



## MSRB NOTICE 2009-04 (JANUARY 9, 2009)

### SEC APPROVES PROPOSAL TO INCREASE TRANSPARENCY OF AUCTION RATE SECURITIES AND VARIABLE RATE DEMAND OBLIGATIONS

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The Municipal Securities Rulemaking Board (MSRB) has received approval from the Securities and Exchange Commission (SEC) to establish a transparency system for municipal Auction Rate Securities (“ARS”) and municipal Variable Rate Demand Obligations (“VRDO”).<sup>[1]</sup> The rule change: (i) implements an electronic system for the collection and dissemination of information about variable rate securities (the “Short-term Obligation Rate Transparency System”); (ii) provides free public access to information disseminated from the Short-term Obligation Rate Transparency (“SHORT”) System through the MSRB’s Electronic Municipal Market Access (EMMA) system (the “EMMA short-term obligation rate transparency service”); and (iii) amends Rule G-34, on CUSIP numbers and new issue requirements, to require brokers, dealers and municipal securities dealers (collectively “dealers”) to report, or ensure the reporting of, interest rate and descriptive information to the SHORT System about ARS and VRDO following an ARS auction or VRDO interest rate reset. The amendments to Rule G-34 that relate to VRDO, consisting of subsection (c)(ii) thereof, become effective on April 1, 2009. The amendments to Rule G-34 that relate to ARS, consisting of subsection (c)(i) thereof, become effective January 30, 2009.

Questions about this notice may be directed to Justin R. Pica, Director, Uniform Practice Policy, at 703-797-6716.

January 9, 2009

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#### TEXT OF SHORT SYSTEM FACILITY

##### MUNICIPAL SECURITIES RULEMAKING BOARD SHORT-TERM OBLIGATION RATE TRANSPARENCY SYSTEM

The Short-term Obligation Rate Transparency (“SHORT”) System is a facility of the Municipal Securities Rulemaking Board (“MSRB”) for the collection and dissemination of information about securities bearing interest at short-term rates and making such information publicly available through a dissemination service.

#### Submissions to the SHORT System

The SHORT System receives submissions of information about securities bearing interest at short-term rates under MSRB Rule G-34, on CUSIP numbers, new issue and market information requirements.

**Information to be Submitted.** The basic items of information required to be submitted to the SHORT System are the same as those required to be submitted to the MSRB under MSRB Rule G-34(c). The complete list of data elements that are required on a submission to the SHORT System is available in input specifications and system procedures made available on [www.msrb.org](http://www.msrb.org).

**Submitters.** Submissions to the SHORT System may be made solely by authorized submitters using password-protected accounts in the MSRB’s user authentication system, MSRB Gateway. MSRB Gateway is designed to be a single, secure access point for all MSRB applications. Submitters of information to the SHORT System are required to obtain an account in MSRB Gateway in order to submit information to the SHORT System. Through MSRB Gateway,

submitters also have the ability to designate third-party agents to submit information to the SHORT System on the submitter's behalf.

Submissions may be made by the following classes of submitters:

- Auction Rate Security ("ARS") Program Dealer;
- Variable Rate Demand Obligation ("VRDO") Remarketing Agent;
- ARS Auction Agent; and
- Designated Agent, which may submit any information otherwise permitted to be submitted by another class of submitter which has designated such agent, as provided below.

All ARS Auction Agents are allowed to submit information about an auction to the SHORT System without prior designation by an ARS Program Dealer. Dealers optionally may designate agents to submit information on their behalf, and may revoke the designation of any such agents, through MSRB Gateway. All actions taken by a Designated Agent on behalf of a dealer that has designated such agent shall be the responsibility of the dealer.

**Timing of Submissions.** Submitters are required to make submissions to the SHORT System within the timeframes set forth in MSRB Rule G-34(c). Submissions of information to the SHORT System may be made throughout any RTRS Business Day, as defined in Rule G-14 RTRS Procedures, from at least the hours of 6:00 A.M. to 9:00 P.M. Eastern Time, subject to the right of the MSRB to make such processes unavailable at times as needed to ensure the integrity of the SHORT System and any related systems. The MSRB shall provide advance notice of any planned periods of unavailability and shall endeavor to provide information to submitters as to the status of the submission interface during unanticipated periods of unavailability, to the extent technically feasible.

**Method of Submission.** Information may be submitted to the SHORT System through a secure, password-protected, web-based electronic submitter interface or through a secure, authenticated computer-to-computer data connection, at the election of the submitter. When making submissions using the web-based interface, related information is entered manually into an on-line form. Computer-to-computer submissions utilize XML files. Appropriate schemas and procedures for web-based and computer-to-computer submissions are available in input specifications and system procedures made available on [www.msrb.org](http://www.msrb.org).

