## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–NYSEArca–2017–44), as modified by Amendment Nos. 1 and 2 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

**Eduardo A. Aleman,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–80890; File No. SR–MSRB–2017–03]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change To Amend MSRB Rule G–26, on Customer Account Transfers, To Modernize the Rule and Promote a Uniform Customer Account Transfer Standard

June 7, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 26, 2017 the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''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 to amend MSRB Rule G–26, on customer account transfers, to modernize the rule and promote a uniform customer account transfer standard for all brokers, dealers, municipal securities brokers and municipal securities dealers (collectively, ''dealers'') (''proposed rule change'').[3] The MSRB requests that the proposed rule change be effective three months from the date of Commission approval.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2017-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

The purpose of the proposed rule change is to modernize Rule G–26 and promote a uniform customer account transfer standard for all dealers. The MSRB believes that, by including certain provisions parallel to the customer account transfer rules of other SROs, particularly FINRA Rule 11870, in current Rule G–26, as outlined below, the transfer of customer securities account assets will be more flexible, less burdensome, and more efficient, while reducing confusion and risk to investors and allowing them to better move their municipal securities to their dealer of choice.

Current Rule G–26

Rule G–26 requires dealers to cooperate in the transfer of customer accounts and specifies procedures for carrying out the transfer process. Such transfers occur when a customer decides to transfer an account from one dealer, the carrying party (*i.e.,* the dealer from which the customer is requesting the account be transferred) to another, the receiving party (*i.e.,* the dealer to which the customer is requesting the account be transferred). The rule establishes specific time frames within which the carrying party is required to transfer a customer account; limits the reasons for which a receiving party may take exception to an account transfer instruction; provides for the establishment of fail-to-receive and fail-to-deliver contracts;[4] and requires that fail contracts be resolved in accordance with MSRB close-out procedures, established by MSRB Rule G–12(h). In addition, the current rule requires the use of the automated customer account transfer service in place at a registered clearing agency registered with the Commission when both dealers are direct participants in the same clearing agency.[5] Finally, the rule contains a provision for enhancing compliance by requiring submission of transfer instructions to the enforcement authority with jurisdiction over the dealer carrying the account, if the enforcement authority requests such submission.[6]

The MSRB adopted Rule G–26 in 1986 as part of an industry-wide initiative to create a uniform customer account transfer standard by applying a customer account transfer procedure to all dealers that are engaged in municipal securities activities.[7] The uniform standard for all customer account transfers (*i.e.,* automated and manual processes) is largely driven by the National Securities Clearing Corporation's (''NSCC'') Automated Customer Account Transfer Service (''ACATS''). The MSRB adopted Rule G–26 in conjunction with the adoption of similar rules by other self-regulatory organizations (''SROs'')—New York Stock Exchange (''NYSE'') Rule 412 and Financial Industry Regulatory Authority (''FINRA'') Rule 11870.[8] Those rules are not applicable to certain accounts at dealers, particularly municipal security-only accounts and accounts at bank dealers.[9] Current Rule G–26 governs the municipal security-only customer account transfers performed by those

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] For clarity and ease of reference, current provisions of Rule G–26 will be cited herein as ''Rule G–26,'' and proposed amendments to Rule G–26 will be cited herein as ''proposed Rule G–26''.

[4] Fail-to-receive and fail-to-deliver contracts are records maintained by the receiving party and the carrying party, respectively, when a customer account transfer fails.

[5] *See* Rule G–26(h).

[6] *See* Rule G–26(i).

[7] *See* Exchange Act Release No. 22810 (Jan. 17, 1986), 51 FR 3287 (Jan. 24, 1986) (SR–MSRB–86–2) (proposing Rule G–26). *See also* Exchange Act Release Nos. 22663 (Nov. 27 1985) (SR–NYSE–85–17) (approving NYSE Rule 412); 22941 (Feb. 24, 1986) (SR–NASD–29) (approving NASD/FINRA Rule 11870).

[8] In 2007, FINRA was created through the consolidation of the National Association of Securities Dealers (''NASD'') and the member regulation, enforcement and arbitration operations of the NYSE. Current NYSE Rule 412 cross-references NASD/FINRA Rule 11870 for the purpose of incorporating it into the NYSE rulebook.

[9] *See* Exchange Act Release No. 22810 (Jan. 17, 1986), 51 FR 3287 (Jan. 24, 1986) (SR–MSRB–86–2) (''Currently certain municipal securities brokers or municipal securities dealers, particularly those with municipal security-only accounts and bank dealers, will not be covered by the standards governing the rest of the securities industry.'').

dealers to ensure that all customer account transfers are subject to regulation that is consistent with the uniform industry standard. Thus, in order to maintain consistency and the uniform standard, the MSRB has, from time to time, modified the requirements of Rule G–26 to conform to certain provisions of the parallel FINRA and NYSE customer account transfer rules, as well as to enhancements made to the ACATS process by NSCC, that had relevance to municipal securities.

On January 6, 2017, the MSRB published a request for comment, proposing a number of draft amendments to Rule G–26 to maintain consistency with the rules of the NSCC, the NYSE and FINRA by conforming to significant updates to those other SRO rules that have relevance to municipal securities and municipal security-only customer account transfers.[10] In response to the Request for Comment, the MSRB received three comment letters, supporting the general purpose of the amendments to Rule G–26, but suggesting alternative approaches and raising a few other issues.[11] After carefully considering all of the comments received, the MSRB determined to file this proposed rule change.

