

Reminder Notice on “List Offering Price” and Three-Hour Exception for Real-Time Transaction Reporting: Rule G-14

December 10, 2004

The MSRB has received questions concerning the meaning of “list offering price” in Rule G-14 Real-Time Transaction Reporting Procedures. As used in this context, the term means the publicly announced “initial offering price” at which a new issue of municipal securities is to be offered to the public.

Real-time transaction reporting requires dealers to report most transactions within fifteen minutes of the time of trade execution.¹ Transactions effected at the “list offering price” by syndicate or selling group members² on the first day of trading in a new issue are eligible for an exception found in Rule G-14 RTRS Procedures section (a)(ii)(A). Such transactions instead are required to be reported by the end of the day. Note that syndicate and selling group members are not required to wait to report such transactions at the end of the day and may choose to report prior to the end of the day.

The exception from fifteen-minute transaction reporting for list-price syndicate trades is based on operational difficulties that otherwise might be presented for dealers when large numbers of transactions at the initial offering price must be reported by a dealer at one time. The MSRB viewed these operational considerations as sufficiently important to allow trades to be reported at the end of the day given that the price of such trades (the “list offering price”) is public. Note that transactions by syndicate or selling group members at prices other than the “list offering price” on the first day of trading in a new issue are required to be reported within fifteen minutes of the time of trade execution. For example, transactions between the syndicate manager and syndicate members (“takedown” transactions) that are at prices other than the “list offering price” must be reported within fifteen minutes of the time of execution. Similarly, transactions done at offering prices that have not been publicly announced, *e.g.* “not reoffered” prices, also must be reported within fifteen minutes of the time of execution since these prices are not public.

Questions also have been asked about the availability of the three-hour trade reporting exception found in Rule G-14 RTRS Procedures section (a)(ii)(C). When a dealer effects a trade in an issue it has not traded in the past year and does not have CUSIP numbers and indicative data for the issue in its securities master file used to process trades for confirmations, clearance and settlement, it is allowed three hours to report.³ This exception is designed to allow a dealer time to set-up a security it has not traded and is available for transactions on the first day of trading in a new issue. Note this exception is not available for syndicate and selling group members.

¹ Rule changes to MSRB Rules G-14, on transaction reporting, and G-12(f), on automated comparison of inter-dealer transactions, that will require dealers to report transactions in real-time become effective January 31, 2005. See MSRB Notice 2004-36 (November 17, 2004) on www.msrb.org.

² References to “syndicate and selling group members” in this context are meant to include managers of syndicates as well as sole underwriters or placement agents in non-syndicated offerings.

³ The three-hour exception sunsets one year after real-time transaction reporting is implemented.

Reminder Notice on Use of “List Offering Price/Takedown” Indicator: Rule G-14

January 19, 2007

On January 8, 2007, certain amendments to Rule G-14 concerning the “List Offering Price/Takedown” indicator became effective. These amendments require the use of the “List Offering Price/Takedown” indicator on primary market sale transactions executed on the first day of trading of a new issue:

- by a sole underwriter, syndicate manager, syndicate member or selling group member at the published list offering price for the security (“List Offering Price Transaction”); or
- by a sole underwriter or syndicate manager to a syndicate or selling group member at a discount from the published list offering price for the security (“RTRS Takedown Transaction”).¹

Since implementation of the revised “List Offering Price/Takedown” indicator, the MSRB has received several questions concerning the use of the indicator on certain transactions executed by sole underwriters, syndicate managers, syndicate members, or selling group members on the first day of trading in a new issue. These questions relate to whether inter-dealer transactions at a price equal to the “list offering price” are included in the definition of “List Offering Price Transactions.” The MSRB wishes to clarify that inter-dealer transactions are not included in the definition of “List Offering Price Transactions.”²

The MSRB has previously clarified that the published list offering price is defined as the “publicly announced ‘initial offering price’ at which a new issue of municipal securities is to be offered to the public.”³ A large number of sales to investors at the published list price are expected on the first day of trading of a new issue, and these transactions offer relatively little value to real-time transparency. Consequently, the “List Offering Price” exception provides these transactions with an end-of-day exception to the 15-minute deadline. An inter-dealer sale transaction at a price equal to the list offering price, however, does provide useful current market information, since it can be presumed that the security is destined to be redistributed to investors at a price above the published list offering price. Inter-dealer transactions at the list offering price, therefore, are not included in the definition of “List Offering Price Transactions,” and identifying such transactions with the “List Offering Price/Takedown” indicator would violate MSRB Rule G-14.

¹ See Rule G-14 RTRS Procedures (d)(vii). A transaction reported with the “List Offering Price/Takedown” indicator receives an end-of-day exception to the 15-minute reporting deadline.

² An inter-dealer transaction may meet the definition of an “RTRS Take-down Transaction” when a sole underwriter or syndicate manager executes a transaction with a syndicate or selling group member at a discount from the published list offering price for the security.

³ See “Reminder Notice on ‘List Offering Price’ and Three-Hour Exception for Real-Time Transaction Reporting: Rule G-14,” MSRB Notice 2004-40 (December 10, 2004). If the price is not publicly disseminated (e.g., if the security is a “not reoffered” maturity within a serial issue), the transaction is not considered a “List Offering Price Transaction.”

