

## Rule 15c2-12

### SUPPORTING STATEMENT

#### **A. Justification**

##### (1) Necessity for Information Collection

At the time the securities laws first were enacted, the market for most municipal securities was largely confined to limited geographic regions. The localized nature of the market, arguably, allowed investors to be aware of factors affecting the issuer and its securities. Moreover, municipal securities investors were primarily institutions, which in other instances are accorded less structured protection under the federal securities laws. Since 1933, however, the municipal markets have become nationwide in scope and now include a broader range of investors. At the same time that the investor base for municipal securities has become more diverse, the structure of municipal financing has become more complex. In the era preceding the adoption of the Securities Act of 1933, municipal offerings consisted largely of general obligation bonds. Today, however, municipal issuers include greater proportions of revenue bonds that are not backed by the full faith and credit of a governmental entity and which, in many cases, may pose greater credit risks to investors. In addition, more innovative forms of financing have focused increased attention on call provisions and redemption rights in weighing the merits of individual municipal bond investment opportunities.

Today there are over \$2.6 trillion of municipal securities outstanding. Despite its reputation as a “buy and hold” market, trading volume is also substantial, with over \$6.6 trillion of long and short-term municipal securities traded in 2007 in more than nine million transactions. The availability of accurate information concerning municipal offerings is integral to the efficient operation of the municipal securities market. In the Commission’s view, a thorough, professional review of municipal offering documents by underwriters could encourage appropriate disclosure of foreseeable risks and accurate descriptions of complex put and call features, as well as novel financing structures now employed in many municipal offerings. In addition, with the increase in novel or complex financing, there may be greater value in having investors receive disclosure documents describing fundamental aspects of their investments. Yet, underwriters are unable to perform this function effectively when offering statements are not provided to them on a timely basis. Moreover, where sufficient quantities of offering statements are not available, underwriters are hindered in meeting present delivery obligations imposed on them by MSRB rules.

For these reasons, in 1989, pursuant to Sections 15(c)(1) and (2) of the Securities Exchange Act of 1934, the Commission adopted Rule 15c2-12 (the “Rule” or “Rule 15c2-12”), a limited rule designed to prevent fraud by enhancing the timely access of underwriters, public investors, and other interested persons to municipal offering statements. In the context of the assured access to offering statements provided by the

Rule, the Commission also reemphasized the existence and nature of an underwriter's obligation to have a reasonable basis for its implied recommendation of any municipal securities that it underwrites.

While the availability of primary offering disclosure significantly improved following the adoption of Rule 15c2-12, there was a continuing concern about the adequacy of disclosure in the secondary market. To enhance the quality, timing, and dissemination of disclosure in the secondary municipal securities market, the Commission in 1994 adopted amendments to Rule 15c2-12 ("1994 Amendments"). Among other things, the 1994 Amendments placed certain requirements on brokers, dealers, and municipal securities dealers ("broker-dealers" or, when used in connection with primary offerings, "Participating Underwriters"). Specifically, under the 1994 Amendments, Participating Underwriters are prohibited, subject to certain exemptions, from purchasing or selling municipal securities covered by the Rule in a primary offering, unless the Participating Underwriter has reasonably determined that an issuer of municipal securities or an obligated person has undertaken in a written agreement or contract for the benefit of holders of such securities ("continuing disclosure agreement") to provide specified annual information and event notices to certain information repositories. The information to be provided consists of: (1) certain annual financial and operating information and audited financial statements ("annual filings"); (2) notices of the occurrence of any of eleven specific events ("material event notices"); and (3) notices of the failure of an issuer or other obligated person to make a submission required by a continuing disclosure agreement ("failure to file notices") (annual filings, material event notices and failure to file notices may be collectively referred to as "continuing disclosure documents"). The 1994 Amendments require the Participating Underwriter to reasonably determine that an issuer of municipal securities or an obligated person has undertaken in the continuing disclosure agreement to provide: (1) annual filings to each Nationally Recognized Municipal Securities Information Repository ("NRMSIR"); (2) material event notices and failure to file notices either to each NRMSIR or to the Municipal Securities Rulemaking Board ("MSRB"); and (3) in the case of states that established State Information Depositories ("SIDs"), all continuing disclosure documents to the appropriate SID. Currently, there are four NRMSIRs and three SIDs.