Residual Credit Positions

In 1989, the NSCC expanded ACATS to include the transfer of customer account residual credit positions. These are assets in the form of cash or securities that can result from dividends, interest payments or other types of assets received by the carrying party after the transfer process is completed, or which were restricted from being included in the original transfer.[12] The NYSE and FINRA made corresponding changes to their rules that require dealers that participate in a registered clearing agency with automated residual credit processing capabilities to utilize those facilities to transfer residual credit positions that accrue to an account after a transfer.[13] Prior to allowing for these transfers, a check frequently would have to be produced, or a delivery bill or report, which then required a check to be issued or securities to be transferred.[14] This process could result in lost or improperly routed checks and securities, as well as the expenses of postage and processing.[15]

The MSRB is proposing to update Rule G–26 to include the transfer of customer account residual credit positions, which would benefit both customers and dealers by substantially decreasing the paperwork, risks, inefficiencies and costs associated with the practice of check issuance and initiation of securities deliveries to resolve residual credit positions.[16]

Partial Account Transfers

In 1994, the NYSE and FINRA amended their rules to permit partial or non-standard customer account transfers (*i.e.,* the transfer of specifically designated assets from an account held at one dealer to an account held at another dealer).[17] Subsequently, in 2004, the NYSE and FINRA further amended their rules generally to apply the same procedural standards and time frames that are applicable to the transfer of entire accounts to partial transfers as well.[18] Because customer and dealer obligations resulting from the transfer of an entire account differ from the obligations arising from the transfer of specified assets within an account that will remain active at the carrying party, the NYSE and FINRA rules distinguish between the transfer of security account assets in whole or in specifically designated part. For example, it would not be necessary for a customer to instruct the carrying party as to the disposition of his or her assets that are nontransferable if the customer is not transferring the entire account.

The MSRB is proposing to update Rule G–26 to permit partial account transfers under the same time frames applicable to transfers of entire accounts, which the MSRB believes would provide dealers with the ability to facilitate more efficient and expeditious transfers, as well as increase accountability for dealers and reduce difficulties encountered by customers related to transfers.[19] The MSRB also believes this change will further competition among dealers by more easily allowing investors to transfer their municipal securities to the dealer of their choice.

Transfer of Third-Party and/or Proprietary Products

In 1998, the NSCC modified ACATS to better facilitate and expedite the transfer of a customer account containing third-party and/or proprietary products that the receiving party is unable to receive or carry.[20] The NYSE and FINRA made conforming changes in 2001.[21] Prior to the NSCC's modernization of ACATS in 1998, a receiving party was not permitted to reject an individual account asset and only could reject an account in its entirety. Today, however, under these other SROs' rules, the receiving party has the capability to either accept all assets in the account being transferred or, to the extent permitted by the receiving party's designated examining authority, accept only some of the assets in the account.[22]

Although most securities can be transferred, dealers vary in their ability to accept and support certain third-party investment products. Under the NSCC's prior customer account transfer procedures, and the current procedures outlined in Rule G–26, a customer that wishes to transfer its entire account to another dealer would submit a signed transfer instruction to the receiving party.[23] The receiving party would immediately submit the transfer instruction to the carrying party, and the carrying party would have three days to either validate and return the transfer instruction or take exception to the instruction.[24] Prior to or at the time of validation of the transfer instruction, the carrying party would be required to notify the customer with respect to the disposition of any assets it identified as nontransferable [25] and request

[10] MSRB Notice 2017–01 (Jan. 6, 2017) (''Request for Comment'').

[11] *See infra* note 81.

[12] *See* Exchange Act Release No. 26659 (Mar. 22, 1989), 54 FR 12984 (Mar. 29, 1989) (SR–NSCC–89–3).

[13] *See* Exchange Act Release Nos. 34633 (Sept. 2, 1994), 59 FR 46872 (Sept. 12, 1994) (SR–NYSE–94–21); 35031 (Nov. 30, 1994), 59 FR 62761 (Dec. 6, 1994) (SR–NASD–94–56). *See also* former NYSE Rule 412(e)(3); FINRA Rule 11870(m)(3).

[14] *See* Exchange Act Release No. 26659 (Mar. 29, 1989) (SR–NSCC–89–3).

[15] *Id.*

[16] *See* proposed Rule G–26(k)(ii).

[17] *See* Exchange Act Release Nos. 34633 (Sept. 2, 1994), 59 FR 46872 (Sept. 12, 1994) (SR–NYSE–94–21); 35031 (Nov. 30, 1994), 59 FR 62761 (Dec. 6, 1994) (SR–NASD–94–56). *See also* former NYSE Rule 412, Interpretation (a)/01; FINRA Rule 11870(a)(2).

[18] *See* Exchange Act Release Nos. 49415 (Mar. 12, 2004), 69 FR 13608 (Mar. 23, 2004) (SR–NYSE–2003–29); 50018 (July 14, 2004), 69 FR 43873 (July 22, 2004) (SR–NASD–2004–058).

[19] *See* proposed Rule G–26(b), (c)(ii), (d)(i), (e)(ii), (k)(i). The proposed rule change would require that dealers expedite all authorized municipal securities account asset transfers, whether through ACATS or via other means permissible, and coordinate their activities with respect thereto.

[20] *See* Exchange Act Release No. 40657 (Nov. 10, 1998), 63 FR 63952 (Nov. 17, 1998) (SR–NSCC–98–06).

[21] *See* Exchange Act Release Nos. 44596 (July 26, 2001), 66 FR 40306 (Aug. 2, 2001) (SR–NYSE–00–61); 44787 (Sept. 12, 2001), 66 FR 48301 (Sept. 19, 2001) (SR–NASD–2001–53). *See also* former NYSE Rule 412, Interpretation (b)(1),/01,/04,/06; FINRA Rule 11870(c)(2).

[22] *See* FINRA Rule 11870(c)(3)–(4).

[23] *See* Rule G–26(d)(i).

[24] *Id.*

[25] Currently, the term ''nontransferable asset'' means an asset that is incapable of being transferred from the carrying party to the receiving party because (A) it is an issue in default for which the carrying party does not possess the proper

instructions from the customer with respect to their disposition.[26]

A customer account could also contain assets that are nontransferable but have not yet been identified as nontransferable (*e.g.,* a municipal fund security that the receiving party is unable to carry—unbeknownst to the carrying party). Under current Rule G–26, the carrying party would have to include such nontransferable assets in the transfer of the account, and, if the receiving party were unable to receive/carry the nontransferable asset, the receiving party would have to send the asset back to the carrying party.[27] While the instances in which dealers would need to rely upon Rule G–26 and the special procedures for transfer of nontransferable assets may be rare, these fails require substantial processing time for both the carrying and receiving parties, and require carrying parties to credit the receiving party's funds equivalent to the value of the assets they are unable to deliver. These fails can also cause customers confusion in that customers receive multiple account statements from the carrying and receiving parties as the dealers initiate and then reverse transfers.