Notice on Comparison of Inter-Dealer Deliveries That Do Not Represent Inter-Dealer Transactions — “Step Out” Deliveries: Rules G-12(f) And G-14

April 1, 2005

The MSRB reminds dealers of trade reporting procedures with respect to “step outs” and other inter-dealer deliveries that are not the result of inter-dealer transactions.

Rule G-14 requires that inter-dealer purchase-sale transactions eligible for comparison through the National Securities Clearing Corporation (NSCC) automated comparison system (RTTM) be reported to the MSRB Transaction Reporting System. For these inter-dealer transactions, trade reporting to the MSRB is accomplished by both the purchasing and selling dealers submitting the trade for comparison following NSCC’s procedures, and ensuring that the trade record includes certain additional data required by Rule G-14. NSCC then forwards each dealer’s trade submission to the MSRB. In effect, the comparison submission to NSCC doubles as the trade report to the MSRB.

In certain situations, deliveries of securities occur between two dealers even though the two dealers did not effect a purchase-sale transaction with each other. **Dealers using the comparison system to facilitate these deliveries must be careful not to report the deliveries as inter-dealer transactions.** A frequent example of this situation occurs when an independent investment advisor effects a transaction with a dealer (the “executing dealer”) and instructs the executing dealer to deliver securities to another dealer (the “custody dealer”) for unnamed clients of the investment advisor. The resulting delivery between the executing dealer and the custody dealer may be handled through NSCC by submitting the delivery to RTTM for comparison, even though there was no purchase-sale transaction between the two dealers. However, in these cases, the executing dealer and the custody dealer each must indicate that the submissions are for RTTM Matching Only (Destination 01, see below) to ensure that the submissions do not also constitute trade reports under Rule G-14. **Failure to do so by either party will result in a violation of Rule G-14.**¹

NSCC has published procedures for identifying comparison submissions as step outs, meaning comparison submissions that do not represent reportable inter-dealer transactions.² Although the full procedures are not repeated here, they basically require dealers using interactive messaging to submit data to NSCC with “DEST 01” (and no other “DEST”) in the

destination indicator message field and dealers using RTTM Web to select the “RTTM” trade reporting indicator.³ To avoid violations of Rule G-14, dealers also should be careful to use NSCC’s step out procedures only when applicable (i.e., when there is an inter-dealer delivery being compared, but there was no purchase-sale transaction between the dealers).⁴

It is worth noting that comparison submissions will compare against each other in RTTM regardless of whether their step out indicators match. When two dealers submit “mismatched” destination indicators and a comparison occurs, NSCC forwards data about both submissions to the MSRB, but the MSRB is unable to determine which dealer was correct as to whether the comparison represents a transaction or a step out. However, it is clear in such a case that at least one of the dealers has violated Rule G-14, either by reporting a true inter-dealer trade as a step out or by reporting an inter-dealer transaction that did not occur.

The MSRB is developing a report that will identify such “mismatched” inter-dealer trade comparisons as an aid to dealers and enforcement personnel. The MSRB will publish a notice when the report is available. However, dealers should at this time review their comparison and trade reporting procedures to ensure that their comparison submissions correctly use the step out indicator and use it only when appropriate.

Questions about the procedure for processing step out deliveries should be directed to NSCC. Questions about whether a particular type of delivery is reportable as an inter-dealer purchase-sale transaction may be directed to MSRB staff.

¹ In this example, the executing dealer has an additional duty to report its execution of the investment advisor’s order to the MSRB as a dealer sale to a customer; the submission of the “step out” delivery to NSCC does not substitute for this customer trade report. See MSRB Notice 2003-20, “Notice on Reporting and Comparison of Certain Transactions Effected by Investment Advisors: Rules G-12(f) and G-14,” May 23, 2003.

² For NSCC’s complete procedure on comparing step out deliveries, see e.g., NSCC Important Notice A5943/P&S5513, “Changes to Municipal Bond ‘Step Out’ Processing,” December 2, 2004, on www.nsc.com.

³ To further distinguish step out submissions, dealers also should include “STEP” in the Trader ID contra party field.

⁴ Another example of a transfer of securities between dealers that is not the result of a purchase-sale transaction was described in MSRB Notice 2004-14, “Notice on Certain Inter-Dealer Transfers of Municipal Securities: Rules G-12(f) and G-14,” June 4, 2004.

Reminder Regarding Modification and Cancellation of Transaction Reports: Rule G-14

March 2, 2005

Executive Summary

The Municipal Securities Rulemaking Board (“MSRB”) reminds brokers, dealers and municipal securities dealers (collectively “dealers”) of the need to report municipal securities transactions accurately and to minimize the submission of modifications and cancellations to the Real-Time Transaction Reporting System (“RTRS”). Each transaction initially

should be reported correctly to RTRS. Thereafter, only changes necessary to achieve accurate and complete transaction reporting should be submitted to RTRS. Changes should be rare since properly reported transactions should not need to be corrected.

