

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-95094; File No. SR-MSRB-2022-04)

June 13, 2022

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Consisting of Amendments to Certain Administrative Rules and Articles of the By-Laws of the Municipal Securities Rulemaking Board Relating to the MSRB's Officers

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 7, 2022 the Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The MSRB filed with the Commission a proposed rule change consisting of amendments to MSRB Rules A-3, A-4, A-5, and A-8 and Articles 3, 4, 5, 8, 11, 12, 13, 14, 15, and 16 of the By-Laws of the Municipal Securities Rulemaking Board ("Bylaws") (the "proposed rule change") relating to the MSRB's officers. The MSRB has designated the proposed rule change as concerned solely with the administration of the self regulatory organization under Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(3) thereunder,⁴ which renders the proposal

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(3).

effective upon filing with the Commission. As described below, the proposed rule change would modify provisions regarding the Board's officers.

The text of the proposed rule change is available on the MSRB's website at www.msrb.org/Rules-and-Interpretations/SEC-Filings/2022-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

Background

The Bylaws relate to the Board's governance and address topics such as Board membership, meetings, and officers, among other things. The current Bylaws are organized into 16 Articles (the proposed rule change would organize the Bylaws into 14 Articles), and certain of the Articles in the Bylaws parallel MSRB administrative rules. MSRB Rules A-2 through A-10 are paralleled in the Bylaws and, when the Board amends any of these administrative rules, the

paralleled Article in the Bylaws is amended also.⁵ The Bylaws are publicly available on the MSRB's website.⁶

Designation of Officers of the Board

MSRB Rule A-5 and Article 5 of the Bylaws contain provisions regarding officers and employees of the Board and, among other things, designate the Board's required officer positions. Current MSRB Rule A-5 and Articles 5, 12, 13 and 14 of the Bylaws designate a Chair, Vice Chair, President, Secretary, General Counsel, Treasurer, Assistant Treasurer and Assistant Secretary. The proposed rule change would narrow the officer positions designated in MSRB Rule A-5 and the Bylaws to a Chair, Vice Chair, President and Secretary. The proposed rule change would provide the Board with increased flexibility by designating only essential officer positions in MSRB Rule A-5 and the Bylaws and, accordingly, allowing the Board to create additional officer positions as the Board determines is appropriate in light of governance needs, without requiring the Board to amend the Bylaws. While providing the Board with increased flexibility, the proposed rule change still provides the Board with the officer positions required by the Virginia Nonstock Corporation Act,⁷ pursuant to which the Board is organized.

The proposed rule change would also expressly reflect in MSRB Rule A-5(a) and Article 5(a) of the Bylaws that the Board may appoint additional officers as shall be stated in a resolution of the Board, as provided for in the Virginia Nonstock Corporation Act.⁸ The

⁵ The MSRB amends Articles in the Bylaws that are not administrative rules pursuant to current Article 16 of the Bylaws (the proposed rule change would move the text of Article 16 to Article 14).

⁶ The Bylaws are available at <https://www.msrb.org/-/media/Files/Governance/By-Laws.ashx?>

⁷ Va. Code Ann. § 13.1-872.

⁸ Va. Code Ann. § 13.1-872(A).

proposed rule change would also replace the reference to “personnel” in MSRB Rule A-5(c) and Article 5(c) of the Bylaws with “employees” to match the title of Rule A-5 and Article 5 of the Bylaws, which is “Officers and Employees of the Board.”

The Bylaws also include Articles which describe each officer position. The proposed rule change would move the Bylaw Articles which describe the President and Secretary positions and modify the descriptions of these officer positions to better reflect their respective responsibilities. Current Article 12 describes the President position. The proposed rule change would move this description to Article 11, which is currently titled “Reserved,” and add language to reflect the President’s responsibility for advancing the Board’s strategic goals and general supervision, management and control.

Current Article 14(a) describes the Secretary position. The proposed rule change would move this description to Article 12, which currently describes the President position, and add language to expressly reflect the Secretary’s responsibility for preparing minutes of all meetings of the Board and maintaining records of all actions taken by the Board without a meeting by unanimous written consent.

The proposed rule change would delete the General Counsel, Treasurer, Assistant Treasurer and Assistant Secretary from MSRB Rule A-5 and Articles 5, 13 and 14 of the Bylaws. Specifically, the proposed rule change would remove the description of the General Counsel position in Article 13, the description of the Treasurer position in Article 14(b), and the descriptions of the Assistant Secretary and Assistant Treasurer position in Article 14(c). As a result of such deletions, current Article 15 relating to the Board’s policies and procedures would move to Article 13 and current Article 16 relating to amendment of By-Laws provisions other than rules of the Board would move to Article 14.

The proposed rule change would also remove the phrase “of the Board” and “to the Board” following references to the officer positions to improve consistency in the manner in which officer positions are referred to in the MSRB’s administrative rules and Bylaws.