## SHORT System Processing

The SHORT System performs various data checks to ensure that information submitted is in the correct format. In addition, data checks are performed to monitor dealer compliance with MSRB Rule G-34(c) as well as to identify information submitted in correct formats that may contain errors due to information not falling within reasonable ranges of expected values for a given item of information. All submissions generate an acknowledgement or error message, and all dealers that have information submitted on their behalf by either an ARS Auction Agent or a Designated Agent are able to monitor such information submissions.

## SHORT System Data Dissemination

Information submitted to the SHORT System that passes the format and data checks described above is processed and disseminated on a real-time basis. Any changes to submissions also are processed upon receipt and updated information is disseminated in real-time. Information submitted to the SHORT System is, in general, disseminated to the EMMA short-term obligation rate transparency service within 15 minutes of acceptance, although during peak traffic periods dissemination may occur within one hour of acceptance. The MSRB plans to offer subscriptions to the information submitted to the SHORT System in the future.

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**TEXT OF EMMA SHORT-TERM OBLIGATION RATE TRANSPARENCY SERVICE**

**MUNICIPAL SECURITIES RULEMAKING BOARD  
ELECTRONIC MUNICIPAL MARKET ACCESS  
SYSTEM – EMMA**

**EMMA SHORT-TERM OBLIGATION RATE TRANSPARENCY SERVICE**

The EMMA short-term obligation rate transparency service, established as a service of EMMA, makes information disseminated from the MSRB's Short-term Obligation Rate Transparency ("SHORT") System available to the public, at no charge, on the EMMA portal.

**Public Availability of Short-term Obligation Rate Transparency Information**

**EMMA Portal.** Short-term obligation rate transparency information is posted on the EMMA portal within 5 minutes of receipt from the SHORT System, although during peak traffic periods posting may occur within 15 minutes of receipt. The short-term obligation rate transparency information available through the EMMA short-term obligation rate transparency service represents information provided to EMMA since the inception of the SHORT System in January 2009.

The EMMA portal provides on-line search functions utilizing available indexing information to allow users of the EMMA portal to readily access short-term obligation rate transparency information. Basic identifying information relating to specific municipal securities and/or specific issues accompanies the display of short-term obligation rate transparency information. The EMMA portal permits users to request periodic alerts, at no charge, regarding whether short-term obligation rate transparency information for a specific security has been posted.

The EMMA portal is available without charge to all members of the public. The MSRB has designed EMMA, including the EMMA portal, as a scalable system with sufficient current capacity and the ability to add further capacity to meet foreseeable usage levels based on reasonable estimates of expected usage, and the MSRB will monitor usage levels in order to assure continued capacity in the future.

The MSRB reserves the right to restrict or terminate malicious, illegal or abusive usage for such periods as may be necessary and appropriate to ensure continuous and efficient access to the EMMA portal and to maintain the integrity of EMMA and its operational components. The MSRB is not responsible for the content of the information submitted by submitters to the SHORT System displayed on the EMMA portal.

**Subscriptions.** The MSRB plans to offer subscriptions to the information submitted to the SHORT System in the future. Under a subscription to the information submitted to the SHORT System, users would be able to obtain the short-term obligation rate transparency information provided through the EMMA short-term obligation rate transparency service other than by viewing on and downloading from the EMMA portal.

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**TEXT OF RULE CHANGE [2]**

**Rule G-34: CUSIP Numbers, [and] New Issue, and Market Information Requirements**

(a) - (b) No change.

(c) Variable Rate Security Market Information. The Board operates a facility for

the collection and public dissemination of information about securities bearing interest at short-term rates (the Short-term Obligation Rate Transparency System, or SHORT System).

(i) Auction Rate Securities. Auction Rate Securities are municipal securities in which the interest rate resets on a periodic basis under an auction process conducted by an agent responsible for conducting the auction process on behalf of the issuer or other obligated person with respect to such Auction Rate Securities ("Auction Agent") that receives orders from brokers, dealers and municipal securities dealers.