The NSCC's modifications regarding third-party and proprietary products allow the receiving party to review the asset validation report, designate those nontransferable assets it is unable to receive/carry, provide the customer with a list of those assets, and require instructions from the customer regarding their disposition.[28] The proposed rule change would make Rule G–26 consistent with this change by requiring the receiving party to designate any third-party products it is unable to receive.[29] Accordingly, the MSRB believes the proposed rule change will eliminate the present need for reversing the transfer of nontransferable assets, reduce the overall time frame for transferring third-party products, and generally reduce delay in and the cost of customer account transfers.

Electronic Signature for Customer Authorization of Account Transfer

Under current Rule G–26, a customer can initiate a transfer of a municipal securities account from one dealer to another by giving written notice to the receiving party.[30] NYSE Rule 412 and FINRA Rule 11870 previously had the same requirement; however, in 2004, the NYSE and FINRA established that a customer also can initiate an account transfer, in whole or in part, using either the customer's actual signature or an electronic signature in a format recognized as valid under federal law to conduct interstate commerce.[31] The MSRB believes that updating the written notice requirement in Rule G–26 to include electronic signatures will expedite the transfer of customer assets between dealers and more easily allow investors to transfer their assets to the dealer of their choice. Accordingly, the MSRB is proposing to replace the written notice requirement with an authorized instruction requirement, which can be a customer's actual written or electronic signature.[32]

Shortened ACATS Cycle

ACATS has been modified over time to provide a more seamless and timely customer account transfer process. Specifically, in 1994, the NSCC accelerated the time (from two days to one day) in which accounts are transferred by reducing the time a receiving party has after receipt of the transfer instruction to determine whether to accept, reject or request adjustments to the account.[33] In 1998 and 2000, the NYSE and FINRA, respectively, shortened the time frame for the asset review portion of the transfer period from two days to one day, and the time frame the carrying party has to complete the transfer of customer securities account assets to the receiving party from four days to three days following the validation of a transfer instruction.[34] Further, in 2007, FINRA more generally provided that the time frame(s) in FINRA Rule 11870 will change, as determined from time to time in any publication, relating to the ACATS facility, by the NSCC.[35] Rule G–26 currently specifies three days as the time to validate or take exception to the transfer instructions and four days as the time frame for completion of a customer account transfer.[36] The MSRB believes that reducing those time frames to one and three day(s), respectively, will ensure consistency with the industry standard set by the NSCC and harmonization with other SROs, while providing greater efficiency and improving the customer experience in the customer account transfer process.[37] Therefore, the proposed rule change would shorten the time for validation from three days to one, and shorten the time for completing the customer account transfer from four days to three.

Because Rule G–26 applies to manual customer account transfers, in addition to automated processes, the MSRB is, at this time, not incorporating by reference changes in the time frame of the transfer cycle as determined by future changes in the ACATS time frames made by the NSCC. The MSRB believes that the current time frames are sufficiently long to accommodate manual processes, but it would be important for the MSRB to evaluate the ability of bank dealers and other dealers with municipal securities-only accounts, which are subject to Rule G–26, to perform such processes under shorter time frames before adopting any such proposal in the future.

Definition of ''Nontransferable Asset''

In response to a specific question in the Request for Comment,[38] the Securities Industry and Financial Markets Association (''SIFMA'') indicated that dealers may sell proprietary products that are municipal securities to customers, the transferability of which FINRA Rule 11870 addresses.[39] Given this affirmative response, and because a receiving party cannot hold a proprietary product of a carrying party, the MSRB believes it is important to include proprietary products of the carrying party in the definition of ''nontransferable asset'' to better harmonize with FINRA's corresponding definition and to ensure that bank dealers, and other dealers subject to Rule G–26, have clarity when handling

denominations to effect delivery and no transfer agent is available to re-register the securities, or (B) it is a municipal fund security which the issuer requires to be held in an account carried by one or more specified dealers that does not include the receiving party. *See* Rule G–26(a)(iii).

[26] *See* Rule G–26(c)(ii).

[27] *See* Rule G–26(d)(i)–(ii).

[28] *See* NSCC Rule 50 Section 8.

[29] *See* proposed Rule G–26(e)(vii).

[30] Under Rule G–26(c)(i), customers and dealers may use Form G–26 (the transfer instruction prescribed by the MSRB), the transfer instructions required by a clearing agency registered with the SEC in connection with its automated customer account transfer system or transfer instructions that are substantially similar to those required by such clearing agency to accomplish a customer account transfer.

[31] *See* Exchange Act Release Nos. 49415 (Mar. 12, 2004), 69 FR 13608 (Mar. 23, 2004) (SR–NYSE–2003–29); 50018 (July 14, 2004), 69 FR 43873 (July 22, 2004) (SR–NASD–2004–058).

[32] *See* Supplementary Material .01 to proposed Rule G–26.

[33] *See* Exchange Act Release No. 34879 (Oct. 21, 1994), 59 FR 54229 (Oct. 28, 1994) (SR–NSCC–94–13).

[34] *See* Exchange Act Release Nos. 40712 (Nov. 25, 1998), 63 FR 67163 (Dec. 4, 1998) (SR–NYSE–98–30); 43635 (Nov. 29, 2000), 65 FR 75990 (Dec. 5, 2000) (SR–NASD–00–68). *See also* former NYSE Rule 412(b)(3); FINRA Rule 11870(e).

[35] *See* Exchange Act Release No. 56677 (Oct. 19, 2007), 72 FR 60699 (Oct. 25, 2007) (SR–FINRA–2007–005).

[36] *See* Rule G–26(d)(i), (v).

[37] *See* proposed Rule G–26(d)(i), (f)(i).

[38] *See* Request for Comment, Question 8 (''Do municipal securities brokers or municipal securities dealers sell proprietary products that are municipal securities to customers?'').

