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SEC Approves New Rule on 529 Plan Disclosures.

WASHINGTON — The Securities and Exchange Commission has approved a new rule that will require underwriters of 529 college savings plans to submit more in-depth financial information to the Municipal Securities Rulemaking Board twice a year.

New Rule G-45 on reporting of information on municipal fund securities will require primary distributors or underwriters of 529 plans to submit information including assets, contributions, distributions, fees and expenses, and performance data to the board within 60 days of June 30 and December 31 each year.

These college savings plans are established by states under Internal Revenue Code section 529 that allow parents or other individuals to invest in state trusts to accumulate funds to pay for the expected higher education expenses of beneficiaries.

The SEC decided that the new rule passed muster, and approved it Feb. 21, with an effective date of Feb. 24, 2015. Implementation of the rule will occur with the first submission of Form G-45 due by August 30, 2015, which is 60 days after the end of the reporting period of January 1 – June 30, 2015.

The MSRB originally filed the proposed rule with the SEC in June 2013, along with proposals to amend its Rules G-8 on books and records and G-9 on preservation of records to require underwriters to maintain the information required to be reported on new Form G-45 for six years. The board said the rule would help it better oversee the characteristics and risks of the 529 plan market. The MSRB currently collects some information about 529 plans such as preliminary offering documents and continuing disclosure information, but not the information on assets, fee structure, performance data, and other aspects required under the newly-approved G-45.

The rule went through some changes by the MSRB, in response to comments that the definition of underwriter was not acceptable. The Investment Company Institute argued that a plan's program manager, record-keeper, investment manager, custodian or state sponsor generally are not broker-dealers and would not qualify as underwriters under the rule. ICI requested that the MSRB clarify that those entities would not be considered underwriters if they provide services to the plan on behalf of it or its state sponsor. The College Savings Plan Network, an affiliate of the National Association of State Treasurers, also specifically requested in comments that a state sponsor not be treated as an underwriter.

The MSRB amended the proposal last month to clarify that state sponsors would probably not be underwriters, and that other entities would have to determine based on their own unique circumstances whether they are underwriters or not.

Dealers said they were concerned that underwriters might be required under the rule to report information they had no ability or no legal right to collect, and that some of the information might be proprietary in nature and damaging to a plan if made public.

The MSRB responded to those comments, seeking to assure underwriters that they would not be

required to submit any information that was illegal for them to collect and that the MSRB would study the new disclosures internally. A new request for comment will go out if the MSRB seeks to publish such information, the board said.

View the Regulatory Notice:

<http://www.msrb.org/~media/Files/Regulatory-Notices/Announcements/2014-03.ashx?n=1>

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FEB 24, 2014 2:42pm ET

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