* * *

Under Rule G-14, dealers are required to report all transactions to the MSRB and to report accurately and completely the information specified in the Rule G-14 RTRS Procedures (“Procedures”). Trades that are reported with errors affect the accuracy of the information published in price transparency reports as well as the audit trail information retained in the surveillance database.¹

The MSRB has published notices to dealers reminding them of their obligation to report transactions correctly and to monitor error reports the MSRB sends them.² Each trade should be reported correctly in the dealer’s *initial* submission of trade data to RTRS and, for inter-dealer trades, to the Real-time Trade Matching (“RTTM”) system as well. Changes should be rare since properly reported transactions should not need to be corrected. If, however, a transaction is reported with incorrect or missing attributes (such as price or capacity), the Procedures require the dealer to correct the report as soon as possible.³ When RTRS sends certain error messages to a dealer, the dealer is *required* to correct the trade report.⁴ Dealers can make those corrections, or other necessary corrections in reported data, by modifying the trade report or by cancelling the report and submitting a correct replacement.⁵ If it is necessary to modify a report, modification is preferred over cancellation and resubmission.⁶

Dealers should not change trade reports when the transaction attribute that changes is not required to be reported by MSRB or NSCC. For example, if only the account representative associated with a transaction changes, the report to the MSRB should not be changed, as this information is not required to be reported to the MSRB under Rule G-14. Dealers should take care that, if a modification or cancellation is submitted that is *not* responding to an RTRS error message, the dealer is correcting or cancelling an erroneous report.⁷

RTRS counts the number of modifications and cancellations submitted by each dealer. The MSRB provides statistics to the NASD and other enforcement agencies that measure dealer performance in modifying and cancelling transactions, as well as error rates of original submissions. Dealers that excessively modify or cancel trade reports will have above-average rates in these statistical reports. Dealers therefore should change trade reports only when appropriate to attain accurate and complete reporting under Rule G-14 and the Procedures.

Dealers can monitor their reporting of transactions in compliance with Rule G-14 in several ways. The MSRB currently provides information to dealers about their reporting performance. Any error detected by RTRS is reported back to the submitter by electronic message and is shown to the submitter and the executing dealer on the RTRS Web screen.⁸ RTRS

also sends e-mail error messages to dealers on request. The RTRS Web screen lists all trades cancelled by the dealer, under its Advanced Search feature. In addition, beginning in March 2005, the MSRB plans to make available to dealers the same statistics provided to the enforcement agencies, in a report entitled “G-12(f)/G-14 Compliance Data from RTRS.” This will be available monthly on the first Monday after the 15th of the month. A dealer’s report will include its statistics for the most recent full month and for the previous month.⁹ It will also include summary statistics for the municipal securities industry so that the dealer can compare its performance to the industry’s. Further information about how a dealer can obtain its compliance statistics will be posted in March on the MSRB website, www.msrb.org.

¹ Transactions reported to the MSRB are made available to the NASD and other regulators for their market surveillance and enforcement activities.

² See, e.g., “Reminder Regarding MSRB Rule G-14 Transaction Reporting Requirements” (March 3, 2003) on www.msrb.org.

³ See Rule G-14 RTRS Procedures paragraph (a)(iv) and “Reminder Regarding Accuracy of Information Submitted to the MSRB Transaction Reporting System: Rule G-14” (February 10, 2004) on www.msrb.org.

⁴ Messages which indicate a trade report is “unsatisfactory” and which have an error code beginning with “U” require that the trade be modified or that it be cancelled and replaced. See “Specifications for Real-time Reporting of Municipal Securities Transactions,” especially the table and text after the table in section 2.9. This document is on www.msrb.org.

⁵ Changes to inter-dealer trades are governed also by National Securities Clearing Corporation (“NSCC”) rules. See, e.g., “Interactive Messaging: NSCC Participant Specifications for Matching Input and Output” on www.nscce.com.

⁶ Modification is preferred when changes are necessary because a modification is counted as a single change to a trade report. A cancellation and resubmission are counted as a change and (unless the resubmission is done within the original deadline for reporting the trade) also a late report of a trade. Methods for cancelling and modifying reports are described in Sections 1.3.3 and 2.9 of “Specifications for Real-time Reporting of Municipal Securities Transactions: Version 1.2” on www.msrb.org.

⁷ Note that the MSRB does not require a dealer to report a change to the settlement date of a trade in when-issued securities, if that is the only change.

⁸ See “Real-Time Transaction Reporting Web User Manual” on www.msrb.org.

⁹ The first report, planned for March 21, 2005, will include statistics only for February, since RTRS went into operation on January 31, 2005.

Reporting of Transactions in Certain Special Trading Situations: Rule G-14

January 2, 2008

The MSRB Real-Time Transaction Reporting System (RTRS) serves the dual purposes of price transparency and market surveillance. Because a comprehensive database of transactions is needed for the surveillance function of RTRS, MSRB Rule G-14, on transaction reporting, with limited exceptions, requires dealers to report all of their purchase-sale transactions to RTRS within fifteen minutes. All reported transactions are entered into the RTRS surveillance database used by market regulators and enforcement agencies. However, the special nature of some transactions affects their value for price trans-

parency and the ability of dealers to meet the fifteen minute reporting deadline. To address these issues, RTRS was designed so that a dealer can code a specific transaction report with a “special condition indicator” to designate the transaction as being subject to a special condition.¹

Transactions Executed With Special Pricing Conditions

Three trading scenarios recently have generated questions from dealers and users of the MSRB price transparency products. Each of the three trading scenarios described below represents situations where the transaction executed is not a typical armslength transaction negotiated in the secondary market and thus may be a misleading indicator of the market value of a security. To clarify transaction reporting requirements and to prevent publication of a potentially misleading price, dealers are required to report these transactions with the M9c0 special condition indicator.² Transactions reported with this special condition indicator are entered into the surveillance database but suppressed from price dissemination to ensure that transparency products do not include prices that might be confusing or misleading.