[39] *See* letter from SIFMA at note 81 *infra.*

such proprietary products in customer account transfers.[40] Accordingly, the proposed rule change would also provide the following options for the disposition of such proprietary products that would be nontransferable assets: Liquidation; retention by the carrying party for the customer's benefit; or transfer, physically and directly, in the customer's name to the customer.[41]

Transfer Instructions

Disposition of Nontransferable Assets

Under current Rule G–26, if there are nontransferable assets included in a transfer instruction, there are multiple options available to the customer for their disposition, and the carrying party must request further instructions from the customer with respect to which option the customer would like to exercise.[42] Depending on the type of nontransferable asset at issue, FINRA Rule 11870(c) requires either the carrying party or the receiving party to provide the customer with a list of the specific nontransferable assets and request the customer's desired disposition of such assets. For example, FINRA Rule 11870(c)(4) places the burden on the receiving party for third-party products that are nontransferable. In response to the Request for Comment, SIFMA noted that current industry practice and standard requires that, depending on the type of nontransferable asset, either the carrying party or the receiving party provide the customer with a list of the nontransferable assets and request the customer's desired disposition of such assets, as opposed to limiting that requirement to the carrying party, which was proposed in the Request for Comment.[43] Because there are third-party products that are municipal securities that a receiving party may not be able to carry, and such a receiving party may be the only party to a customer account transfer with that knowledge, the MSRB believes allowing the receiving party to notify the customer of any nontransferable assets in a transfer and request their disposition in such circumstances will help ensure that nontransferable assets are properly identified and that both parties to a transfer are coordinating closely to complete the transfer efficiently and expeditiously. To allow for this, to improve harmonization with FINRA Rule 11870 and to promote a uniform standard for all dealers, the proposed rule change would explicitly require that the carrying party *and/or* the receiving party provide the list of nontransferable assets.[44]

Liquidation of Nontransferable Assets

Under current Rule G–26, one of the disposition options for nontransferable assets available to customers is liquidation.[45] When providing customers with this option, dealers are required to specifically indicate any redemption or other liquidation-related fees that may result from such liquidation and that those fees may be deducted from the money balance due the customer.[46] FINRA Rule 11870 provides the same requirements, but also requires dealers to refer customers to the disclosure information for third-party products or to the registered representative at the carrying party for specific details regarding any such fees, as well as to distribute any remaining balance to the customer and an indication of the method of how it will do so.[47] The MSRB believes the inclusion of these additional requirements in Rule G–26 will help ensure that customers receive as much relevant information as possible regarding potential redemption fees, including for municipal fund securities.[48] Specifically, the proposed rule change would require a referral to the program disclosure for a municipal fund security or to the registered representative for specific details regarding any such fees for the same.[49] Further, for clarity, the MSRB believes it is important to require explicitly the distribution of the remaining balance to the customer and an indication of how it will be accomplished.[50] Therefore, the proposed rule change would require dealers to specifically indicate any redemption or other liquidation-related fees that may result from liquidation and that those fees may be deducted from the money balance due the customer.

Transfer of Nontransferable Assets to Customers

FINRA Rule 11870(c)(3)(C) provides an option for nontransferable assets that are proprietary products to be transferred, physically and directly, in the customer's name to the customer. The MSRB believes that some municipal securities that are nontransferable assets could similarly be transferred, physically and directly, to the customer, so the proposed rule change would add this option to the alternative dispositions available to customers.[51] The MSRB notes that not all municipal securities may be appropriate for this option and that the carrying party would not be required to physically deliver any nontransferable assets of which it does not have physical possession.

Timing of Disposition of Nontransferable Assets

Rule G–26 currently does not provide a time frame for the carrying party to effect the disposition of nontransferable assets as instructed by the customer. FINRA Rule 11870(c)(5) requires that the money balance resulting from liquidation must be distributed, and any transfer instructed by the customer must be initiated, within five business days following receipt of the customer's disposition instruction. The MSRB believes it is important to provide clarity as to the timing of these dispositions to ensure that customer transfers are handled expeditiously. Accordingly, the proposed rule change would harmonize with FINRA Rule 11870(c)(5) and establish the same five-day requirement.[52]

Transfer Procedures

Current Rule G–26(d) establishes, as part of the transfer procedures, the requirements for validation of the transfer instructions and completion of the transfer. To detail the specific validation/exception and completion processes more clearly and to better harmonize with FINRA Rule 11870, the proposed rule change would provide the provisions describing those processes in new, separate sections of the rule.[53]

Validation of Transfer Instructions

Under current Rule G–26(d)(iv)(A), upon validation of a transfer instruction, the carrying party must ''freeze'' the account to be transferred and return the transfer instruction to the receiving party with an attachment indicating all securities positions and money balance in the account as shown on the books of the carrying party. Because the proposed rule change would allow for partial account transfers of specifically designated municipal securities assets, the proposed rule change would require the account freeze only for validation of the transfer of an entire account, as the

[40] *See* proposed Rule G–26(a)(iii)(C); FINRA Rule 11870(c)(1)(D)(i).

[41] *See* proposed Rule G–26(c)(ii)(A)–(C).

[42] *See* Rule G–26(c)(ii).

[43] *See* letter from SIFMA at note 81 *infra.*

[44] *See* proposed Rule G–26(c)(ii).

[45] *See* Rule G–26(c)(ii).

[46] *See* Rule G–26(c)(ii)(A).

[47] *See* FINRA Rule 11870(c)(3)(A), (c)(4)(A).

[48] *See* proposed Rule G–26(c)(ii)(A).

[49] *Id.*

[50] *Id.*

[51] *See* proposed Rule G–26(c)(ii)(C).

[52] *See* proposed Rule G–26(c)(iii).

[53] *See* proposed Rule G–26(e), (f). As a result of this restructuring, the subsequent, existing sections of the rule would be renumbered in proposed Rule G–26.

customer's account at the carrying party should not be frozen if certain municipal securities would remain in the account and the customer may want to continue transacting in that account.[54] For whole and partial account transfers, the carrying party would continue to have the responsibility to return the instructions and indicate the securities positions and money balance to be transferred.[55] However, to identify the assets held in the customer account at the carrying party more comprehensively and to harmonize with FINRA Rule 11870(d)(5)(A), the proposed rule change would also require the carrying party to indicate safekeeping positions,[56] which are defined to be any security held by a carrying party in the name of the customer, including securities that are unendorsed or have a stock/bond power attached thereto.[57]

Additionally, current Rule G–26(d)(iv)(B) requires the carrying party to include a then-current market value for all assets to be transferred. FINRA Rule 11870(d)(5) provides that the original cost should be used as the value if a then-current value cannot be determined for an asset. The proposed rule change would include a provision substantially similar to the FINRA provision to provide clarity on how any such municipal securities should be valued and to improve harmonization between the MSRB and FINRA rules.[58]