Addition of Vice Chair to Compensation Listing

MSRB Rule A-3(d) and Article 3(d) of the Bylaws relate to the Board’s compensation and expenses. The proposed rule change would add the Vice Chair position to the list of positions for which the Board may provide reasonable compensation to correct the omission of the Vice Chair position from this listing. The proposed rule change would reflect the MSRB’s current policy, which is to provide reasonable compensation to the Vice Chair. The proposed rule change would also remove references to “MSRB” in MSRB Rule A-3(d) and Article 3(d) of the Bylaws to improve consistency in the MSRB’s administrative rules and Bylaws, which both use the term “Board” as opposed to “MSRB”.

Removal of Notice Period for Chair and Vice Chair Resignations

MSRB Rule A-5(b) and Article 5(b) of the Bylaws detail matters relating to the election, term, and resignation of the Chair and Vice Chair. The proposed rule change would remove provisions in MSRB Rule A-5(b) and Article 5(b) of the Bylaws specifying a minimum and maximum notice period for resignations of the Chair and Vice Chair. The removal of a notice period would better reflect the resignation process for officers under the Virginia Nonstock Corporation Act which provides that an officer may resign at any time.⁹ The removal of a notice period also would protect the public interest by permitting the Chair or Vice Chair to resign if circumstances arise that call for a notice period shorter than ten days, or no notice period at all.¹⁰

⁹ See Va. Code Ann. § 13.1-874(A).

¹⁰ MSRB rules provide for disqualification and removal from the Board under

Election of Chair and Vice Chair and Appointment of Other Officers

The proposed rule change would revise MSRB Rule A-5(b) and Article 5 of the Bylaws to make explicit that the provisions regarding election, terms, resignation and vacancy therein relate solely to the Chair and Vice Chair positions and not to other officer positions. The proposed rule change would also explicitly state that persons serving as President¹¹ and Secretary shall be appointed by resolution of the Board.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Sections 15B(b)(2)(I) and 15B(b)(2)(C) of the Exchange Act.¹² Section 15B(b)(2)(I) of the Exchange Act provides that the MSRB's rules shall provide for the operation and administration of the Board, including the selection of a Chairman from among the members of the Board, the compensation of the members of the Board, and the appointment and compensation of such employees, attorneys, and consultants as may be necessary or appropriate to carry out the Board's functions under this

certain circumstances. See MSRB Rule A-3(c)(ii) (providing that a Board member's change in employment or other circumstances that results in a conflict with Board composition requirements disqualifies the member from serving on the Board as of the date of the change); MSRB Rule A-3(c)(iii) (providing that the Board may remove a member if it finds that the member has willfully violated any provision of the Act, any rule or regulation of the Commission thereunder, or any rule of the Board or has abused his or her authority or has otherwise acted, or failed to act, so as to affect adversely the public interest or the best interests of the Board). Circumstances could arise, however, in which the public interest may be better served by an accelerated departure from the Board through an immediate resignation.

¹¹ Pursuant to current Article 12 of the Bylaws (which the proposed rule change would move to Article 11), the person employed as the Chief Executive Officer shall hold the office of President.

¹² 15 U.S.C. 78o-4(b)(2)(I), 78o-4(b)(2)(C).

section.¹³ Section 15B(b)(2)(C) of the Exchange Act provides that the MSRB's rules be designed to protect investors, municipal entities, obligated persons, and the public interest.¹⁴

The proposed rule change is consistent with Section 15B(b)(2)(I) of the Exchange Act¹⁵ because the amendments relating to the designation of officers of the Board, the addition of the Vice Chair to the compensation listing, the removal of the notice provision for the Chair and Vice Chair positions, and the election of the Chair and Vice Chair and appointment of other officers all deal with matters relating to the operation and administration of the Board.

The proposed rule change is also consistent with Section 15B(b)(2)(C) of the Exchange Act¹⁶ because it would protect the public interest by eliminating the notice period for resignations of the Chair and Vice Chair so that the Chair or Vice Chair could resign on shorter than ten days' notice, or no notice at all, if the circumstances would be better addressed by an accelerated departure from the Board.

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

Section 15B(b)(2)(C) of the Exchange Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.¹⁷ The proposed rule change relates only to the administration of the Board and would not impose requirements on dealers, municipal advisors or others. Accordingly, the

¹³ 15 U.S.C. 78o-4(b)(2)(I).

¹⁴ 15 U.S.C. 78o-4(b)(2)(C).

¹⁵ 15 U.S.C. 78o-4(b)(2)(I).

¹⁶ 15 U.S.C. 78o-4(b)(2)(C).

¹⁷ Id.

MSRB does not believe that the proposed rule change would result in any burden on competition.

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

Written comments were neither solicited nor received on the proposed rule change.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and paragraph (f) of Rule 19b-4 thereunder.¹⁹ 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.

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-2022-04 on the subject line.

Paper Comments:

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f).

- 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-2022-04. 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-2022-04 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, pursuant to delegated authority.²⁰

J. Matthew DeLesDernier
Assistant Secretary

²⁰ 17 CFR 200.30-3(a)(12).