Customer Repurchase Agreement Transactions

Some dealers have programs allowing customers to finance municipal securities positions with repurchase agreements (“repos”). Typically, a bona fide repo consists of two transactions whereby a dealer will sell securities to a customer and agree to repurchase the securities on a future date at a pre-determined price that will produce an agreed-upon rate of return. Both the sale and purchase transactions resulting from a customer repo do not represent typical arms-length transactions negotiated in the secondary market and are therefore required to be reported with the M9c0 special condition indicator.

UIT-Related Transactions

Dealers sponsoring Unit Investment Trusts (“UIT”) or similar programs sometimes purchase securities through several transactions and deposit such securities into an “accumulation” account. After the accumulation account contains the necessary securities for the UIT, the dealer transfers the securities from the accumulation account into the UIT. Purchases of securities for an accumulation account are presumably done at market value and are required to be reported normally. The transfer of securities out of the accumulation account and into the UIT, however, does not represent a typical arms-length transaction negotiated in the secondary market. Dealers are required to report the subsequent transfer of securities from the accumulation account to the UIT with the M9c0 special condition indicator.

TOB Program-Related Transactions

Dealers sponsoring tender option bond programs (“TOB Programs”) for customers sometimes transfer securities previously sold to a customer into a derivative trust from which derivative products are created. If the customer sells the se-

curities held in the derivative trust, the trust is liquidated and the securities are reconstituted from the derivative products and transferred back to the customer. The transfer of securities into the derivative trust and the transfer of securities back to the customer upon liquidation of the trust do not represent typical arms-length transactions negotiated in the secondary market. Such transactions are required to be reported using the M9c0 special condition indicator.³

Inter-Dealer Transactions Reported “Late”

Inter-dealer transaction reporting is accomplished by both the purchasing and selling dealers submitting the trade to the Depository Trust and Clearing Corporation’s (DTCC) automated comparison system (RTTM) following DTCC’s procedures. RTTM forwards information about the transaction to RTRS. The inter-dealer trade processing situations described below are the subject of dealer questions and currently result in dealers being charged with “late” reporting or reporting of a trade date and time that differs from the date and time of trade execution. To allow dealers to report these types of transactions without receiving a late error and to allow enforcement agencies to identify these trades as reported under special circumstances, the MSRB has added two new special condition indicators.⁴ New special condition indicator Mc40 is used to identify certain inter-dealer transactions that are ineligible for comparison on trade date, and new special condition indicator Mc50 is used to identify resubmissions of certain uncomparable inter-dealer transactions that have been cancelled by RTTM. Described below are the procedures for reporting transactions arising in three inter-dealer transaction reporting scenarios using the new special condition indicators.

Inter-Dealer Ineligible on Trade Date

Certain inter-dealer transactions are not able to be submitted to RTTM on trade date or with the accurate trade date either because all information necessary for comparison is not available or because the trade date is not a “valid” trade date in RTTM. The two inter-dealer trading scenarios described below are required to be reported using the new Mc40 special condition indicator.

VRDO Ineligible on Trade Date

On occasion, inter-dealer secondary market transactions are effected in variable rate demand obligations (VRDOs) in which the interest rate reset date occurs between trade date and the time of settlement. Since dealers in this scenario cannot calculate accrued interest or final money on trade date, they cannot process the trade through RTTM until the interest rate reset has occurred. To report such transactions, both dealers that are party to the transaction are required to report the transaction by the end of the day that the interest rate reset occurs, including the trade date and time that the original trade was executed. Both dealers are required to include the new Mc40 special condition indicator that causes RTRS not to score either dealer late. Transactions reported using this procedure are disseminated without a special condition indicator and the trade reports reflect the original trade date and time.

Invalid RTTM Trade Dates

Dealers sometimes execute inter-dealer transactions on week-ends and on certain holidays that are not valid RTTM trade dates. Such trades cannot be reported to RTRS using the actual trade date if they occur on a weekend or holiday. To accomplish automated comparison and transaction reporting of such transactions, dealers are required to submit these inter-dealer transactions to RTTM no later than fifteen minutes after the start of the next RTRS Business Day and to include a trade date and time that represents the next earliest “valid” values that can be submitted.⁵ Dealers also are required to include the new Mc40 special condition indicator that allows RTRS to identify these transactions so that enforcement agencies can be alerted to the fact that the trade reports were made under special circumstances using a special trade date and time. RTRS disseminates these trade reports without a special condition indicator and the trade report includes the trade date and time reflecting the next earliest “valid” values that can be submitted.⁶

Resubmission of an RTTM Cancel

A dealer may submit an inter-dealer trade to RTTM and find that the contra-party fails to report its side of the trade. Such “uncompared” trades are not disseminated by RTRS on price transparency products. After two days, RTTM removes the uncompared trade report from its system and the dealer originally submitting the trade must resubmit the transaction in a second attempt to obtain a comparison with its contra-party, which currently results in RTRS scoring the resubmitted trade report “late.”

