

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-84926; File No. SR-MSRB-2018-10)

December 21, 2018

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of the Content Outline for the Municipal Advisor Principal Qualification Examination and Its Associated Selection Specifications for the Examination

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act” or “Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 20, 2018 the Municipal Securities Rulemaking Board (the “MSRB” or “Board”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The MSRB filed with the Commission the content outline for the Municipal Advisor Principal Qualification Examination (“Series 54 examination”) and its associated selection specifications for the examination (“selection specifications”) (collectively, the “proposed rule change”).³ The MSRB is not proposing any textual changes to its rules. The proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The MSRB is also proposing the question bank for the Series 54 examination, but based upon instructions from the Commission staff, the MSRB is not filing the question bank for Commission review. See letter to Diane G. Klinke, General Counsel, MSRB, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000, attached as Exhibit 3b. The question bank is available for Commission review.

change has been filed for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act⁴ and Rule 19b-4(f)(6) thereunder.⁵

The text of the proposed rule change is available on the MSRB's website at www.msrb.org/Rules-and-Interpretations/SEC-Filings/2018-Filings.aspx, at the MSRB's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

Section 15B of the Act authorizes the MSRB to prescribe "standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons"⁶ and requires persons in any such class to pass tests prescribed by the Board.⁷ Section 15B(b)(2)(L)(iii) of the Act further requires the MSRB to establish professional

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

⁶ 15 U.S.C. 78o-4(b)(2)(A).

⁷ 15 U.S.C. 78o-4(b)(2)(A)(iii).

standards for municipal advisors.⁸ A professional qualification examination is intended to determine whether an individual meets the MSRB’s required qualification standards. The MSRB believes that professional qualification examinations, such as the Municipal Advisor Representative Qualification Examination (“Series 50 examination”) and the Series 54 examination, are means for determining the competency of individuals in particular qualification classifications.

On November 20, 2018, the Commission approved amendments⁹ to MSRB Rule G-3, on professional qualification requirements, to require, among other things, that municipal advisor principals – those who engage in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons (“principal-level activity”) – pass the Series 54 examination, in addition to the Series 50 examination, to become appropriately qualified as a municipal advisor principal. The Series 50 examination is designed to establish that persons associated with a municipal advisor who engage in municipal advisory activities and persons who engage in principal-level activity demonstrate a baseline knowledge of the municipal market, municipal advisory activities, as well as the regulatory requirements. Conversely, the Series 54 examination is designed to establish that persons who engage in principal-level activity demonstrate a specified level of knowledge of the application of federal securities laws, including MSRB rules to the municipal advisory activities of a municipal advisor and that of its associated persons.

The MSRB believes the establishment of qualification requirements for municipal advisor principals would assist in ensuring that such persons have a specified level of

⁸ 15 U.S.C. 78o-4(b)(2)(L)(iii).

⁹ See Exchange Act Release No. 84630 (November 20, 2018), 83 FR 60927 (November 27, 2018) (File No. SR-MSRB-2018-07).

competency necessary with respect to the supervision of the municipal advisory activities of the municipal advisor that is appropriate in the public interest and for the protection of investors, and municipal entities and obligated persons.

The MSRB has, in consultation with the MSRB's Professional Qualification Advisory Committee (PQAC), and in accordance with The Standards for Educational and Psychological Testing¹⁰ developed the Series 54 examination to ensure that a person seeking to qualify as a municipal advisor principal satisfies a specified level of competency and knowledge by measuring a candidate's ability to apply the applicable federal securities laws, including MSRB rules to the municipal advisory activities of a municipal advisor.

The Series 54 examination content outline has been developed to serve as a guide to the subject matters tested on the examination and prescribes the specified knowledge required in each functional area that is specific to the role and responsibilities of associated persons.¹¹ From October 17, 2017 through November 7, 2017, the MSRB conducted a job study¹² of municipal advisor principals to identify the subject matters to be represented on the content outline and to be covered on the Series 54 examination. The job study was sent to over 500 municipal advisors, representing municipal advisors with at least one person qualified with the Series 50 examination. The job study, coupled with consultation with the MSRB's psychometrician, provided the empirical basis for the representation of topic areas on the Series 54 examination

¹⁰ See American Educational Research Association, American Psychological Association, & National Council on Measurement in Education, *The Standards for Educational and Psychological Testing* (2d ed. 2014).

¹¹ See Series 54 examination content outline attached hereto as Exhibit 3a.

¹² A job study is an assessment of the essential skills and functions that are required to complete a particular job.

content outline.¹³ The Series 54 examination content outline comprises three sections of the examination as follows: (1) Understanding the Municipal Advisor Regulatory Framework (25 questions); (2) Supervising Municipal Advisory Activities (35 questions); and (3) Supervising Municipal Advisor Firm Operations (40 questions). Additionally, to familiarize individuals with the format of the Series 54 examination, the content outline includes sample questions that are similar to the type of questions that may be found on the Series 54 examination. The Series 54 examination content outline is attached as Exhibit 3a and will be made available on the [MSRB's website](#).