Exceptions To Transfer Instructions

As part of the validation process, current Rule G–26 provides that the carrying party may take certain exceptions to the transfer instructions authorized by the customer and provided by the receiving party. Specifically, Rule G–26(d)(ii) allows a carrying party to take exception to a transfer instruction only if it has no record of the account on its books or the transfer instruction is incomplete.[59] FINRA Rule 11870(d)(3) provides numerous other bases to take exception to a transfer instruction that the MSRB believes would more comprehensively address potential issues with a transfer instruction with which a carrying party could reasonably take issue and better harmonize with FINRA Rule 11870. Accordingly, in addition to the existing bases for exceptions, the proposed rule change would allow a carrying party to take exception to a transfer instruction if: (1) The transfer instruction contains an improper signature; (2) additional documentation is required (*e.g.,* legal documents such as death or marriage certificate); (3) the account is ''flat'' and reflects no transferable assets; [60] (4) the account number is invalid (*i.e.,* the account number is not on the carrying party's books); [61] (5) it is a duplicate request; (6) it violates the receiving party's credit policy; (7) it contains unrecognized residual credit assets (*i.e.,* the receiving party cannot identify the customer); (8) the customer rescinds the instruction (*e.g.,* the customer has submitted a written request to cancel the transfer); (9) there is a mismatch of the Social Security Number/Tax ID (*e.g.,* the number on the transfer instruction does not correspond to that on the carrying party's records); (10) the account title on the transfer instruction does not match that on the carrying party's records; (11) the account type on the transfer instruction does not correspond to that on the carrying party's records; (12) the transfer instruction is missing or contains an improper authorization (*e.g.,* the transfer instruction requires an additional customer authorization or successor custodian's acceptance authorization or custodial approval; or (13) the customer has taken possession of the assets in the account (*e.g.,* the municipal securities account assets in question have been transferred directly to the customer).[62]

Additionally, FINRA Rule 11870(d)(2) precludes a carrying party from taking an exception and denying validation of the transfer instruction because of a dispute over security positions or the money balance in the account to be transferred, and it requires the carrying party to transfer the positions and/or money balance reflected on its books for the account. The MSRB believes this provision will be equally valuable to transfers covered under Rule G–26 to ensure that customers are able to hold their municipal securities at their dealers of choice.[63]

Recordkeeping and Customer Notification

During the validation process for a customer account transfer, there is a risk that the parties to the transfer fail to identify certain nontransferable assets, resulting in the improper transfer of those assets. FINRA Rule 11870(c)(1)(E) explicitly requires that the parties promptly resolve and reverse any such misidentified nontransferable assets, update their records and bookkeeping systems and notify the customer of the action taken. The MSRB believes it is important to add this explicit requirement to Rule G–26 to ensure that dealers address any errors in the transfer process promptly.[64] Therefore, the proposed rule change would require that the parties promptly resolve and reverse any such misidentified nontransferable assets, update their records and bookkeeping systems and notify the customer of the action taken.

Transfer Rejection

FINRA Rule 11870(d)(8) allows the receiving party to reject a full account transfer if the account would not be in compliance with its credit policies or minimum asset requirements. A receiving party may not reject only a portion of the account assets (*i.e.,* the particular assets not in compliance with the dealer's credit policies or minimum asset requirement). Rule G–26 currently does not include any comparable provisions, but the MSRB believes it is reasonable for a receiving party to deny a customer's transfer request due to noncompliance with its credit policies or minimum asset requirements. Accordingly, the proposed rule change would provide this ability to the receiving party in Rule G–26.[65]

Resolution of Discrepancies

Rule G–26(f) currently provides that any discrepancies relating to positions or money balances that exist or occur after transfer of a customer account must be resolved promptly.[66] FINRA Rule 11870(g) includes the same standard but also requires that the carrying party must promptly distribute to the receiving party any transferable assets that accrue to the customer's transferred account after the transfer has been effected. Further, FINRA Rule 11870(g) provides clarity to the promptness requirement by requiring

[54] *See* proposed Rule G–26(e)(i).

[55] *See* proposed Rule G–26(e)(ii).

[56] *See* proposed Rule G–26(e)(ii).

[57] *See* proposed Rule G–26(a)(vi).

[58] *See* proposed Rule G–26(e)(ii).

[59] *See* Rule G–26(d)(ii).

[60] For such an exception, the receiving party would have to resubmit the transfer instruction only if the most recent customer statement is attached. *See* proposed Rule G–26(e)(v).

[61] If the carrying party has changed the account number for purposes of internally reassigning the account, it would be the responsibility of the carrying party to track the changed account number, and such reassigned account number would not be considered invalid for purposes of fulfilling a transfer instruction. *See* proposed Rule G–26(e)(iv)(F).

[62] In order to include the exceptions to transfer instructions with the provisions related to validation, the proposed rule change would move the existing exceptions to, and add the new exceptions in, the new, separate section on validation of transfer instructions. *See* proposed Rule G–26(e)(iv).

[63] *See* proposed Rule G–26(e)(iii).

[64] *See* proposed Rule G–26(e)(vi).

[65] *See* proposed Rule G–26(e)(viii).

[66] *See* Rule G–26(f).

that any claims of discrepancies after a transfer must be resolved within five business days from notice of such claim or the non-claiming party must take exception to the claim and set forth specific reasons for doing so. To provide the same level of clarity and to improve harmonization with FINRA Rule 11870(g), the proposed rule change would include these same additional provisions.[67]

Participant in a Registered Clearing Agency

When both the carrying party and the receiving party are direct participants in a clearing agency that is registered with the SEC and offers automated customer securities account transfer capabilities, Rule G–26(h) currently requires the account transfer procedure to be accomplished pursuant to the rules of and through such registered clearing agency.[68] FINRA Rule 11870(m) has a similar requirement that provides an exception for specifically designated securities assets transferred pursuant to the submittal of a customer's authorized alternate instructions to the carrying party. As discussed above, FINRA Rule 11870(m)(3) also requires the transfer of residual credit positions through the registered clearing agency. Further, FINRA Rule 11870(m)(4) prescribes several conditions for such transfers for participants in a registered clearing agency.[69] The MSRB believes customers and the parties to a customer account transfer should have the option of performing the transfer outside of the facilities of a registered clearing agency when an appropriate authorized alternate instruction is given. Additionally, the MSRB believes the additional prescription related to the process provided by FINRA will give greater clarity to customers and dealers. Accordingly, the proposed rule change would include these provisions.[70]

