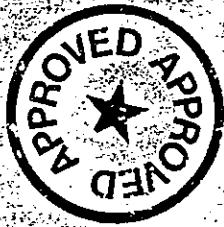
(e) through (g) No change.

\* \* \*

The Board has determined to provide a public access facility through which interested members of the public may review and acquire copies of official statements collected by the Board pursuant to rule G-36. Upon the effective date of proposed rule G-36, the public access facility will be located at the Board's offices at 1818 N Street, N.W., Suite 800, Washington, D.C. 20036. The facility will be available from 9:00 a.m. to 4:30 p.m., local time, when the Board's offices are open (generally, weekdays other than federal holidays). The official statements will be available no later than one business day after receipt by the Board. A photocopy machine also will be available for members of the public to copy official statements, with a per page charge of \$.20. In addition, a list of official statements obtained by the Board, by issue name and by dated date, will be available at the Board's offices. Members of the public also may telephone the Board's offices to inquire if an official statement for an identified issue currently is available from the public access facility. The Board's telephone number is (202) 223-9347.

\* \* \*

## Notice of Approval



## Route to:

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
- Training
- Other \_\_\_\_\_

## Supervision Requirements: Rules G-27 and G-9

### Amendments Approved

The amendments provide more specific guidance as to the supervisory responsibilities of dealers.

On January 16, 1990, the Securities and Exchange Commission approved amendments to rules G-27 on supervision and G-9 on preservation of records.<sup>1</sup> The amendments provide more specific guidance in rule G-27 as to the supervisory responsibilities of dealers and clarify rule G-9 as it applies to rule G-27. The amendments will become effective on July 16, 1990.

### Summary of Amendments

Revised rule G-27 requires a dealer to establish an effective supervisory system that has three major components: (i) the specific designation of each principal, including his area of supervisory responsibility; (ii) the adoption and maintenance of detailed written supervisory procedures designed to ensure that a dealer's business and the municipal securities activities of its associated persons are in compliance with Board and other applicable rules; and (iii) at least an annual review of its supervisory system and written procedures to ensure that they are adequate and up-to-date and to determine whether the dealer is in compliance with Board and other applicable rules. These requirements are consistent with the practices of many dealers who have established effective supervisory systems and with the supervisory requirements of other self-regulatory organizations.

(a) **Obligation to supervise.** Section (a) of rule G-27 reiterates a dealer's essential obligation to supervise the conduct of its municipal securities business and the municipal securities activities of its associated persons. The duty of a dealer to supervise its own securities activities is well settled under the federal securities laws and under the shingle theory, a body of case law under the Securities Exchange Act. The Board has not altered section (a) of rule G-27.

(b) **Designation of principals.** All supervision must be effected through and by a qualified principal. Rule G-27 permits considerable flexibility, subject to certain minimum numerical requirements specified in rule G-3(b), on standards of professional qualification, to delegate supervisory responsibility to one or more principals in a manner that best serves the administrative and other practical concerns of a dealer.

Revised section (b) simply restates, in a more organized fashion, which category of principal may discharge various supervisory responsibilities. In general, supervisory responsibility for the municipal securities activities of a dealer must rest with a qualified municipal securities principal. However, rule G-27(b) specifies a number of supervisory responsibilities that also may be performed by municipal securities sales principals, by general securities principals, and by financial and operations principals.<sup>2</sup> In addition, the section provides that a dealer that is not a bank dealer or an introducing broker must appoint at least one financial and operations principal to discharge SEC financial reporting and customer protection requirements and to be principally responsible for the books and records of the dealer; the chief financial officer of such a dealer must be a financial and operations principal.<sup>3</sup> An introducing broker may appoint either a financial and operations principal or a municipal securities principal to supervise its books and records or act as the chief financial officer.

A written record of the name of each designated principal and of his supervisory responsibilities must be maintained for six years as required in rule G-9 and the dealer's records must be updated as changes occur. It should be emphasized that nothing in the amendments alters the longstanding position of the Board that a principal designated as responsible for supervising the municipal activities of a branch office or unit need not be physically located there as long as the supervisor effectively can supervise the associated persons and activities of the branch office or unit from his different location.

(c) **Written supervisory procedures.** One of the principal

Questions about this notice may be directed to Diane G. Kilnke, General Counsel.