The dealer that originally submitted information to RTTM is required to resubmit identical information about the transaction in the second attempt to compare and report the trade by the end of the day after RTTM cancels the trade. The resubmitting dealer also is required to include the new Mc50 special condition indicator that causes RTRS to not score the resubmitting dealer late. The indicator may only be used by a dealer resubmitting the exact same trade information for the same trade.⁷ For example, the contra-party that failed to submit its side to the trade accurately, thus preventing comparison of the transaction, is not allowed to use the indicator. RTRS disseminates trade reports made under this procedure without a special condition indicator once RTTM compares the trade and the trade report reflects the original trade date and time.

¹ See *Specifications for Real-Time Reporting of Municipal Securities Transactions* Section 4.3.2.

² In addition to the special trading situations identified in this notice, the M9c0 special condition indicator, “away from market — other reason,” is required to be included on a trade report if the transaction price differs substantially from the market price for multiple reasons or for a reason not covered by another special condition indicator.

³ In some cases, the transfer of securities into the derivative trust and the transfer of securities back to the customer upon liquidation of the trust do not represent purchase-sale transactions due to the terms of the trust

agreement. MSRB rules on transaction reporting do not require a dealer to report a transfer of securities to RTRS that is not a purchase-sale transaction in municipal securities.

⁴ See MSRB Notice 2007-25 (August 13, 2007).

⁵ The MSRB previously provided an example of a trade date and time that would be included on a trade report using this procedure. See “Reporting of Inter-Dealer Transactions That Occur Outside of RTRS Business Day Hours or on Invalid RTTM Trade Dates,” MSRB Notice 2007-12 (March 23, 2007).

⁶ Using this procedure will result in transactions reported with a trade date and time that differs from what is recorded in a dealer’s books and records. Dealers are reminded that books and records are required to reflect the date and time of trade execution.

⁷ The resubmitting dealer would not be required to resubmit the same reference number or preparation time on the resubmitted transaction; however, other information about the transaction, such as price, quantity, trade date and time, would be required to be identical to information included in the original trade submission.

Transaction Reporting of Dealer Buybacks of Auction Rate Securities: Rule G-14

September 2, 2008

As a result of the unprecedented number of “failed auctions”¹ in municipal Auction Rate Securities (“ARS”) that have occurred this year, many dealers have announced plans to offer to purchase customer positions in municipal ARS at a stated price, typically par (“ARS Buybacks”). These ARS Buyback programs predominantly have occurred pursuant to settlement agreements with state attorneys general. The MSRB has received questions from dealers whether ARS Buybacks must be reported to the MSRB Real-Time Transaction Reporting System (RTRS) and, if so, whether the M9c0 “away from market — other reason” special condition indicator must be included on such trade reports.

MSRB Rule G-14, on transaction reporting, requires all purchase-sale transactions in municipal securities to be reported to RTRS. Transactions in ARS must be reported to RTRS and trade reports of ARS Buybacks must be reported to RTRS without the M9c0 special condition indicator. The primary reason a trade report would be required to include the M9c0 special condition indicator is that the trade report contains information that could be misleading to users of price transparency reports.² The MSRB does not believe that trade reports of ARS Buybacks would provide misleading information relating to the market value of ARS because the price at which ARS Buybacks are executed has been publicly announced. Therefore, trade reports of ARS Buybacks as well as of other purchases of ARS from holders at current market prices must be reported without the M9c0 special condition indicator.³

¹ A “failed auction” is not an event of default by the issuer, it only relates to the auction process not being able to determine a clearing rate and not permitting investors attempting to sell their securities from being able to do so.

² RTRS serves the dual purposes of price transparency and market surveillance. Transactions reported with the M9c0 special condition indicator are entered into the surveillance database but suppressed from price dis-

semination. The MSRB has identified three specific situations in which the M9c0 special condition indicator is required to be included on trade reports. See Notice of Interpretation of Rule G-14: "Reporting of Transactions in Certain Special Trading Situations: Rule G-14," dated January 2, 2008.

³ Users of the MSRB's price transparency reports produced from RTRS should be aware that ARS Buybacks may result in a higher than normal volume of trade reports in ARS and should not use this volume as an indication that the market for ARS has fully recovered from the unprecedented number of failed auctions that have occurred in 2008. Further, the prices at which ARS Buybacks are executed may not reflect the actual market value for the security.

Build America Bonds and Other Tax Credit Bonds

April 24, 2009

The American Recovery and Reinvestment Act of 2009 added a provision to the Internal Revenue Code that authorizes state and local governments to issue two types of "Build America Bonds" as taxable governmental bonds with Federal subsidies for a portion of their borrowing costs.

The first type of Build America Bond provides a Federal subsidy through Federal tax credits to investors in the bonds. The tax credits may also be "stripped" and sold to other investors, pursuant to regulations to be issued by the Treasury Department. In its Notice 2009-26, the Treasury Department refers to this type of Build America Bond as "Build America Bonds (Tax Credit)."

The second type of Build America Bond provides a Federal subsidy through a refundable tax credit paid to state or local governmental issuers by the Treasury Department and the Internal Revenue Service. The Treasury Department refers to this type of Build America Bond as "Build America Bonds (Direct Payment)." This Notice refers to both Build America Bonds (Tax Credit) and Build America Bonds (Direct Payment) as "Build America Bonds."