(A) Each broker, dealer or municipal securities dealer that submits an order directly to an Auction Agent for its own account or on behalf of another account to buy, hold or sell an Auction Rate Security through the auction process ("Program Dealer") shall report, or ensure the reporting of, the following information about the Auction Rate Security and concerning the results of the auction to the Board:

(1) CUSIP number;

(2) Interest rate produced by the auction process and designation of whether the interest rate is a maximum rate, all hold rate, or rate set by auction;

(3) Identity of all Program Dealers that submitted orders, including but not limited to hold orders;

(4) Date and time of the auction;

(5) Date and time the interest rate determined as a result of the auction process was communicated to Program Dealers;

(6) Length of time, in days, that the interest rate produced by the auction process is applicable;

(7) Minimum denomination;

(8) Par amount auctioned, not including hold orders effective at any rate; and

(9) Minimum and maximum rates, if any, applicable at the time of the auction or, if not calculable as of the time of auction, indication that such rate or rates are not calculable.

(B) Information identified in subparagraph (c)(i)(A) shall be provided to the Board by no later than 6:30 P.M. Eastern Time on the date on which an auction occurs if such date is an RTRS Business Day as defined in Rule G-14 RTRS Procedures section (d)(ii). In the event that any item of information identified in subparagraph (c)(i)(A) is not available by the deadline in this subparagraph (c)(i)(B), such item shall be provided to the Board as soon as it is available. In the event that an auction occurs on a non-RTRS Business Day, the information identified in subparagraph (c)(i)(A) shall be reported by no later than 6:30 P.M. Eastern Time on the next RTRS Business Day.

(C) A Program Dealer may designate an agent to report the information identified in subparagraph (c)(i)(A) to the Board, provided that an Auction Agent may submit information on behalf of a Program Dealer absent such designation by the Program Dealer. The failure of a designated agent to comply with any requirement of this paragraph (c)(i) shall be considered a failure by such Program Dealer to so comply; provided that if an Auction Agent has, within the time periods required under subparagraph (c)(i)(B), reported the information required under subparagraph (c)(i)(A), the Program Dealer may rely on the accuracy of such information if the Program Dealer makes a good faith and reasonable effort to cause the Auction Agent to correct any inaccuracies known to the Program Dealer.

(D) Information reported to the Board pursuant to this section (c)(i) shall be submitted in the manner described in the written procedures for SHORT System users and changes to submitted information must be made as soon as possible.

(ii) Variable Rate Demand Obligations. Variable Rate Demand Obligations are securities in which the interest rate resets on a periodic basis with a frequency of up to and including every nine months, an investor has the option to put the issue back to the trustee, tender agent or other agent of the issuer or obligated person at any time, typically with specified advance notice ("Notification Period"), and a broker, dealer or municipal security dealer acts as a remarketing agent ("Remarketing Agent") responsible for reselling to new investors securities that have been tendered for purchase by a holder.

(A) Each Remarketing Agent for a Variable Rate Demand Obligation shall report the following information about the Variable Rate Demand Obligation and concerning the results of an interest rate reset to the Board:

- (1) CUSIP number;
- (2) Interest rate and designation of whether the interest rate is a maximum rate, set by formula or set by the remarketing agent;
- (3) Identity of the Remarketing Agent;
- (4) Date and time of the interest rate reset;
- (5) Length of time, in days, that the interest rate is applicable;
- (6) Minimum denomination;
- (7) Length of Notification Period;
- (8) Minimum and maximum rates, if any, applicable at time of the interest rate reset or, if not calculable as of the time of interest rate reset, indication that such rate or rates are not calculable; and
- (9) Type and expiration date of each liquidity facility applicable to the Variable Rate Demand Obligation.

(B) Information identified in subparagraph (c)(ii)(A) shall be provided to the Board by no later than 6:30 P.M. Eastern Time on the date on which an interest rate reset occurs if such date is an RTRS Business Day as defined in Rule G-14 RTRS Procedures section (d)(ii). In the event that any item of information identified in subparagraph (c)(ii)(A) is not available by the deadline in this subparagraph (c)(ii)(B), such item shall be provided to the Board as soon as it is available. In the event that an interest rate reset occurs on a non-RTRS Business Day, the information identified in subparagraph (c)(ii)(A) shall be reported by no later than 6:30 P.M. Eastern Time on the next RTRS Business Day.

(C) A Remarketing Agent may designate an agent to report the information identified in subparagraph (c)(ii)(A) to the Board. The failure of a designated agent to comply with any requirement of this paragraph (c)(ii) shall be considered a failure by such Remarketing Agent to so comply.

(D) Information reported to the Board pursuant to this section (c)(ii) shall be submitted in the manner described in the written procedures for SHORT System users and changes to submitted information must be made as soon as possible.

[(c)] (d) No change.

[(d)] (e) No change.

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[1] See Securities Exchange Act Release No. 34-59212, January 7, 2009 (File No. SR-MSRB-2008-07).

[2] Underlining indicates additions; brackets indicate deletions.

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