<sup>1</sup> SEC Release No. 34-27620.

<sup>2</sup> The qualification requirements of municipal securities principals, municipal securities sales principals and financial and operations principals are contained in rule G-3. The qualification requirements of general securities principals are governed by NASD rules.

<sup>3</sup> Of course, a municipal securities principal or a general securities principal may assist a financial and operations principal in discharging some of these responsibilities.

provisions of rule G-27 has been the requirement that a dealer establish written supervisory procedures to assure compliance with Board and other applicable rules. This ensures that designated principals are informed about the scope of their duties and permits the dealer to oversee its principals' activities. Section (c) of revised rule G-27 provides additional guidance as to what matters should be covered in written supervisory procedures. The Board anticipates that supervisory procedures will cover all supervisory activities permitted of principals under rule G-3. In addition, section (c) specifically requires written supervisory procedures to provide for the periodic review of each office in which municipal securities activities occur, including branch offices or units. Among other things, the section anticipates that the written supervisory procedures specifically will address Board rules and how supervision will occur. For example, revised paragraph (c)(iii) of rule G-27 requires the regular and frequent review and approval by a designated principal of customer accounts in which transactions occur. The purpose of this requirement, which is contained in current rule G-27, is to detect and prevent irregularities and abuses. The Board expects dealers to establish procedures that effectively obtain this objective and are capable of compliance. Thus, in determining when an account must be reviewed, a dealer might look to the volume and frequency of trading and the nature of the securities traded. Such guidelines would be appropriate if they are articulated clearly in a dealer's written supervisory procedures.

(d) **Annual review.** Section (d) of revised rule G-27 requires a dealer to revise and update its supervisory procedures when necessary to respond to changes in Board or other applicable rules, administrative changes at the dealer, and other relevant developments. The intent of the Board is to ensure that a dealer is aware of current regulatory developments and will educate its supervisors and associated persons in all applicable requirements to ensure compliance.

The revised rule also clarifies a dealer's obligation to evaluate its compliance with Board and other applicable rules at least annually. The rule permits a dealer to develop its own procedures for evaluating compliance. For example, some dealers may require principals to report on compliance issues periodically or to submit written compliance reports summarizing activities under their particular supervision.<sup>4</sup> In addition, a dealer must be satisfied that its designated principals are following their respective written supervisory procedures. This can be accomplished by ensuring that a designated principal keep notes sufficient to permit adequate oversight by the dealer.

February 6, 1990

## Text of Amendments\*

### G-27. Supervision

~~(a) through (e)~~

(a) *Obligation to supervise.* Each broker, dealer and municipal securities dealer ("dealer") shall supervise the conduct of its

municipal securities business and the municipal securities activities of its associated persons to ensure compliance with Board rules and the applicable provisions of the Act and rules thereunder ("applicable rules").

(b) *Designation of principals.*

(i) *General.* Each dealer shall specifically designate one or more associated persons qualified as municipal securities principals, municipal securities sales principals, financial and operations principals in accordance with Board rules, or as general securities principals to be responsible for the supervision of its municipal securities business and the municipal securities activities of its associated persons as required by this rule.

(ii) *Written Record.* A written record of each supervisory designation and of the designated principal's responsibilities under this rule shall be maintained and updated as required under rule G-9.

(iii) *Appropriate principal.* Each dealer shall designate a municipal securities principal as responsible for its supervision under sections (a) and (c) of this rule, except as provided in this section. A non-bank dealer shall, and a non-bank dealer meeting the requirements of Securities Exchange Act rule 15c3-1(a)(2) or (3) or the exemption under rule 15c3-1(b)(3) may, designate a financial and operations principal as responsible for the financial reporting duties specified in rule G-3(a)(ii)(A-E) and with primary responsibility for books and records under section (c)(v) below. In addition, a municipal securities sales principal may be designated as responsible for supervision under sections (c)(ii), (iii) and (vii) of this rule, to the extent the activities pertain to sales to or purchases from a customer; a general securities principal may be designated as responsible for supervision under sections (c)(v) and (vii)(A) of this rule and under rules G-7(b) and G-21(e); and a financial and operations principal may be designated as responsible for supervision under section (c)(vi) of this rule.