Some municipal market participants have requested guidance on whether Municipal Securities Rulemaking Board rules are applicable to Build America Bonds. Build America Bonds are municipal securities, because they are issued by States and their political subdivisions and instrumentalities. Accordingly, all of the MSRB's rules apply to transactions effected by brokers, dealers, and municipal securities dealers ("dealers") in Build America Bonds, including rules regarding uniform and fair practice, political contributions, automated clearance and settlement, the payment of MSRB underwriting and transaction assessment fees, and the professional qualifications of registered representatives and principals.

For example, dealers in the primary market should note that current Rule G-36 requires underwriters to submit official statements to the MSRB, accompanied by completed Form G-36 (OS), for most primary offerings of municipal securities. Dealers also have official statement delivery responsibilities to customers under Rule G-32. Once final, recently proposed revisions to Rule G-32 will require underwriters to satisfy their official statement submission obligations electronically

through use of the MSRB's Electronic Municipal Market Access system ("EMMA") and will allow dealers to satisfy their official statement delivery obligations by means of appropriate notice to customers.

The MSRB understands that many Build America Bonds may be sold by dealers' taxable desks and reminds dealers that Rule G-27 requires that municipal securities principals must supervise all municipal securities activities, including such sales.

Dealers in the secondary market should note that Rule G-14 requires that all transactions in municipal securities must be reported to the MSRB within certain prescribed time periods.

The following additional types of tax credit bonds are also municipal securities subject to MSRB rules: Recovery Zone Economic Development Bonds, Qualified School Construction Bonds, Clean Renewable Energy Bonds, New Clean Renewable Energy Bonds, Midwestern Tax Credit Bonds, Energy Conservation Bonds, and Qualified Zone Academy Bonds.

This Notice does not address the securities law characterization of the tax credit component of Build America Bonds (Tax Credit) or other tax credit bonds, whether the credits are used by investors in the bonds or stripped and sold to other investors.

Questions and Answers Notice Concerning Real-Time Reporting of Municipal Securities Transactions

August 9, 2016

1. Q: Dealers are required to include time of trade (along with trade date) on all transaction reports. What is "time of trade?"

A: Transaction reporting procedures define "time of trade" as the time at which a contract is formed for a sale or purchase of municipal securities at a set quantity and set price.¹ For transaction reporting purposes, this is considered to be the same as the time that a trade is "executed." The time that the trade is executed is not necessarily the time that the trade information is entered into the dealer's processing system. For example, if a trade is executed on a trading desk but not entered for processing until later, the time of execution (not the time of entering the record into the processing system) is required to be reported as the "time of trade." Similarly, when a dealer executes a transaction outside of the RTRS Business Day,² the time the trade was executed (rather than the time that the trade report is made) is the "time of trade" required to be reported.

2. Q: What is "time of trade" for new issue securities?

A: For new issue securities, a transaction effected on a "when, as and if issued"³ basis cannot be executed, confirmed and reported until the municipal security has been formally awarded by the issuer. For a negotiated issue, this "time of

formal award” is defined as the time of the signing of the bond purchase agreement and for a competitive issue, it is the time of the official award by the issuer. While dealers may take orders for securities and make conditional trading commitments prior to the award, dealers cannot execute transactions, send confirmations or make a trade report prior to the time of formal award. Once a new issue of municipal securities has been formally awarded, trade executions can begin. The time of execution is then reported to the MSRB.⁴

3. Q: There is a non-transaction-based compensation special condition indicator (NTBC indicator) for customer transactions. Is the NTBC indicator to be used only on customer transactions executed in a wrap fee account?

A: No, while transactions that occur in a wrap fee account may be one example of a transaction that qualifies as a customer transaction with no transaction-based dealer compensation component, the NTBC indicator is intended to distinguish all customer transactions that do not include a transaction-based compensation component from those transactions that do include a mark-up, mark-down or commission. Dealers should carefully consider other transactions that may require this indicator, such as those in which the dealer receives a remarketing fee, or a transaction often referred to as an “accommodation” that does not include a transaction-based dealer compensation component.

4. Q: Is the NTBC indicator to be used only on customer trades executed on a principal basis?

A: No. The NTBC indicator applies to both principal and agency trades. It is important for dealers to affirmatively indicate the transactions where a principal transaction does not include a mark-up or mark-down and an agency trade does not include a commission.

5. Q: Is the NTBC indicator to be used only on retail customer accounts?

A: No. There is no exemption for transactions with Sophisticated Municipal Market Professionals (SMMPs). The NTBC indicator is determined on a transaction basis and is to be used on any customer transaction to which it applies.

6. Q: What is the purpose of identifying an inter-dealer trade executed with or using the services of an alternative trading system (ATS)?

A: The purpose of the indicator is to better ascertain the extent to which ATSs are used in the municipal market and to indicate to market participants information that the services of an ATS were used in executing the inter-dealer transaction.

7. Q: If a counterparty does not use the ATS indicator, will the two dealers’ transaction submission still match on the NSCC Real-Time Trade Matching (RTTM)?

A: Yes. The ATS indicator is not a matching value for RTTM. As noted in the MSRB’s Specifications for Real-Time Reporting of Municipal Securities Transactions, a new error

code (Q55A) will be noted when the seller’s and buyer’s trade reports differ with respect to the ATS special condition indicator. Incorrect submissions should be modified as necessary.