Transfer of Residual Positions

When both the carrying party and the receiving party are direct participants in a clearing agency registered with the SEC offering automated customer securities account transfer capabilities, FINRA Rule 11870(n) requires each party to transfer credit balances that occur in any transferred account assets (both cash and securities) through the automated service within 10 business days after the credit balances accrue to the account for a minimum period of six months. Given that the majority of customer account transfers subject to Rule G–26 occur manually, the MSRB believes it is important to provide clarity on the obligation and timing required to transfer such credit balances for any customer account transfer, so the proposed rule change would include a provision with the same 10-business-day requirement as FINRA Rule 11870(n) that is not limited to when both parties are direct participants in a clearing agency registered with the SEC offering automated customer securities account transfer capabilities.[71]

Written Procedures

Current Rule G–26 does not itself include any requirement for policies and procedures, but Supplementary Material .01 to FINRA Rule 11870 requires the establishment, maintenance and enforcement of written procedures to affect and supervise customer account transfers. The MSRB believes it is important for dealers to document the procedures they follow to effect customer account transfers and to require explicitly written procedures for supervision of the same, which is consistent with MSRB Rule G–27, on supervision. Accordingly, the proposed rule change would include such a requirement.[72]

FINRA Rule 11650—Transfer Fees

Neither current Rule G–26 nor any other MSRB rule specifically addresses transfer fees. However, FINRA Rule 11650, on transfer fees, specifies that the party at the instance of which a transfer of securities is made shall pay all service charges of the transfer agent. The MSRB believes it is important to clarify which party is responsible for the fees incurred for a customer account transfer. Accordingly, the proposed rule change would include a provision identical to FINRA Rule 11650.[73]

2. Statutory Basis

Section 15B(b)(2) of the Act[74] provides that:

> [t]he Board shall propose and adopt rules to effect the purposes of this title with respect to transactions in municipal securities effected by brokers, dealers, and municipal securities dealers and advice provided to or on behalf of municipal entities or obligated persons by brokers, dealers, municipal securities dealers, and municipal advisors with respect to municipal financial products, the issuance of municipal securities, and solicitations of municipal entities or obligated persons undertaken by brokers, dealers, municipal securities dealers, and municipal advisors.

Section 15B(b)(2)(C) of the Act[75] provides that the MSRB's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The MSRB believes that the proposed rule change is consistent with the provisions of Sections 15B(b)(2)[76] and 15B(b)(2)(C)[77] of the Act because it would re-establish consistency with the customer account transfer rules of other SROs by conforming to significant updates by the NSCC, the NYSE and FINRA that have relevance to municipal securities. Further, the MSRB believes that including certain provisions from the other rules in the proposed rule change will make the transfer of customer securities account assets more flexible, less burdensome, and more efficient, while reducing confusion and risk to investors and allowing them to better move their securities to their dealer of choice. The MSRB believes the proposed rule change will promote fairness and provide greater efficiency in the transfer of customer accounts, which should prevent fraudulent and manipulative acts and practices, promote just and equitable principals of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, protect investors and the public interest.

The MSRB also believes that the proposed rule change is consistent with

[67] *See* proposed Rule G–26(i)(ii)–(iii).

[68] *See* Rule G–26(h).

[69] FINRA also defines a ''participant in a registered clearing agency'' as ''a member of a registered clearing agency that is eligible to make use of the agency's automated customer securities account transfer capabilities,'' and ''registered clearing agency'' as ''a clearing agency as defined in, and registered in accordance with, the Exchange Act.'' The proposed rule change would include these same definitions. *See* proposed Rule G–26(a)(iv)–(v).

[70] *See* proposed Rule G–26(k).

[71] *See* proposed Rule G–26(g).

[72] *See* Supplementary Material .02 to proposed Rule G–26.

[73] *See* Supplementary Material .03 to proposed Rule G–26.

[74] 15 U.S.C. 78*o*–4(b)(2).

[75] 15 U.S.C. 78*o*–4(b)(2)(C).

[76] 15 U.S.C. 78*o*–4(b)(2).

[77] 15 U.S.C. 78*o*–4(b)(2)(C).

Section 15B(b)(2)(G) of the Act,[78] which provides that the MSRB's rules shall:

> prescribe records to be made and kept by municipal securities brokers, municipal securities dealers, and municipal advisors and the periods for which such records shall be preserved.

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(G) of the Act[79] because it would require dealers to document the procedures they follow to effect customer account transfers and to require explicitly written procedures for supervision of the same.

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

Section 15B(b)(2)(C) of the Act[80] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In determining whether these standards have been met, the MSRB was guided by the Board's Policy on the Use of Economic Analysis in MSRB Rulemaking. In accordance with this policy, the Board has evaluated the potential impacts on competition of the proposed rule change, including in comparison to reasonable alternative regulatory approaches, relative to the baseline. The MSRB does not believe the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The MSRB does not believe the proposed rule change will create a burden on competition, as all municipal securities brokers and municipal securities dealers would be subject to the same modified requirements for customer account transfers. The MSRB believes that the proposed rule change may reduce inefficiencies that stem from uncertainty and confusion associated with existing Rule G–26. The MSRB also believes that dealers may benefit from clarifications and revisions that more closely reflect the securities industry standard, which may, in turn, reduce operational risk to dealers and investors. Finally, the MSRB believes that the proposed rule change will make the transfer of customer municipal securities account assets more flexible, less burdensome, and more efficient, while reducing confusion and risk to investors and allowing them to more conveniently move their municipal securities to their dealer of choice.

[78] 15 U.S.C. 78*o*–4(b)(2)(G).

[79] *Id.*

[80] 15 U.S.C. 78*o*–4(b)(2)(C).

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

The MSRB received three comment letters in response to the Request for Comment.[81] The comment letters are summarized below by topic, and the MSRB's responses are provided.