(c) *Written supervisory procedures.* Each dealer shall adopt, maintain and enforce written supervisory procedures reasonably designed to ensure that the conduct of its municipal securities business and the municipal securities activities of its associated persons are in compliance as required in section (a) of this rule. Such procedures shall codify the dealer's supervisory system for ensuring compliance and, at a minimum, shall establish procedures

(i) that state how a designated principal shall monitor for compliance by the dealer with all applicable rules and supervise the activities of associated persons specified in rule G-3(a)(iii);

(ii) a designated principal shall follow when a customer complaint concerning the dealer's municipal securities activities is received;

(iii) for the regular and frequent review and approval by a designated principal of customer accounts introduced or carried by the dealer in which transactions in municipal securities are effected; such review shall be designed to ensure that such transactions are in accordance with all ap-

<sup>4</sup> Certainly, serious violations should be brought to the attention of the dealer immediately to ensure that corrective measures are taken.

\* Underlining indicates new language; strikethrough indicates deletion.

applicable rules and to detect and prevent irregularities and abuses;

(iv) for the periodic review by a designated principal of each office which engages in municipal securities activities;

(v) for the maintenance and preservation, by a designated principal, of the books and records required to be maintained and preserved by rules G-8 and G-9 of the Board;

(vi) for the supervision by a designated principal of the processing, clearance, and in the case of a non-bank dealer safekeeping of municipal securities; and

(vii) for the prompt review and written approval by a designated principal of:

(A) the opening of each customer account introduced or carried by the dealer in which transactions in municipal securities may be effected;

(B) each transaction in municipal securities on a daily basis, including each transaction in municipal securities effected with or for a discretionary account introduced or carried by the dealer; and

(C) all correspondence pertaining to the solicitation or execution of transactions in municipal securities.

(d) Duty to update and review written procedures. Each dealer shall revise and update its written supervisory procedures as necessary to respond to changes in Board or other applicable

rules and as other circumstances require. In addition, each dealer shall review, at least on an annual basis, its supervisory system and written supervisory procedures adopted under section (c) of this rule to determine whether they are adequate and up-to-date and shall ensure that the dealer is in compliance with this rule.

\* \* \*

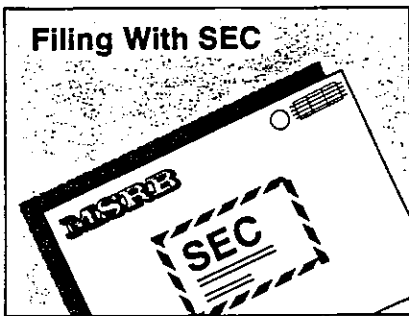
#### **G-9. Preservation of Records**

(a) *Records to be Preserved for Six Years.* Every municipal securities broker and municipal securities dealer shall preserve the following records for a period of not less than six years:

(i) - (vi) No change.

(vii) the record, described in rule G-27(b)(ii), of each person designated as responsible for ~~the maintenance and preservation of books and records~~ supervision of the municipal securities activities of the broker, dealer, or municipal securities dealer and the designated principal's supervisory responsibilities, provided that such record shall be preserved for the period of designation of each person designated and for at least six years following any change in such designation.

(b) - (g) No change.



**Route to:**

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
- Training
- Other \_\_\_\_\_

**Definitions of Industry and Public Arbitrators: Rule G-35**

**Amendments Filed**

The Board files amendments that would define industry and public arbitrators.

On April 30, 1990, the Board filed with the Securities and Exchange Commission (Commission) amendments to rule G-35, the Board's Arbitration Code.<sup>1</sup> The amendments pertain to the Board's proposed definitions of public and industry arbitrators and related challenges for cause. The Board has requested that the Commission delay the effectiveness of the amendments for a period of 90 days following the date of Commission approval in order to allow the Board to review the membership of its public arbitrator pool to ensure that such arbitrators fit within the new public arbitrator definition.

Pursuant to requests from the Commission, the Board revised the proposed definitions of public and industry arbitrators to be consistent with the definitions used by other self-regulatory organizations. These definitions will prohibit the use of retired industry persons and certain attorneys, accountants and other professionals as public arbitrators. Also, the amendments delete the provision granting customers a challenge for cause to the use of such persons as public arbitrators and the provision allowing the use of current public arbitrators, who will no longer come within the new public arbitrator definition, until September 1, 1991.