8. Q: Do transactions executed over the phone with an ATS (voice trades) require a special condition indicator?

A: As noted in MSRB Notice 2015-07, an inter-dealer transaction executed with or using the services of an alternative trading system with Form ATS on file with the SEC is required to be reported with the ATS indicator regardless of the mode of the transaction. See the MSRB’s Specifications for Real-Time Reporting of Municipal Securities Transactions for more detail on the use of the ATS special condition indicator.

9. Q: As of July 18, 2016, dealers are no longer required to report yield on customer trade reports, but MSRB Rule G-15 still obligates a dealer to calculate yield for customer confirmations. If a dealer’s yield calculation used for customer confirmations to comply with Rule G-15 differs from the yield disseminated by the MSRB, how can the dealer determine the reason for the difference?

A: The EMMA website includes a column labeled “Calculation Date & Price (%)” that displays the date and price for which the yield was calculated, which provides transparency on the inputs used in MSRB yield calculations to explain any potential calculation differences.

¹ See MSRB Rule G-14 RTRS Procedures (d)(iii).

² Transactions effected during the RTRS Business Day (from 7:30 a.m. to 6:30 p.m. Eastern time) are required to be reported in real-time. Transactions effected outside of those hours are required to be reported within 15 minutes after the start of the next RTRS Business Day.

³ See MSRB Glossary of Municipal Securities Terms, Third Edition, August 2013.

⁴ For additional discussion of time of trade on transactions in new issue securities, see “Notice Requesting Comment on Draft Amendments to Rule G-34 to Facilitate Real-Time Transaction Reporting and Explaining Time of Trade for Reporting New Issue Trades,” MSRB Notice 2004-18 (June 18, 2004) and “Notice of Filing of Proposed Rule Changes to Extend the Expiration of the Three-Hour Exception and to Require Underwriter Participation with DTCC’s NIIDS System,” MSRB Notice 2007-36 (November 27, 2007).

See also:

Rule G-12 Interpretations — Locked-In Transactions, March 1, 2001

- **Interpretation on the Application of Rules G-8, G-12 and G-14 to Specific Electronic Trading Systems**, March 26, 2001
- **Notice on Reporting and Comparison of Certain Transactions Effected by Investment Advisors**, May 23, 2003
- **Transaction Reporting of Multiple Transactions Between Dealers in the Same Issue**, November 24, 2003
- **Notice on Certain Inter-Dealer Transfers of Municipal Securities: Rules G-12(f) and G-14**, June 4, 2004

Rule G-14 Amendment History (since 2003)

[Release No. 34-77366 \(March 14, 2016\)](#), [81 FR 14919 \(March 18, 2016\)](#); [MSRB Notice 2016-09 \(March 2, 2016\)](#)

[Release No. 34-75039 \(May 22, 2015\), 80 FR 31084 \(June 1, 2015\); MSRB Notice 2015-07 \(May 26, 2015\)](#)

[Release No. 34-71616 \(February 26, 2014\), 79 FR 12254 \(March 4, 2014\); MSRB Notice 2014-05 \(February 27, 2014\)](#)

[Release No. 34-68472 \(December 19, 2012\), 77 FR 76146 \(December 26, 2012\); MSRB Notice 2012-64 \(December 24, 2012\)](#)

[Release No. 34-66622 \(March 20, 2012\), 77 FR 17557 \(March 26, 2012\); MSRB Notice 2012-15 \(March 21, 2012\)](#)

[Release No. 34-57002 \(December 20, 2007\), 72 FR 73939 \(December 28, 2007\); MSRB Notice 2007-36 \(November 27, 2007\)](#)

[Release No. 34-56202 \(August 3, 2007\), 72 FR 45077 \(August 10, 2007\); MSRB Notice 2007-20 \(June 13, 2007\)](#)

[Release No. 34-54612 \(October 17, 2006\), 71 FR 62141 \(October 23, 2006\); MSRB Notice 2006-28 \(October 19, 2006\)](#)

[Release No. 34-52967 \(December 16, 2005\), 70 FR 76092 \(December 22, 2005\); MSRB Notice 2005-62 \(December 22, 2005\)](#)

[Release No. 34-50294 \(August 31, 2004\), 69 FR 54170 \(September 7, 2004\); MSRB Notice 2004-29 \(September 2, 2004\)](#)

[Release No. 34-47888 \(May 19, 2003\), 68 FR 28865 \(May 27, 2003\); MSRB Notice 2003-18 \(May 21, 2003\)](#)

Rule G-15

Confirmation, Clearance, Settlement and Other Uniform Practice Requirements with Respect to Transactions with Customers

(a) *Customer Confirmations.*

(i) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation that complies with the requirements of this paragraph (i):

(A) Transaction information. The confirmation shall include information regarding the terms of the transaction as set forth in this subparagraph (A):

(1) The parties, their capacities, and any remuneration from other parties. The following information regarding the parties to the transaction and their relationship shall be included:

(a) name, address, and telephone number of the broker, dealer, or municipal securities dealer, provided, however, that the address and telephone number need not be stated on a confirmation sent through the automated confirmation facilities of a clearing agency registered with the Securities and Exchange Commission;

(b) name of customer;

(c) designation of whether the transaction was a purchase from or sale to the customer;

(d) the capacity in which the broker, dealer or municipal securities dealer effected the transaction, whether acting:

(i) as principal for its own account,

(ii) as agent for the customer,

(iii) as agent for a person other than the customer, or

(iv) as agent for both the customer and another person;