The MSRB will announce the effective date of the permanent Series 54 examination at a later date in an MSRB Notice published on the MSRB's website. In advance of the permanent Series 54 examination, however, the MSRB will conduct a pilot of the Series 54 examination, the results of which will be used to determine the passing score for the permanent Series 54 examination. The pilot of the Series 54 examination will consist of 100 unique computer-generated questions drawn from a large collection of test questions available for the Series 54 examination. The random selection of Series 54 examination questions is subject to restrictions designed to ensure that the content covered by the Series 54 examination and the overall difficulty of the Series 54 examination is similar for all individuals. Individuals will receive 10 additional questions that are randomly distributed throughout the Series 54 examination and do not count for scoring purposes; these 10 questions serve to pretest questions to be used in future

¹³ While the topic areas represented on the Series 54 examination content outline may have redundancies with topic areas appearing on the Series 50 examination content outline, the Series 54 examination is designed to test the specific application of federal securities laws to the municipal advisory activities of the municipal advisor, whereas the Series 50 examination is meant to test the baseline competency of individuals engaged in municipal advisory activities and is not designed to specifically or extensively test the application of federal securities laws and MSRB rules.

administration of the Series 54 examination. Individuals will be allowed 180 minutes to complete the Series 54 examination and will be provided with a brief tutorial on the administration of the computerized exam before the Series 54 examination begins.

The pilot of the Series 54 examination will be from February 2019 through June 2019 (the “pilot period”) with municipal advisor principals having a full 120 calendar days from opening an exam enrollment window to take the exam. Individuals will only be afforded one opportunity to take the pilot of the Series 54 examination during the pilot period. The MSRB will announce, in an MSRB Notice, the time period for, and the process of opening an enrollment to take the Series 54 examination.¹⁴ The MSRB will notify individuals who take the pilot of the Series 54 examination of their results by email in the Fall of 2019. Those municipal advisor principals who take and pass the pilot of the Series 54 examination during the pilot period will be considered qualified as a municipal advisor principal when the MSRB permanently establishes the Series 54 examination in the Fall of 2019 and will not be required to take the permanent Series 54 examination. An individual who fails to pass the pilot of the Series 54 examination will, consistent with MSRB Rule G-3(g), still be permitted three attempts to pass the permanent Series 54 examination before having to wait a period of 6 months to take the permanent Series 54 examination again.¹⁵ More specifically, a failure of the pilot of the Series 54 examination will not count as one of the three attempts an individual has to successfully pass the examination prior to having to wait 6 months from the date the candidate last failed the examination.

¹⁴ For the most up-to-date information on the pilot of the Series 54 examination visit the [Municipal Advisor Principal Qualification Examination webpage](#) on the MSRB’s website.

¹⁵ Pursuant to Rule G-3(g), an individual would be permitted to take the examination again after a period of 30 days has elapsed from the date of the individual’s last attempt.

The MSRB will announce the launch of the permanent examination in an MSRB Notice published on the [MSRB's website](#). The selection specifications for the Series 50 examination, which the MSRB has submitted under separate cover with a request for confidential treatment to the Commission, pursuant to Rule 24b-2 under the Act,¹⁶ describe additional confidential information regarding the Series 54 examination. As noted above, the MSRB has designated the proposed rule change to provide the Series 54 examination content outline for immediate effectiveness.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(A) of the Act,¹⁷ which authorizes the MSRB to prescribe “standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons” and Sections 15B(b)(2)(A)(i)¹⁸ and 15B(b)(2)(A)(iii)¹⁹ of the Act, which provides that the Board may appropriately classify associated persons of municipal advisors and require such persons in any such class to pass tests prescribed by the Board. The MSRB believes that the proposed rule change is consistent with the provisions of Section 15B(b)(2)(A) of the Act in that the content outline details the functional tasks, key concepts and rules to be tested on the examination to ensure individuals are sufficiently prepared to take and pass the examination in order to demonstrate the specified level of competence that would be appropriate and in

¹⁶ 17 CFR 240.24b-2.

¹⁷ 15 U.S.C. 78o-4(b)(2)(A).

¹⁸ 15 U.S.C. 78o-4(b)(2)(A)(i).

¹⁹ 15 U.S.C. 78o-4(b)(2)(A)(iii).

furtherance of the public interest. Also, consistent with the purpose of Section 15B(b)(2)(A) of the Act, providing individuals with a guide to the subject matter covered on the Series 54 examination will aid individuals in their preparation for the examination and facilitates standards of competence being attained to carry out a municipal advisor principal's role of supervision of the municipal advisory activities of the municipal advisor and that of its associated persons, which is in furtherance of the public interest. More generally, the MSRB's professional qualification examinations are designed to measure knowledge of the business activities and regulatory requirements under federal securities laws, including MSRB rules, applicable to a particular qualification classification, which is also in furtherance of the Act.

The MSRB also believes the proposed rule change is in accordance with Section 15B(b)(2)(C) of the Act,²⁰ which requires, among other things, that MSRB rules “be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, . . . and, in general, to protect investors, municipal entities, obligated persons, and the public interest . . .” The MSRB notes the proposed rule change is consistent with this provision of the Act, to foster the prevention of fraudulent practices, because by ensuring municipal advisor principals demonstrate competence in the application of federal securities laws and MSRB rules to a firm's municipal advisory activities, such individuals are likely better equipped to mitigate problems associated with advice provided by municipal advisor representatives.

Lastly, Section 15B(b)(2)(L)(iv) of the Act²¹ provides that MSRB rules may “not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided

²⁰ 15 U.S.C. 78o-4(b)(2)(C).

²¹ 15 U.S.C. 78o-4(b)(2)(L)(iv).

that there is robust protection of investors against fraud.” The MSRB believes, although the proposed rule change would affect all municipal advisors, including small municipal advisors, the proposed rule change is a necessary and appropriate regulatory burden in furtherance of the Act because establishing a specified level of competence for those functioning in a principal capacity promotes compliance with the rules and regulations governing the conduct of municipal advisors.

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

Section 15B(b)(2)(C) of the Act²² requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act. In addition, Section 15B(b)(2)(L)(iv) of the Act²³ provides that MSRB rules may “not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.” In determining whether these standards have been met, the MSRB has been guided by the Board’s adopted policy to more formally integrate economic analysis into the rulemaking process.²⁴ The MSRB does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of these provisions and their purposes under the Act. Relative to the

²² 15 U.S.C. 78o-4(b)(2)(C).

²³ 15 U.S.C. 78o-4(b)(2)(L)(iv).

²⁴ Policy on the Use of Economic Analysis in MSRB Rulemaking is available at <http://msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx>. In evaluating whether there was a burden on competition, the Board was guided by its principles that required the Board to consider costs and benefits of a rule change, its impact on capital formation and the main reasonable alternative regulatory approaches.

economic baseline, which includes the requirement that municipal advisor professionals demonstrate by passing an examination that they meet professional standards deemed necessary or appropriate in the public interest or for the protection of investors, municipal entities and obligated persons, the MSRB believes that the economic impact of the proposed rule change is de minimis and no greater than what is necessary or appropriate in the furtherance of the purposes of the Act.²⁵

In addition, based on the well-established and nationally-accepted process²⁶ used by the MSRB to develop the Series 54 examination content outline, the MSRB has no reason to believe that the Series 54 examination content outline will pose any greater burden on individuals associated with smaller municipal advisors than those associated with larger municipal advisors or that the burden could be materially reduced while still achieving the purposes of the Act of robust protection of investors against fraud.

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

The Board did not solicit comment on the proposed change. Therefore, there are no comments on the proposed rule change received from members, participants or others.

²⁵ The MSRB recognizes that municipal advisors will incur programmatic costs associated with municipal advisor principals having to take and pass the Series 54 examination. The MSRB estimates the total costs incurred for taking the examination should be no more than \$715 per each municipal advisor principal. See supra note 9.

²⁶ See supra note 10.

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

Pursuant to Section 19(b)(3)(A)²⁷ of the Act and Rule 19b-4(f)(6)²⁸ thereunder, the MSRB has designated the proposed rule change as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative until 30 days after the date of filing.²⁹ However, Rule 19b-4(f)(6)(iii)³⁰ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.³¹ The MSRB has requested that the Commission designate the proposed rule change operative upon filing,³² as specified in Rule 19b-4(f)(6)(iii),³³ which would make the proposed rule change operative on December 20, 2018. The MSRB has stated that an earlier

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4(f)(6).

²⁹ Id.

³⁰ 17 CFR 240.19b-4(f)(6)(iii).

³¹ In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change, along with a brief description and text of such proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The MSRB satisfied this requirement on December 12, 2018.

³² See SR-MSRB-2018-10.

³³ 17 CFR 240.19b-4(f)(6)(iii).

operative date would provide individuals acting in a principal capacity for a municipal advisor with an earlier opportunity to begin preparation for the qualification requirement.³⁴

The Commission hereby grants the MSRB's request and believes that designating the proposed rule change operative upon filing is consistent with the protection of investors and the public interest.³⁵ According to the MSRB, the Series 54 examination content outline is designed to ensure that individuals are sufficiently qualified to supervise municipal advisory activities.³⁶ The Commission believes that designating the proposed rule change operative upon filing is consistent with the protection of investors and the public interest because it will allow individuals to prepare for the Series 54 examination without delay. In addition, the proposed rule change is not proposing any textual changes to MSRB rules. Therefore, the Commission hereby designates the proposed rule change operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

³⁴ See SR-MSRB-2018-10.

³⁵ For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁶ See SR-MSRB-2018-10.

IV. Solicitation of Comments

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

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-MSRB-2018-10 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-MSRB-2018-10. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change. Persons submitting comments are

cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-2018-10 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, pursuant to delegated authority.³⁷

Brent J. Fields
Secretary

³⁷ 17 CFR 200.30-3(a)(12).