The Need for Rule G–26

SIFMA supported the stated purpose of the draft amendments to modernize Rule G–26 and promote a uniform customer account transfer standard, but it suggests some alternative approaches to achieve that end. Specifically, SIFMA recognized that Rule G–26 is only applicable to municipal securities brokers and municipal securities dealers, particularly those with municipal security-only accounts and bank dealers, but believes the rule is unnecessary. Further, SIFMA noted that the firms subject to Rule G–26 are a small fraction of the total number of firms and, for the most part, are not direct clearing participants of the NSCC and, therefore, not eligible to participate in the ACATS process.[82] SIFMA stated that, because these firms are not members of the NYSE or FINRA and, therefore, not subject to NYSE Rule 412 and FINRA Rule 11870, they are exempt from participating in ACATS under Rule G–26. Finally, SIFMA believes that there are few customer account transfers that occur ex-clearing (*i.e.,* a manual process outside of ACATS), making Rule G–26 redundant, and suggests that the MSRB eliminate it.

Although SIFMA is correct that most of the firms subject to Rule G–26 do not participate in ACATS, SIFMA did not recognize that, from the rule's inception, it has been intended to cover these firms, which are not subject to NSCC, FINRA or NYSE rules, regardless of how few of them there may be and regardless of how few customer account transfers they may perform.[83] As such, the MSRB believes that there remains a need for Rule G–26 to address the manual processes used by these firms in transferring customer accounts.

SIFMA alternatively suggested that, if the MSRB does not eliminate Rule G–26, it should amend the rule to incorporate FINRA Rule 11870 by reference, similar to what the NYSE has done in its Rule 412 and what the Board has done in MSRB Rule G–41, on anti-money laundering compliance programs.[84] SIFMA specifically proposed that the rule state that dealers ''shall comply with FINRA Rule 11870, concerning the transfer of customer accounts between members, and any amendments thereto, as if such Rule is part of MSRB's Rules.'' SIFMA believed this ''methodology is the most efficient way to reduce confusion and risk to investors, and reduce regulatory risk to dealers,'' which SIFMA stated have largely not been complying with the rule. SIFMA further believes this would ensure that all dealers are covered by a rule and that there is harmonization between the various SROs' rules.

Although amending Rule G–26 to incorporate FINRA Rule 11870 by reference could be a simple and efficient solution to provide a uniform industry standard, the MSRB does not typically incorporate other regulators' rules by reference. The MSRB believes that, while the incorporation by reference approach suggested by SIFMA may enhance harmonization with FINRA's rules, that approach would raise significant concerns for the MSRB, given its statutory mandate and mission. For example, if FINRA or its staff were to provide an interpretation of FINRA Rule 11870, the MSRB automatically would be adopting that interpretation without deliberately considering the issues that may be unique to, or the interpretation's ramifications for, the municipal securities market. Further, there are municipal securities dealers that are not members of FINRA. Those dealers may not have notice of FINRA's rule interpretations unless the MSRB were to monitor FINRA's rulemaking and independently notify dealers. Therefore, if the MSRB were to regulate customer account transfers over which it has jurisdiction by simply incorporating a FINRA rule by reference, the MSRB potentially could be seen as delegating its core mission to protect investors, issuers, and the public interest and to promote a fair and efficient municipal market.

[81] *See* Letters from: Mike Nicholas, Chief Executive Officer, Bond Dealers of America (''BDA''), dated February 17, 2017; Michael Paganini (''Paganini''), dated January 6, 2017; and Leslie M. Norwood, Managing Director and Associate General Counsel, SIFMA, dated February 17, 2017.

[82] As of May 16, 2017, there were 27 bank dealers registered with the MSRB.

[83] *See* Exchange Act Release No. 22810 (Jan. 17, 1986), 51 FR 3287 (Jan. 24, 1986) (SR–MSRB–86–2).

[84] Rule G–41 provides that dealers will be deemed to be in compliance with anti-money laundering program requirements if they establish and implement a program that is in compliance with the rules, regulations or requirements governing the establishment and maintenance of anti-money laundering programs of the registered securities association of which the dealer is a member or the appropriate regulatory agency as defined in the Exchange Act.

Consistency With FINRA Rule 11870 and the Definition of ''Nontransferable Asset''

As discussed in the Request for Comment, FINRA Rule 11870(f)(1) requires that any fail contracts resulting from an account transfer, which includes municipal securities, be included in a dealer's fail file and that, not later than 30 business days following the date delivery was due, the dealer shall take steps to obtain physical possession or control of the municipal securities so failed to receive by initiating a buy-in procedure or otherwise.[85] This 30-day time frame, however, is inconsistent with Rule G–26, which, through reference to MSRB Rule G–12(h), provides 10 calendar days with the option for a one-time extension of 10 calendar days, totaling up to 20 calendar days, for dealers to close out failed inter-dealer municipal securities transactions.[86] The Request for Comment also noted that an additional layer of inconsistency and complexity arises due to the system used to process most failed securities resulting from customer account transfers and inter-dealer transactions. Specifically, an inter-dealer transaction of municipal securities is processed in the NSCC's Continuous Net Settlement (''CNS'') system to be paired up with potentially another counterparty and settled.[87] Any CNS-eligible municipal security in a customer account transfer that fails to be delivered also enters CNS. Once in CNS, it is difficult to determine which fails resulted from inter-dealer transactions or customer account transfers, and the counterparties that are paired up may not be the same counterparties to the original transaction/transfer. As a result, it may be unclear with which rule and corresponding time frame firms should comply—Rule G–12(h) or FINRA Rule 11870.

To avoid these inconsistencies and uncertainties, the draft amendments in the Request for Comment proposed to amend the definition of ''nontransferable asset'' to include any customer long position in a municipal security that allocates to a short position, which resulted from either the carrying party's trading activity or failure to receive the securities it purchased to fill a customer's municipal securities order (*i.e.,* an inter-dealer transaction fail). In the Request for Comment, the MSRB noted that, if FINRA were to similarly amend Rule 11870 to make these short positions nontransferable, then customer account transfers of municipal securities would be significantly less likely to fail and there might no longer be a need to establish fail contracts and provide a process by which those fails could be closed out, eliminating the timing inconsistencies and ambiguity. The MSRB further noted that dealers may not be subject to the costs associated with these transfer fails, as well as the complication and confusion that may arise on coupon payment dates from the need to provide substitute interest for tax-exempt municipal securities. The MSRB stated its belief that this draft amendment would have the additional benefits of reducing counterparty risk and increasing investor confidence.

SIFMA recognized the inconsistency between Rule G–26 and FINRA Rule 11870, as well as the complexity in CNS created by the inconsistency; however, it disagreed with the MSRB's analysis that the draft amendment to the definition of ''nontransferable asset'' would reduce counterparty risk and increase customer confidence, and it believed that it would be disruptive to industry practice and outside of standard ACATS procedures. SIFMA stated that ''[a]utomated systems fail to be efficient if they require manual processes, such as validating if a long municipal security position is allocated to a short firm position.'' BDA also had concerns and believes that the proposed amendment to the definition is unworkable. BDA stated that significant operational changes would have to occur in order to make the change feasible because current dealer systems are not designed to code or segregate inter-dealer transaction fails and account transfer fails, and because most firms track fails at the firm level, not at the account level for compliance with regulatory issues, such as properly tracking substitute interest. BDA urged the MSRB to engage in dealer outreach to find a different solution that better aligns with existing dealer systems and processes.

As an alternative to amending the definition of ''nontransferable asset,'' SIFMA believed that FINRA Rule 11870 must be amended as soon as practicable to reflect the recent amendments to Rule G–12 relating to close-outs to eliminate the inconsistency in the time frames. Accordingly, SIFMA suggested that FINRA simply cross-reference Rule G–12(h), and any amendments thereto, for any fail contracts in municipal securities resulting from customer account transfers.[88] BDA commented that it did not see a policy reason to amend Rule G–26, but BDA's letter did not confront the inconsistency between Rule G–26 and FINRA Rule 11870, and the related complexity created in CNS. BDA further questioned the need for any changes by FINRA to FINRA Rule 11870, and believed FINRA Rule 11870(f) is an adequate standard with which Rule G–26 should harmonize instead.

Given both SIFMA's and BDA's concerns about the operational changes needed and the corresponding costs that would result from such a change, the MSRB, at this time, does not believe amending the definition of ''nontransferable asset'' to include any customer long position in a municipal security that allocates to a short position is appropriate, particularly without certainty that FINRA would similarly amend FINRA Rule 11870 to ensure that all short municipal securities positions in customer account transfers receive identical treatment.

Miscellaneous Comments

As discussed above, in response to comments from SIFMA, the proposed rule change would amend the definition of ''nontransferable asset'' to include proprietary products of the carrying party and would allow for either the carrying party or the receiving party (or both) to provide the list of nontransferable assets to a customer and request their disposition.[89] Additionally, Paganini believed that firms are ''very inefficient when it comes to account transfers of specific types of assets *i.e.,* some municipal bonds,'' and that ''it is exasperating, frustrating, and time consuming for the private investor'' when there is a problem with an account transfer. He recommended that there be some type of enforcement mechanism or financial penalty for transfers that cannot be

[85] A buy-in occurs when the seller in a transaction, who failed to deliver the securities sold to the buyer, purchases all or any part of the securities necessary to complete the transaction at the current market, with the seller bearing any burden from any change in the market price, and any benefit from any change in the market price remaining with the buyer.

[86] The MSRB notes that market participants were very supportive of, and, in fact, suggested the time frames recently adopted in Rule G–12(h) for closing out failed inter-dealer transactions. The MSRB further notes that the inconsistency between the timing of FINRA's buy-in procedures under FINRA Rule 11870(f)(1) (30 business days) and the timing of the MSRB's previous close-out procedures for inter-dealer transactions (up to 90 business days) existed prior to the amendments to Rule G–12(h).

[87] As a key part of the CNS system, NSCC acts as the central counterparty for clearance and settlement for virtually all broker-to-broker equity, corporate and municipal bond and unit investment trust trading in the United States. CNS processes include an automated book-entry accounting system that centralizes settlement and maintains an orderly flow of security and money balances.

[88] SIFMA also suggested that FINRA consolidate its rules relating to customer account transfers, including related fees, into FINRA Rule 11870.

[89] *See Definition of* ''*Nontransferable Asset*'' and *Transfer Instructions supra.*

accomplished within a reasonable time period. The MSRB notes that dealers are expected to comply with the appropriate customer account transfer rule, including Rule G–26 (and the time frames included therein) where applicable, and that, if they do not, they could be subject to an enforcement action for violating the rule.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period of up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

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

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2017–03 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–2017–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. 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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2017–03 and should be submitted on or before July 5, 2017.

For the Commission, pursuant to delegated authority.[90]

**Robert W. Errett,**

*Deputy Secretary.*

[FR Doc. 2017–12266 Filed 6–13–17; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–80888; File No. SR–NASDAQ–2017–053]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 5110(c) To Permit a Reverse Merger Company To Qualify for Initial Listing Under Any Applicable Listing Standard After Satisfying the Required Seasoning Period

June 8, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 25, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to allow a former reverse merger company to qualify for initial listing under any applicable listing standard after satisfying the required seasoning period.

The text of the proposed rule change is set forth below. Proposed new language is italicized; deleted text is in brackets.

* * * * *

**5110. Change of Control, Bankruptcy and Liquidation, and Reverse Mergers**

(a)–(b) No change.

**(c) Reverse Mergers**

(1) A Company that is formed by a Reverse Merger (a ''Reverse Merger Company'') shall be eligible to submit an application for initial listing only if the combined entity has, immediately preceding the filing of the initial listing application:

(A) No change.

(B) maintained a closing price [of $4 per share or higher]*equal to the share price requirement applicable to the initial listing standard under which the Reverse Merger Company is qualifying to list* for a sustained period of time, but in no event for less than 30 of the most recent 60 trading days.

(2) In addition to satisfying all of Nasdaq's other initial listing requirements, a Reverse Merger Company will only be approved for listing if, at the time of approval, it has:

(A) No change.

(B) maintained a closing price [of $4 per share or higher]*equal to the share price requirement applicable to the initial listing standard under which the Reverse Merger Company is qualifying to list* for a sustained period of time, but in no event for less than 30 of the most recent 60 trading days prior to approval.

(3) No change.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[90] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.