(e) if the broker, dealer or municipal securities dealer is effecting a transaction as agent for the customer or as agent for both the customer and another person, the confirmation shall include: (i) either (A) the name of the person from whom the securities were purchased or to whom the securities were sold for the customer, or (B) a statement that this information will be furnished upon the written request of the customer; and (ii) either (A) the source and amount of any remuneration received or to be received (shown in aggregate dollar amount) by the broker, dealer or municipal securities dealer in connection with the transaction from any person other than the customer, or (B) a state-

ment indicating whether any such remuneration has been or will be received and that the source and amount of such other remuneration will be furnished upon written request of the customer. In applying the terms of this subparagraph (A)(1)(e), if a security is acquired at a discount (e.g., “net” price less concession) and is sold at a “net” price to a customer, the discount must be disclosed as remuneration received from the customer pursuant to subparagraph (A)(6)(f) of this paragraph rather than as remuneration received from “a person other than the customer.”

(2) Trade date and time of execution.

(a) The trade date shall be shown.

(b) The time of execution shall be shown; provided that, for a transaction for an institutional account as defined in Rule G-8(a)(xi) or a transaction in municipal fund securities, a statement that the time of execution will be furnished upon written request of the customer may be shown in satisfaction of the obligation to disclose the time of execution on the confirmation.

(3) Par value. The par value of the securities shall be shown, with special requirements for the following securities:

(a) Zero coupon securities. For zero coupon securities, the maturity value of the securities must be shown if it differs from the par value.

(b) Municipal fund securities. For municipal fund securities, in place of par value, the confirmation shall show (i) in the case of a purchase of a municipal fund security by a customer, the total purchase price paid by the customer, exclusive of any commission, and (ii) in the case of a sale or tender for redemption of a municipal fund security by a customer, the total sale price or redemption amount paid to the customer, exclusive of any commission or other charge imposed upon redemption or sale.

(4) Settlement date. The settlement date as defined in section (b) of this rule shall be shown.

(5) Yield and dollar price. Yields and dollar prices shall be computed and shown in the following manner, subject to the exceptions stated in subparagraph (A)(5)(d) of this paragraph:

(a) For transactions that are effected on the basis of a yield to maturity, yield to a call date, or yield to a put date:

(i) The yield at which the transaction was effected shall be shown and, if that yield is to a call date or to a put date, this shall be noted, along with the date and dollar price of the call or put.

(ii) A dollar price shall be computed and shown in accordance with the rules in subparagraph (A)(5)(c) of this paragraph, and such dollar price shall be used in computations of extended principal and final monies shown on the confirmation.

(b) For transactions that are effected on the basis of a dollar price:

(i) The dollar price at which the transaction was effected shall be shown.

(ii) A yield shall be computed and shown in accordance with subparagraph (A)(5)(c) of this paragraph, unless the transaction was effected at “par.”

(c) In computing yield and dollar price, the following rules shall be observed:

(i) The yield or dollar price computed and shown shall be computed to the lower of call or nominal maturity date, with the exceptions noted in this subparagraph (A)(5)(c).

(ii) For purposes of computing yield to call or dollar price to call, only those call features that represent “in whole calls” of the type that may be used by the issuer without restriction in a refunding (“pricing calls”) shall be considered in computations made under this subparagraph (A)(5).

(iii) Yield computations shall take into account dollar price concessions granted to the customer, commissions charged to the customer and adjustable tender fees applicable to puttable securities, but shall not take into account incidental transaction fees or miscellaneous charges, provided, however, that as specified in subparagraph (A)(6)(e) of this paragraph, such fees or charges must be indicated on the confirmation.

(iv) With respect to the following specific situations, these additional rules shall be observed:

(A) Declining premium calls. For those securities subject to a series of pricing calls at declining premiums, the call date resulting in the lowest

yield or dollar price shall be considered the yield to call or dollar price to call.

(B) Continuously callable securities. For those securities that, at the time of trade, are subject to a notice of a pricing call at any time, the yield to call or dollar price to call shall be computed based upon the assumption that a notice of call may be issued on the day after trade date or on any subsequent date.

(C) Mandatory tender dates. For those securities subject to a mandatory tender date, the mandatory tender date and dollar price of redemption shall be used in computations in lieu of nominal maturity date and maturity value.

(D) Securities sold on basis of yield to put. For those transactions effected on the basis of a yield to put date, the put date and dollar price of redemption shall be used in computations in lieu of maturity date and maturity value.

(E) Prerefunded or called securities. For those securities that are prerefunded or called to a call date prior to maturity, the date and dollar price of redemption set by the prerefunding shall be used in computations in lieu of maturity date and maturity value.

(v) Computations shall be made in accordance with the requirements of rule G-33.

(vi) If the computed yield or dollar price shown on the confirmation is not based upon the nominal maturity date, then the date used in the computation shall be identified and stated. If the computed yield or dollar price is not based upon a redemption value of par, the dollar price used in the computation shall be shown (*e.g.*, 5.00% yield to call on 1/1/99 at 103).

(vii) If the computed yield required by this paragraph (5) is different than the yield at which the transaction was effected, the computed yield must be shown in addition to the yield at which the transaction was effected.

(d) Notwithstanding the requirements noted in subparagraphs (A)(5)(a) through (c) of this paragraph above: