public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2012–038 on the subject line.

Paper Comments

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

All submissions should refer to File Number *SR–BATS–2012–038.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number *SR–BATS–2012–038* and should be submitted on or before October 18, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–23765 Filed 9–26–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67908; File No. SR–MSRB–2012–06]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change To Amend Rule G–34 on CUSIP Numbers, New Issue, and Market Information Requirements

September 21, 2012.

I. Introduction

On June 28, 2012, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of amendments to Rule G–34 on CUSIP numbers, new issue, and market information requirements. The proposed rule change was published for comment in the **Federal Register** on July 10, 2012.[3] The Commission received three comment letters regarding the proposed rule change.[4] On August 23, 2012, the MSRB granted an extension of time for the Commission to act on the filing until September 14, 2012. On September 11, 2012, the MSRB granted a second extension of time until September 21, 2012. On September 17, 2012, the MSRB submitted a response to the comment letters.[5] This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The MSRB proposes to add new subsection (iv) to Rule G–34(a) to prohibit any broker, dealer, or municipal securities dealer from using the term ''not reoffered'' or other comparable term or designation (*e.g.,* ''NRO'') without also including the applicable price or yield information about the securities in any of its written communications, electronic or otherwise, sent by it or on its behalf from and after the time of initial award of a new issue of municipal securities.[6] For purposes of MSRB Rule G–34(a)(iv), the ''time of initial award'' means the earlier of (A) the ''Time of Formal Award'' as defined in MSRB Rule G–34(a)(ii)(C)(1)(a),[7] or (B) if applicable, the time at which the issuer initially accepts the terms of a new issue of municipal securities subject to subsequent formal award. The prohibition would not apply to communications occurring prior to the time of initial award of a new issue of municipal securities.[8] According to the MSRB, the proposed rule change will prohibit certain communications that hinder price and market transparency, as well as facilitate new issue price discovery.[9]

MSRB Rules G–32 and G–34 set forth the reporting requirements for new issues of municipal securities. MSRB Rule G–32 requires underwriters to submit to the MSRB's Electronic Municipal Market Access (''EMMA®'') system certain information about the new issue, including the initial offering price or yield of all maturities, on or prior to the date of first execution.[10] This information becomes available to the public on the EMMA Web site and to information vendors and other market participants through subscription services immediately upon submission

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[15] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 67344 (July 3, 2012), 77 FR 40668 (''Notice'').

[4] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Susan Gaffney, Director, Federal Liaison Center, Government Finance Officers Association, dated August 7, 2012 (''GFOA Letter''); and Web comments from Arthur Sinkler, dated July 8, 2012 (''Sinkler Letter''); and Shelly Frank, dated July 10, 2012 (''Frank Letter''). The comments received by the Commission are available at *http://www.sec.gov/comments/sr-msrb-2012–06/msrb201206.shtml.*

[5] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Karen Du Brul, Associate General Counsel, MSRB, dated September 17, 2002 (''MSRB's Response'').

[6] *See* Proposed MSRB Rule G–34(a)(iv).

[7] MSRB Rule G–34(a)(ii)(C)(1)(a) defines ''Time of Formal Award'' as ''for competitive issues, the later of the time the issuer announces the award or the time the issuer notifies the underwriter of the award, and for negotiated issues, the later of the time the contract to purchase the securities from the issuer is executed or the time the issuer notifies the underwriter of its execution.''

[8] *See* Notice, *supra* note 3, at 40668. The MSRB also proposes to delete existing subsection (e)(iii) of MSRB Rule G–34, which includes provisions for compliance by dealers with certain registration and testing requirements previously applicable with respect to the start-up phase in 2008 of the New Issue Information Dissemination System (''NIIDS'') operated by the Depository Trust and Clearing Corporation (''DTCC''). The MSRB believes this amendment will streamline Rule G–34 by eliminating language from the Rule that no longer has any effect. *See id.* at 40669.

[9] *See id.* at 40669.

[10] *See* MSRB Rule G–32(b)(vi)(C)(1)(a).

and typically by the end of the date of first execution.[11] MSRB Rule G–34 requires underwriters, with certain exceptions, to report to NIIDS certain information about new issues of municipal securities within two hours following the Time of Formal Award,[12] including the initial price or yield at which each maturity of the new issue of municipal securities was sold.[13]

While MSRB Rules G–32 and G–34 require underwriters to provide initial offering price or yield for all maturities, including those that are not reoffered, and prohibit underwriters from using the designation of NRO in their submissions, the rules do not prevent underwriters or other parties acting on the underwriters' behalf from substituting the designation of NRO for the initial offering price or yield for applicable maturities when sending information regarding a new issue directly to third-party vendors.[14] According to the MSRB, the proposed rule change would result in information about the initial offering prices or yields for NRO maturities being included in any communication to or from third-party venders from and after the time of initial award.[15]

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

The Commission received three comment letters on the proposed rule change.[16] One commenter generally supported the proposed rule change but stated that underwriters should be required to provide yield information.[17] The other two commenters raised issues that were not directly on point with the subject of the proposed rule change. Accordingly, the concerns raised in those comment letters are not addressed here.[18]

As stated above, one commenter opined that there should be mandatory reporting of yield data.[19] The commenter reasoned that reporting just the maturity's price data requires issuers and investors to calculate the corresponding yield, which makes the information less useful to issuers and investors.[20] According to the commenter, the MSRB would take positive steps toward transparency and a more efficient market by requiring yield data.[21]

In its response, the MSRB stated that it is not requiring yield, rather than price or yield, because such a stipulation would create an inconsistency with other MSRB rules and the MSRB's information systems.[22] The MSRB stated that it would be inconsistent to require yield when underwriters voluntarily provide such information to the public but permit price *or* yield when underwriters provide such information pursuant to mandatory reporting requirements, including submissions to EMMA and NIIDS, in connection with new issue underwritings or on customer confirmations.[23] The MSRB acknowledged the value of having both price and yield data available for investors and also stated that, in the context of the MSRB's existing process outlined in its Long-Range Plan for Market Transparency Products (''MSRB Long-Range Plan''),[24] it would consider as a potential next step whether to undertake a more universal approach to price and yield information for new issues of municipal securities.[25]

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, as well as the comment letters received and the MSRB's response, and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB.[26] In particular, the proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act, which provides that the MSRB's rules 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 and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.[27]

The Commission believes that the proposed rule change is reasonably designed to remove impediments to and perfect the mechanism of a free and open market in municipal securities by prohibiting certain communications that hinder price and market transparency and by facilitating new issue price discovery. The proposed rule change would require underwriters to include the initial offering price or yield in any written communication it sends to any party from and after the time of initial award, including for those maturities that are not reoffered. Although MSRB Rules G–32 and G–34 require the initial offering price or yield for all maturities, including those that are not reoffered, and prohibit underwriters from using the designation of NRO in their submissions, this information may not be readily available until the end of the date of first execution. Accordingly, the Commission believes the proposed rule change should cause issuers, investors, and other market participants to receive more timely information about initial offering prices or yields (*i.e.,* prior to the submission deadlines of MSRB Rules G–32 and G–34). This should aid issuers in pricing their own same-day transactions and benefit investors and other market participants seeking more contemporaneous price information.

The Commission also believes the proposed rule change could reduce pricing inefficiencies in the municipal securities market by providing timelier price or yield information to a larger universe of market participants. Currently, market participants have different levels of access to price or

[11] *See* Notice, *supra* note 3, at 40669. In addition, while MSRB Rule G–14 requires dealers, with limited exceptions, to report the actual prices at which municipal securities are sold to the MSRB's Real-time Transaction Reporting System within 15 minutes of the time of trade, in many cases initial trades by syndicate or selling group members executed on the first day of trading at the published list offering price may be reported by the end of the day. *See id.* at 40669 n.4.

[12] *See supra* note 7.

[13] *See* MSRB Rule G–34(a)(ii)(C). DTCC disseminates this information to its subscribers, including market participants and information vendors, upon submission by underwriters for dissemination, typically within two hours following the Time of Formal Award. *See* Notice, *supra* note 3, at 40669.

[14] *See id.* at 40669. Third-party vendors may then disseminate the new issue information, including the NRO designation without accompanying initial offering price or yield, to their subscribers shortly after receipt, and frequently before the complete initial offering price or yield information becomes available through NIIDS or the EMMA system. *See id.*

[15] *See id.*

[16] *See supra* note 4.

[17] *See* GFOA Letter.

[18] For instance, the Frank and Sinkler Letters, as well as the GFOA Letter, stated that the timeframe for submitting pricing information should be shorter. Moreover, the Frank and Sinkler Letters encouraged release of scales before the pricing of a new issue is final and for retail investors to be able to purchase municipal securities at the issue price. Although the comments are not addressed here, those comments, as well as the MSRB's Response, are available at *http://www.sec.gov/comments/sr-msrb-2012-06/msrb201206.shtml.*

[19] *See* GFOA Letter.

[20] *See id.*

[21] *See id.*

[22] *See* MSRB Letter at 2.

[23] *See id.*

[24] *See* MSRB Notice 2012–06 (February 23, 2012).

[25] *See* MSRB Letter at 2, 3.

[26] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78*o*–4(b)(2)(C).

yield information about new issues of municipal securities, which could contribute to differences in prices for similar securities. The Commission believes price transparency is vital for assuring that markets are fair and efficient, and that the proposed rule change should help enhance price transparency and lead to greater price discovery in the primary market.[28]

With respect to the comment that reporting of yield data should be mandatory, the Commission recognizes that other MSRB rules do not require reporting of yield, but rather allow reporting of yield *or* price, and that requiring yield in the context of voluntary submissions in the instant proposed rule change would be inconsistent with existing mandatory reporting requirements under other MSRB rules. The Commission, however, notes that the MSRB has acknowledged the value of having both price and yield data available to investors and understands that, in connection with the MSRB's Long-Range Plan, it would consider a more universal approach to reporting of price and yield information for new issues of municipal securities.[29]

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB and, in particular, Section 15B(b)(2)(C)[30] of the Exchange Act. The proposal will become effective on the first calendar day of the next succeeding month beginning at least twenty-eight calendar days after the date of the Commission's order approving the proposed rule change.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[31] that the proposed rule change (SR–MSRB–2012–06) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

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[28] The Commission also believes that the MSRB's proposal to delete existing subsection (e)(iii) of MSRB Rule G–34 is consistent with the Act as it would eliminate language from the Rule that no longer has any effect.

[29] *See* Notice, *supra* note 3, at 20670. *See also* MSRB's Response at 2, 3.

[30] 15 U.S.C. 78*o*–4(b)(2)(C).

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67910; File No. SR–EDGX–2012–42]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend EDGX Rule 13.9

September 21, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 19, 2012, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. 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 Exchange is filing with the Commission a proposed rule change to amend Rule 13.9, which provides a new market data product to Members[3] and non-Members of the Exchange. The text of the proposed rule change is available on the Exchange's Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

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 Exchange 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 self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

[2] 17 CFR 240.19b–4.

[3] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

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

1. Purpose

In SR–EDGX–2012–37 (the ''Filing''),[4] the Exchange introduced a new market data product, Edge Routed Liquidity Report (''Edge Routed Liquidity Report'' or the ''Service'') to Members and non-Members of the Exchange (collectively referred to as ''Subscribers''). The Edge Routed Liquidity Report is a data feed that contains historical order information for orders routed to away destinations by the Exchange. The Filing stated that Edge Routed Liquidity Report is offered as either a standard report (the ''Standard Report'') or a premium report (the ''Premium Report'') (the Standard Report and the Premium Report shall be collectively referred to as the ''Reports'').

The purpose of this proposed rule change is to amend Rule 13.9 to provide additional information regarding the features of the Standard Report and the Premium Report. The Filing noted that both the Standard Report and the Premium Report provide a view of all marketable orders that are routed to away destinations by the Exchange. The Reports are available to the Subscribers on the morning of the following trading day (T + 1) and include limit price, routed quantity, symbol, side (bid/offer), time of routing, and the National Best Bid and Offer (NBBO) at the time of routing.

However, [the] Premium Report also identifies various categories of routing destinations. First, the Premium Report identifies whether the routing destination is either directed to a destination that is not an exchange (''Non-Exchange Destination'') or directed to another exchange. If the order is routed to a Non-Exchange Destination, the Premium Report will then also specify one of the following Non-Exchange Destination categories: Regular, Fast, Superfast and Midpoint (collectively, the ''Categories''). The Category is determined by the applicable routing strategy associated with the relevant order, based on responsiveness of the destination (i.e. latency), number of destinations, and/or type of execution (i.e. midpoint). For example, a routing strategy that leverages many dark pools for low-cost, low impact executions, which takes a greater amount of time to fill an order may be categorized as ''Regular'' in the

[4] Securities Exchange Act Release No. 67766 (August 31, 2012), 77 FR 55251 (September 7, 2012) (SR–EDGX–2012–37).