April 30, 1990

**Text of Amendments\***

**Rule G-35. Arbitration**

Sections 1 through 7. No change.

Section 8. *Composition and Appointment of Panels*

(a) and (b) No change.

(c) Objections

⊕ No change.

~~(ii) Each party who is a person other than a broker, dealer, municipal securities dealer, government securities broker or government securities dealer, shall be granted a challenge for cause to a public arbitrator, as defined in Section 12(e), who: (i) has been retired from a broker, dealer, municipal securities dealer, government securities broker or government securities dealer for over three years, or (ii) is an attorney, accountant or other professional who devoted 20 percent or more of his professional work effort within the last two years to clients who are brokers, dealers or municipal securities dealers.~~

~~(iii) Until September 10, 1991, each party who is a person other than a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer, shall be granted a challenge for cause to a public arbitrator who served as a public arbitrator prior to [date of approval of SR-MSRB-88-5] but would not be able to serve as a public arbitrator pursuant to the definitions of industry and public arbitrators in Section 12(e). After September 10, 1991, these arbitrators will be reclassified as industry arbitrators.~~

Sections 9 through 11. No change.

Section 12. *Designation of Number of Arbitrators and Definitions of Industry and Public Arbitrators*

(a) and (b) No change.

(c) *Definitions of Industry and Public Arbitrators*

(1) An industry arbitrator:

(i) is a person associated with a broker, dealer, municipal securities dealer, government securities broker or government securities dealer, or

(ii) is a person who has been associated with a broker, dealer, municipal securities dealer, government securities broker or government securities dealer within the past three years, or

~~(iii) is an attorney or other professional who devoted 20 percent or more of his professional work effort within the last two years in either or both of the following areas: (A) as counsel to a broker, dealer or municipal securities dealer acting as the underwriter~~

**Questions about the amendments may be directed to Diane G. Klinke, General Counsel.**

<sup>1</sup> SEC File No. SR-MSRB-88-5, Amendment No. 3.

\* Underlining indicates additions; strikethrough indicates deletions.



~~of an issue of municipal securities, or (B) as counsel to or expert witness for a broker, dealer, municipal securities dealer, government securities broker or government securities dealer in securities-related litigation or arbitration proceedings against a person other than a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer.~~

(ii) is a person who is retired (that is, continues to receive compensation, other than social security or self-funded benefits) from a broker, dealer, municipal securities dealer, government securities broker or government securities dealer, or

(iv) is an attorney, accountant, or other professional who has devoted 20 percent or more of his or her professional work effort to a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer within the last two years.

(2) A public arbitrator is a person other than an industry arbitrator.

(3) A person will not be classified as a public arbitrator if he or she has a spouse or other member of the household who is a person associated with a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer.

Sections 13 through 36. No change.



**Route to:**

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
- Training
- Other \_\_\_\_\_

## Administrative Changes to Arbitration: Rule G-35

### Amendments Approved

The amendments alter and more clearly define the duties and role of the Director of Arbitration and reconstitute the Board's Arbitration Committee to eliminate its role in reviewing case-specific decisions of the Director of Arbitration and to remove non-Board members.

On February 6, 1990, the Securities and Exchange Commission approved amendments to rule G-35, the Board's Arbitration Code.<sup>1</sup> The amendments alter and more clearly define the duties and role of the Director of Arbitration and reconstitute the Board's Arbitration Committee to eliminate its role in reviewing case-specific decisions of the Director of Arbitration and to remove non-Board members. The amendments became effective upon approval by the Commission.

### Director of Arbitration

The amendments make certain administrative changes regarding the role and duties of the Director of Arbitration such as: removing the Director of Arbitration's membership in, and reporting responsibilities to, the Arbitration Committee; giving the Board's Executive Director responsibility for appointing and assigning duties to the Director of Arbitration; and providing for the Director of Arbitration to designate another person to attend hearings.

### Arbitration Committee

The amendments also remove language providing for the Arbitration Committee to review case-specific determinations made by the Director of Arbitration—such as removing arbitrators from, and reviewing the time and place designated for, an arbitration hearing.

While certain other duties of the Committee remain in the Code (*i.e.*, establish and maintain a pool of arbitrators, and deny use of the forum) these duties historically have been performed

by the Board members of the Arbitration Committee and will continue to be so performed. Thus, the amendments remove the Committee's non-Board members and it is no longer necessary to reference the Committee in the Code.

February 6, 1990

### Text of Amendments\*

#### Rule G-35. Arbitration

Sections 1 through 2. No change.

#### Section 3. Arbitration Committee Board

~~(a) Appointment. The Board shall appoint an Arbitration Committee composed of seven members. The membership of the Arbitration Committee shall consist of three members of the Board, three persons who are not members of the Board and the Director of Arbitration. At all times, one of the members of the Board and one of the persons who are not members of the Board shall be associated with and representative of bank dealers, one each shall be associated with and representative of municipal securities brokers and municipal securities dealers other than bank dealers, and one each shall not be associated with any broker, dealer or municipal securities dealer. The non-Board members of the Arbitration Committee, other than the Director of Arbitration, shall serve for two-year terms and the Board members shall serve for one-year terms. The Director of Arbitration shall serve as a member of the Arbitration Committee at the pleasure of the Board. Vacancies on the Arbitration Committee shall be filled by the Board. Any person selected to fill a vacancy shall serve only for the remainder of the term of such person's predecessor. The Chairman of the Arbitration Committee shall be selected by the Board and shall serve as Chairman for a one-year term.~~

~~(b) Duties. The Arbitration Committee Board shall establish and maintain a pool of arbitrators composed of persons from within and without the municipal securities industry. The Arbitration~~

Questions about this notice may be addressed to  
Thomas A. Hutton, Director of Arbitration.

<sup>1</sup> SEC Release No. 34-27682.

\* Underlining indicates new language; strikethrough indicates deletions.

~~Committee Board~~ shall also have such other power and authority as provided in this Arbitration Code and as is necessary to effectuate the purposes of this Arbitration Code.

**Section 4. Director of Arbitration**

~~The Board Executive Director shall appoint a Director of Arbitration who shall be charged with the performance of the duties and functions set forth in this Arbitration Code or otherwise assigned to the Director of Arbitration by the Arbitration Committee Executive Director. The Director of Arbitration shall be directly responsible to the Arbitration Committee and shall report to it at periodic intervals established by the Arbitration Committee and at such other times as called upon by the Arbitration Committee to do so. The Director of Arbitration may, but need not be, a member or employee of the Board. Subject to the approval of the Board, the Arbitration Committee may designate an organization or a person other than the Director of Arbitration to perform the duties and functions of the Director of Arbitration set forth in this Arbitration Code, including, but not limited to, receipt of documents filed pursuant to this Arbitration Code, forwarding such documents to the appropriate persons, and notifying the parties and other persons as required by this Arbitration Code, and attending hearings. Such organization or person is referred to in this Arbitration Code as the "Committee designee."~~

Sections 5 through 6. No change.

**Section 7. Denial of Arbitration**

~~The Arbitration Committee may~~ Director of Arbitration, upon approval of the Board, shall have the right to decline to permit the arbitration of any claim, dispute or controversy under this Arbitration Code which in its opinion, having due regard for the intent of the Arbitration Code, is not a proper subject matter for arbitration under this Code.

**Section 8. Composition and Appointment of Panels**

(a) through (b) no change.

(c) **Objections**

(i) In any arbitration proceeding, each party shall have the right to one peremptory challenge. In arbitration proceedings where there are multiple claimants, respondents and/or third-party respondents, the claimants shall have one peremptory challenge, the respondents shall have one peremptory challenge and the third-party respondents shall have one peremptory challenge, unless the Director of Arbitration determines that the interests of justice would best be served by awarding additional peremptory challenges. ~~Each party shall also have the right to request that the Arbitration Committee remove other members of the panel which the Arbitration Committee shall be empowered to do in its sole discretion. Unless extended by the Director of Arbitration, a party wishing to exercise a peremptory challenge or to request that the Arbitration Com-~~

~~mittee remove members of the panel~~ must do so by notifying the Director of Arbitration in writing within five business days of notification of the identity of the persons named to the panel. There shall be unlimited challenges for cause.

(ii) through (iii) No change.

Sections 9 through 15. No change.

**Section 16. Designation of Time and Place of Hearings**

Unless the law directs otherwise, the time and place of the initial hearing shall be determined by the Director of Arbitration and for each ensuing hearing thereafter by the arbitration panel. ~~Any party to a proceeding may seek review by the Arbitration Committee of the decision of the Director of Arbitration regarding the time or place of the initial hearing by promptly filing a request to that effect with the Director of Arbitration. In such cases the Arbitration Committee shall determine the time or place of the initial hearing.~~ Notice of the initial hearing shall be delivered at least 8 business days prior to the date fixed for hearing by personal service or registered or certified mail to each of the parties and for each hearing thereafter as the arbitrator panel shall determine, unless the parties shall by their mutual consent waive the notice provisions provided under this section. Attendance at a hearing constitutes a waiver of notice thereof.

Section 17. No change.

**Section 18. Attendance at Hearings**

The attendance or presence of all persons including witnesses shall be determined by the panel of arbitrators; however, all parties to the arbitration and their counsel, and the Director of Arbitration ~~and the Committee designee, if any,~~ shall be entitled to attend all hearings.

Sections 19 through 33. No change.

**Section 34. Simplified Arbitration for Small Claims Relating to Transactions with Customers**

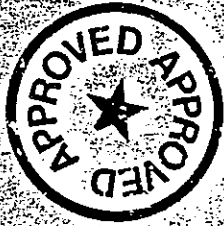
(a) through (e) No change

(f) The claim, dispute or controversy shall be submitted to a single public arbitrator selected by the Director of Arbitration. Unless the customer demands or consents to a hearing, or the arbitrator calls a hearing, the arbitrator shall decide the claim, dispute or controversy solely upon the pleadings and evidence submitted by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Director of Arbitration. ~~The choice of locale by the Director of Arbitration may be reviewed by the Arbitration Committee if a party to a proceeding promptly files a request for review with the Director of Arbitration.~~

(g) through (l) no change.

Sections 35 through 36. No change.

## Notice of Approval



## Route to:

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
- Training
- Other \_\_\_\_\_

## Technical Amendment: Rule G-32

### Amendment Approved

The amendment clarifies that the commercial paper exemption within rule G-32 applies to both taxable and tax-exempt commercial paper.

On February 6, 1990, the Securities and Exchange Commission approved a technical amendment to rule G-32 on disclosures in connection with new issues.<sup>1</sup> The amendment clarifies that the commercial paper exemption within the rule applies to both taxable and tax-exempt commercial paper. The amendment became effective upon approval by the Commission.

In 1985, the Board revised rule G-32 to delineate more clearly the responsibilities of dealers that sell new issue securities as well as to strengthen and facilitate enforcement of the rule. During its deliberation of these amendments, the Board determined to exclude short-term commercial paper from the definition of new issue securities because issuers of those securities typically provide investors with quarterly disclosure documents although an official statement may not be prepared to accompany any specific issue of these securities. The Board concluded that the disclosure process for these issues assures that investors receive material information pertaining to their investments in these securities and, given the differences between the disclosure practices for these issues and other types of municipal securities, it would not be appropriate to include these issues in the rule G-32 definition of new issue municipal securities.

Since the intent of the commercial paper exemption in rule G-32 was to exclude all short-term commercial paper, not just

tax-exempt commercial paper, the technical amendment to rule G-32 clarifies this issue.

February 6, 1990

### Text of Amendments\*

#### Rule G-32. Disclosures In Connection with New Issues

(a) through (b) No change.

(c) *Definition of New Issue Municipal Securities and Official Statement.*

For purposes of this rule, the following terms have the following meanings:

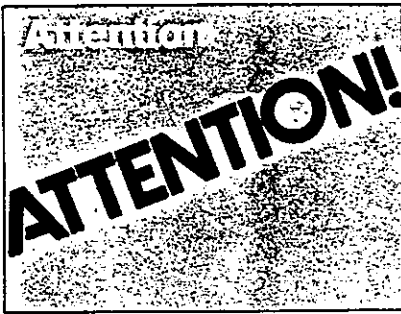
(i) The term "new issue municipal securities" shall mean municipal securities of an issue that are sold by a broker, dealer or municipal securities dealer during the issue's underwriting period, but shall not include ~~issues of tax-exempt~~ commercial paper.

(ii) through (iii) No change.

Questions about this notice may be directed to  
Ronald W. Smith, Legal Assistant.

<sup>1</sup> SEC Release No. 34-27680.

\* Underlining indicates new language; strike-through indicates deletions.


**Route to:**

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
- Operations
- Public Finance
- Compliance
- Training
- Other \_\_\_\_\_

## Letter of Interpretation

### Rule G-15. Confirmation Disclosure of Miscellaneous Transaction Charges

In recent months, several dealers have requested guidance from the Board on the appropriate confirmation treatment of miscellaneous charges added to customer transactions. These inquiries typically relate to small amounts which some dealers add to the combined extended principal and accrued interest of a transaction, prior to arriving at the final monies.<sup>1</sup> In some cases, the charges are levied for specific services provided as part of the transaction (e.g., special delivery arrangements, delivery of physical securities, delivery vs. payment settlement). In other cases, dealers may charge a flat fee characterized simply as a "transaction fee." These miscellaneous fees differ from the commissions charged on agency transactions in that they are flat amounts and are not computed from the par value of the transaction.

Rule G-15(a)(iii)(J) requires each customer confirmation to include, in addition to the specific items noted in G-15(a), "such other information as may be necessary to ensure that the parties

agree to the details of the transaction." Accordingly, the nature and amount of miscellaneous charges must be noted on the confirmation.<sup>2</sup>

Questions have arisen whether miscellaneous transaction fees also should be reflected in the yield required to be disclosed on the confirmation under rule G-15(a)(i)(I).<sup>3</sup> The Board does not believe that it is appropriate for these fees to be incorporated in the stated yield. Because such fees are small, they generally will not significantly affect a customer's return on investment. To the extent that the minor miscellaneous fees charged in today's market may be relevant to the customer's investment decision, the Board believes that a clear disclosure of the nature and amount of the fee on the confirmation will provide customers with sufficient information. If the practice of charging miscellaneous fees and the size of miscellaneous fees changes to the extent that the fees routinely begin to represent significant factors in customers' return on investment, the Board may reconsider this interpretation in favor of placing the charges in the stated yield.

*MSRB Interpretation of May 14, 1990, by Harold L. Johnson, Deputy General Counsel.*

<sup>1</sup> In purchases from customers, such transaction charges may be subtracted from the monies owed the customer.

<sup>2</sup> The Board also has considered questions relating to periodic charges, such as monthly charges for safekeeping. A dealer assessing periodic charges to customer accounts, of course, must reach agreement with the customer on the nature and extent of the charges and the services that will be provided in return. However, since periodic charges do not relate to a specific transaction and may change over time, a dealer's policy on periodic charges is not required on the confirmation as a "detail of the transaction."

<sup>3</sup> Commissions charged on agency transactions must be included in the yield calculation. See MSRB interpretation of July 13, 1984, *MSRB Manual* ¶ 3571.33 at 4528. This has led dealers to ask whether miscellaneous transaction charges should be handled in a similar manner. As noted above, the Board does not believe that miscellaneous charges should be handled in the same manner as commissions.

**Route to:**

- Manager, Muni Dept.
- Underwriting
- Trading
- Sales
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- Compliance
- Training
- Other \_\_\_\_\_

## Revisions to the Municipal Securities Principal Examination

Effective as of July 1, 1990

On March 6, 1990, the Securities and Exchange Commission approved revised examination specifications and a revised study outline for the Municipal Securities Principal Qualification Examination (Test Series 53).<sup>1</sup> A revised study outline is available upon request from the Board and will be implemented with all examinations administered on and after July 1, 1990.

### Background

Except as otherwise provided, rule G-3(c) requires anyone seeking qualification as a municipal securities principal to take and pass the Series 53 examination.<sup>2</sup> The examination contains questions which measure candidates' knowledge of the Board's rules, rule interpretations and other federal statutory provisions applicable to the municipal securities activities of a securities firm or bank dealer.

### Summary of Revisions

The subject matter content of the revised study outline is nearly identical to the current outline. The study outline's format has been reorganized so that the presentation of topics more closely resembles the functional responsibilities of municipal securities principals. The intent is to make the presentation of the subject matter job-related and more meaningful for candidates. To this end, the various topics have been expanded to include more detail than in the present outline, including more specific references to Board rules or other applicable federal regulations.

In addition, the following topics have been added:

- SEC rule 15c2-12 on municipal securities disclosure,
- SEC Release No. 34-26100 on municipal underwriter responsibilities,
- proposed Board rule G-36 on delivery of final official statements to the Board,<sup>3</sup> and
- the purpose and coverage limitations of the Securities Investor Protection Corporation (SIPC).

The revised examination will remain a three-hour 100 question examination administered by the National Association of Securities Dealers, Inc., using the PLATO computer system. The passing grade is 70%.

Requests for copies of the revised study outline should be made to the Board at (202) 223-9347 or by writing to:

Municipal Securities Rulemaking Board  
1818 N Street N.W., Suite 800  
Washington, D.C. 20036-2491  
Attention: Publications

March 6, 1990

Questions concerning the Board's professional qualifications program should be directed to Peter H. Murray, Assistant Executive Director or to Ronald W. Smith, Legal Assistant.

<sup>1</sup> SEC Release No. 34-27771.

<sup>2</sup> The Series 53 examination is the only examination a candidate may take to qualify as a municipal securities principal. Neither the General Securities Principal Examination (Test Series 24) nor the General Securities Sales Supervisor Examination (Test Series 8) may be substituted.

<sup>3</sup> To be tested when approved.

# Publications List

## Manuals and Rule Texts

### MSRB Manual

Soft-cover edition containing the text of MSRB rules, interpretive notices and letters, samples of forms, texts of the Securities Exchange Act of 1934 and of the Securities Investor Protection Act of 1970, as amended, and other applicable rules and regulations affecting the industry. Reprinted semi-annually.  
April 1, 1990 ..... \$5.00

### Glossary of Municipal Securities Terms

Glossary of terms (adapted from the State of Florida's *Glossary of Municipal Bond Terms*) defined according to use in the municipal securities industry.  
1985 ..... \$1.50

### Professional Qualification Handbook

A guide to the requirements for qualification as a municipal securities representative, principal, sales principal and financial and operations principal, with questions and answers on each category. Includes sections on examination procedures, waivers, disqualification and lapse of qualification, the text of MSRB qualification rules and a glossary of terms.  
1989 ..... 5 copies per order ..... no charge  
Each additional copy ..... \$1.50

### Manual on Close-Out Procedures

A discussion of the close-out procedures of rule G-12(h)(i) in a question and answer format. Includes the text of rule G-12(h)(i) with each sentence indexed to particular questions, and a glossary of terms.  
January 1, 1985 ..... \$3.00

### Arbitration Information and Rules

Based on SICA's *Arbitration Procedures* and edited to conform to the Board's arbitration rules, this pamphlet includes the text of rules G-35 and A-16, a glossary of terms and list of other sponsoring organizations.  
1989 ..... no charge

### Instructions for Beginning an Arbitration

Step-by-step instructions and forms necessary for filing an arbitration claim.  
1989 ..... no charge

### The MSRB Arbitrator's Manual

The Board's guide for arbitrators. Based on SICA's *The Arbitrator's Manual*, it has been edited to conform to the Board's arbitration rules. It also contains relevant portions of the *Code of Ethics for Arbitrators in Commercial Disputes*.  
January 1990 ..... \$1.00

## Reporter and Newsletter

### MSRB Reports

The MSRB's reporter and newsletter to the municipal securities industry. Includes notices of rule amendments filed with and/or approved by the SEC, notices of interpretations of MSRB rules, requests for comments from the industry and the public and news items.  
Quarterly ..... no charge

## Examination Study Outlines

A series of guides outlining subject matter areas a candidate seeking professional qualification is expected to know. Each outline includes a list of reference materials and sample questions.

### Study Outline: Municipal Securities Representative Qualification Examination

Outline for Test Series 52.  
November 1989 ..... no charge

### Study Outline: Municipal Securities Principal Qualification Examination

Outline for Test Series 53.  
May 1988 ..... no charge  
July 1990 (available after May 31, 1990) ..... no charge

## Brochures

### MSRB Information for Municipal Securities Investors

Investor brochure describing Board rulemaking authority, the rules protecting the investor, arbitration and communication with the industry and investors. Use of this brochure satisfies the requirements of rule G-10.  
1 to 500 copies ..... no charge  
Over 500 copies ..... \$.01 per copy

### MSRB Information

Brochure describing Board structure and responsibility, the rulemaking process, and communications with the industry.  
1 to 500 copies ..... no charge  
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The MSRB Arbitrator's Manual	\$1.00		
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