Under the proposed amendments to the Rule, Participating Underwriters would be required to reasonably determine that the issuer or obligated person has undertaken in a continuing disclosure agreement to provide continuing disclosure documents to the MSRB, in an electronic format and accompanied by identifying information, in each case as prescribed by the MSRB. The proposed amendments to the Rule would not substantively change any of the current obligations of Participating Underwriters, except to the extent that Participating Underwriters would have to reasonably determine that the issuer or obligated person has agreed in the continuing disclosure agreement to provide continuing disclosure documents to a single repository instead of to multiple NRMSIRs and to any appropriate SID.

The proposed amendments also would revise Rule 15c2-12(d)(2)(ii), which is a limited exemption from the continuing disclosure provisions of paragraph (b)(5) of the

Rule for certain primary offerings of municipal securities by small issuers. The proposed amendments would revise that exemption by deleting references to the NRMSIRs and SIDs and solely referencing the MSRB. Accordingly, under the proposed amendment to Rule 15c2-12(d)(2)(ii), a Participating Underwriter would be exempt from its obligations under paragraph (b)(5) of the Rule as long as an issuer or obligated person has agreed in its limited undertaking to provide financial information, operating data and material event notices to the MSRB in an electronic format as prescribed by the MSRB, and the exemption's other conditions are satisfied. The Commission also would amend the exemption to provide that the type of financial information or operating data described in Rule 15c2-12(d)(2)(ii)(A) regarding each obligated person be submitted at least annually to the MSRB.

(2) Purposes of and Consequences of Not Requiring the Information Collection

Under the current Rule 15c2-12, the municipal securities underwriter is required: (1) to obtain and review a copy of an official statement deemed final by an issuer of the securities, except for the omission of specified information; (2) in non-competitively bid offerings, to make available, upon request, the most recent preliminary official statement, if any; (3) to contract with the issuer of the securities, or its agent, to receive, within specified time periods, sufficient copies of the issuer's final official statement to comply both with this rule and any rules of the MSRB; (4) to provide, for a specified period of time, copies of the final official statement to any potential customer upon request; (5) before purchasing or selling municipal securities in connection with an offering, to reasonably determine that the issuer or other specified person has undertaken, in a written agreement or contract, for the benefit of holders of such municipal securities, to provide certain information about the issue or issuer on a continuing basis to the specified repositories; and (6) to obtain the information the issuer of the municipal security has undertaken to provide prior to recommending a transaction in the municipal security.

The proposed amendments to the Rule would provide for a single repository, namely the MSRB, that would receive submissions in an electronic format to encourage a more efficient and effective process for the collection and availability of continuing disclosure documents. The proposed amendments to Rule 15c2-12 are intended to improve the availability of continuing disclosure documents that provide current information about municipal issuers and their securities. The proposed amendments would enable investors and other municipal securities market participants to have ready and prompt access to the continuing disclosure documents of municipal securities issuers. This information could be used by retail and institutional investors, underwriters of municipal securities, broker-dealers, financial advisers, municipal securities issuers, vendors of information regarding municipal securities, the MSRB and its staff, the Commission and its staff, other market participants, taxpayers and the public generally.

(3) Role of Improved Information Technology and Obstacles to Reducing Burden

Since the 1994 Amendments to the Rule, there have been significant advancements in technology and information systems that allow market participants and investors, both retail and institutional, easily, quickly, and inexpensively to obtain information through electronic means. The exponential growth of the Internet and the capacity it affords to investors, particularly retail investors, to obtain, compile and review information has likely helped to keep investors better informed. In addition to the Commission's EDGAR system, which contains filings by public companies and mutual funds, the Commission has increasingly encouraged, and in some cases required, the use of the Internet and websites by public reporting companies and mutual funds to provide disclosures and communicate with investors.

The Commission believes that, at present, information about municipal issuers and their securities may not be as consistently available or comprehensive as information about other classes of issuers and their securities. This may be due, in part, to the lack of a central point of collection and availability of information in the municipal securities sector. Therefore, the Commission is proposing to amend Rule 15c2-12 to provide for a single centralized repository that receives submissions in an electronic format to encourage a more efficient and effective process for the collection and availability of continuing disclosure documents. In the Commission's view, a single repository that receives submissions in an electronic format could assist in facilitating and simplifying submissions of continuing disclosure documents under the Rule by enabling issuers and obligated persons to comply with their undertakings by submitting their continuing disclosure documents only to one repository, as opposed to multiple repositories.

The Commission also believes that having a centralized repository that receives submissions in an electronic format would provide ready and prompt access to continuing disclosure documents by investors and other municipal securities market participants. Rather than having to approach multiple locations, investors and other market participants would be able to go solely to one location to retrieve continuing disclosure documents, thereby providing a more convenient means of obtaining such information. Moreover, the Commission believes that having one repository electronically collect and make available all continuing disclosure documents would increase the likelihood that investors and other market participants obtain complete information about a municipal security or its issuer, since the information would not be dispersed across multiple repositories.

(4) Efforts to Identify Duplication

The information collection requested from the underwriter is not duplicative, since this information would not otherwise be required by the Commission.

(5) Effect on Small Entities

The Rule is one of general applicability that does not depend on the size of a broker-dealer. Since the Rule is designed to apply to all registered broker-dealers, the Rule must apply in the same manner to small as well as large broker-dealers. The

Commission believes that many of the substantive requirements of the Rule have been observed by underwriters and issuers as a matter of business practice or to fulfill their existing obligations under the MSRB rules and the general anti-fraud provisions of the federal securities laws. Moreover the Rule focuses only on offerings of municipal securities of \$1 million or more, in which any additional costs imposed by the establishment of specific standards are balanced by the potential harm to the large number of investors that may purchase securities on the basis of inaccurate information. The Commission is sensitive to concerns that the Rule not impose unnecessary costs on municipal issuers. When the Rule was proposed, many commenters, including the MSRB and the Public Securities Association (n/k/a the Securities Industry and Financial Markets Association (SIFMA)), indicated that the Rule would not impose unnecessary costs or force a majority of responsible issuers to depart from their current practices. The commenters suggested that the Rule should, however, encourage more effective disclosure practices among those issuers that did not currently provide adequate and timely information to the market. The Rule also contains exemptions for underwriters participating in certain offerings of municipal securities issued in large denominations that are sold to no more than 35 sophisticated investors, have short-term maturities, or have short-term tender or put features.

(6) Consequences of Less Frequent Collection

Providing underwriters with a more flexible standard may jeopardize the protection that Rule 15c2-12 provides. The Commission understands that the Rule imposes an additional burden on underwriters; however, the Commission seeks to accomplish this goal in the least intrusive manner, by imposing minimal additional costs on broker-dealers while enhancing investor protection. Moreover, the Commission has already limited application of the Rule to primary municipal offerings of \$1 million or more and has incorporated a limited placement exemption into the Rule.

(7) Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

The requirements of the Rule are not inconsistent with the Guidelines of 5 CFR 1320.5(d)(2)

(8) Consultation Outside the Agency

Commission staff consults with issuers, investors, bond lawyers, broker-dealers and other market participants on issues relating to municipal securities on an ongoing basis. Commission staff regularly attends municipal market conferences and meets with representatives of various organizations from major segments of the municipal finance industry. The Commission held Municipal Market Roundtables in 1999, 2000 and 2001 to discuss a broad range of municipal market issues, including disclosure issues in the secondary market. Discussions at these meetings have generally supported the Commission staff's belief that the system for collecting and disseminating continuing disclosure information in the municipal securities market can be improved.

Despite the substantial improvement in the collection and availability of municipal securities information since the 1994 Amendments to the Rule, Commission staff believes that investors should be able to access municipal market disclosures more easily. Commission staff has learned from their consultations outside the agency that many investors are not willing to pay for disclosure documents. There also are certain inefficiencies inherent in the current system because continuing disclosure documents are sent to multiple locations - to each NRMSIR and the appropriate SID, if any - with each repository having its own collection, retrieval, and indexing processes.

(9) Payment of Gift to Respondents

Not Applicable.

(10) Assurances of Confidentiality

No assurances of confidentiality have been provided.

(11) Sensitive Questions

Not Applicable.

(12) Estimate of Respondent Reporting Burden

a. Brokers, Dealers, and Municipal Securities Dealers

The cost of compliance under the amended Rule should not be burdensome, since the substantive requirements of the Rule are already observed by underwriters and issuers as a matter of business practice or in order to fulfill their existing obligations under the MSRB rules and general anti-fraud provisions of the federal securities laws. In addition, the Rule applies only to primary offerings of municipal securities in excess of \$1 million. Thus, the number of broker-dealers affected by the Rule is substantially reduced. Also, there is an exemption to the Rule for underwriters participating in certain offerings of municipal securities issued in large denominations that are sold to no more than 35 sophisticated investors, have short-term maturities, or have short-term tender or put features. It is estimated that approximately 250 broker-dealers will continue to incur an estimated average burden of one hour per year to comply with the Rule, resulting in an aggregate annual burden of 250 hours. (250 x 1 hour = 250 hours)

Each broker-dealer would also incur a one-time burden to have its internal compliance attorney prepare and issue a notice advising its employees who work on primary offerings of municipal securities about the proposed revisions to Rule 15c2-12. This task would take each broker-dealer's internal compliance attorney approximately 30

minutes, resulting in a one-time aggregate annual burden of 125 hours. ( $250 \times .5 \text{ hours} = 125 \text{ hours}$ ).

Therefore, the total annual burden on these respondents will be 375 hours (250 hours (annual burden) + 125 hours (one time burden)) in the first year and 250 hours for each year thereafter.

b. Issuers

Issuers prepare annual financial information and notices of material events as a usual and customary practice in the municipal securities market. Often, annual financial information is required to be prepared by issuers pursuant to state law. The submission of annual financial information, material event notices and failure to file notices to the MSRB in an electronic format will, however, impose a burden on issuers of municipal securities. It is estimated that Rule 15c2-12 applies to approximately 10,000 issuers in any given year.

It is estimated that, on an annual basis, issuers will submit a total of approximately 15,000 annual filings to the MSRB in an electronic format. Preparation and submission of each annual filing to the MSRB in an electronic format will require approximately 45 minutes. Therefore the total burden on issuers will be 11,250 hours. ( $15,000 \times .75 \text{ hours} = 11,250 \text{ hours}$ ).

It is estimated that, on an annual basis, issuers will submit approximately 60,000 material event notices to the MSRB in an electronic format. The preparation and submission of such a notice to the MSRB in an electronic format will require approximately 45 minutes. Therefore, the total burden on issuers will be 45,000 hours. ( $60,000 \times .75 \text{ hours} = 45,000 \text{ hours}$ ).

It is estimated that, on an annual basis, issuers will submit approximately 2,000 failure to file notices to the MSRB in an electronic format. The preparation and submission of such a notice to the MSRB in an electronic format will require approximately 30 minutes. Therefore, the total burden on issuers will be 1,000 hours. ( $2,000 \times .5 \text{ hours} = 1,000 \text{ hours}$ ).

The total burden on issuers will therefore be 57,250 hours. ( $11,250 \text{ hours (for annual filings)} + 45,000 \text{ hours (for material event notices)} + 1,000 \text{ hours (for failure to file notices)} = 57,250 \text{ hours}$ ).

c. MSRB

Under the proposed amendments to the Rule the MSRB would become the sole official repository for continuing disclosure documents for municipal securities. It is estimated that the total burden on the MSRB to collect, store, retrieve, and make available these disclosure documents is 7,000 hours. The total burden for the MSRB is 7,000 hours.

d. Estimated Total

For the first year, the estimated annual burden for Rule 15c2-12 is 64,625 hours. (375 hours (total estimated burden for broker-dealers) + 57,250 hours (total estimated burden for issuers) + 7,000 hours (total estimated burden for the MSRB) = 64,625 hours). Thereafter, the estimated aggregate total annual burden for Rule 15c2-12 is 64,500 hours. (250 hours (total estimated burden for broker-dealers) + 57,250 hours (total estimated burden for issuers) + 7,000 hours (total estimated burden for the MSRB) = 64,500 hours).<sup>1</sup>

(13) Estimate of Total Annualized Cost Burden

a. Issuers

The Commission expects that some issuers could be subject to some costs associated with the proposed electronic submission of annual filings, material event notices and failure to file notices, particularly if they (or their agent) currently submit paper copies of these documents. It is likely, however, that many issuers of municipal securities currently have the computer equipment and software necessary to convert paper copies of continuing disclosure documents to electronic copies and to electronically transmit the documents to the MSRB.

It is estimated that the costs to some issuers to submit continuing disclosure documents to the MSRB in electronic format could include: (i) an approximate cost of \$8 per notice to use a third party vendor to scan a material event notice or failure to file notice, and an approximate cost of \$64 to use a third party vendor to scan an average-sized annual financial statement, (ii) an approximate cost ranging from \$750 to \$4,300 to acquire technology resources to convert continuing disclosure documents into an electronic format, (iii) \$50 to \$300 solely to upgrade or acquire the software to submit documents in an electronic format, and (iv) approximately \$50 per month to acquire Internet access.

For an issuer that does not have Internet access and elects to have a third party convert continuing disclosure documents into an electronic format (“Category 1”), the total maximum external cost such issuer would incur would be \$752 per year. For an

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<sup>1</sup> For purposes of submitting this request to OMB, the Commission has amortized the one-time hourly burden for broker-dealers over a three year period. Amortizing this one-time burden over a three year period results in an annual burden of 41.67 hours per year: (125 hours (one-time annual burden)) / 3 (number of years) = 41.67 hours. Accordingly, the annual aggregate burden for this information collection for the first three years is 64,542 hours: ((64,500 hours (regular aggregate annual burden) + 41.67 hours (one-time broker-dealer burden amortized over a three year period)) = 64,541.67 (rounded to 64,542 hours).



issuer that does not have Internet access and elects to acquire the technological resources to convert continuing disclosure documents into an electronic format internally (“Category 2”), the total maximum external cost such issuer would incur would be \$4,900 for the first year and \$600 per year thereafter. Accordingly, Commission staff estimates that the total cost for issuers, if they all were classified as Category 1, would be \$7,520,000 per year ( $10,000 \times \$752 = \$7,520,000$ ), and that the total cost for issuers, if they all were classified as Category 2, would be \$49,000,000 for the first year and \$6,000,000 per year thereafter ( $10,000 \times \$4,900 = \$49,000,000$  and  $10,000 \text{ issuers} \times \$600 = \$6,000,000$ ).<sup>2</sup>

b. MSRB

The MSRB would incur costs to develop the computer system to allow it to collect, store, process, retrieve, and make available continuing disclosure documents furnished to it by issuers of municipal securities. It is estimated that start-up costs associated with developing the portal for continuing disclosure documents, including hardware, an additional hosting site, and software licensing and acquisition costs, would be approximately \$1,000,000. In addition, it is estimated that the annual operating costs for this system, excluding salary and other costs related to employees, would be approximately \$350,000. The total estimated annual operating costs for the MSRB are \$1,350,000 for the first year and \$350,000 for each year thereafter.<sup>3</sup>

<sup>2</sup> For purposes of submitting this request to OMB, the Commission has amortized certain one-time costs for Issuers to determine an annual cost associated with this information collection. For issuers, the maximum annual cost would occur if all issuers fell into Category 2. Under this scenario, the first year costs for issuers would be \$49,000,000 ( $\$43,000,000$  (one-time start-up costs) +  $\$6,000,000$  (recurring annual costs)) and the cost for each year thereafter would be \$6,000,000. Amortizing issuers’ one-time costs over three years results in an annual cost of approximately \$14,333,334:  $\$43,000,000$  (one-time annual cost) / 3 years =  $\$14,333,333.33$  (rounded to  $\$14,333,334$ ). This results in an annual cost burden for issuers of approximately \$20,333,334 over each of the first three years: ( $\$6,000,000$  (regular annual cost burden) +  $\$14,333,334$  (amortized one-time annual burden)) =  $\$20,333,334$ . In order to provide an estimate that is not under-inclusive the Commission has conservatively assumed the maximum costs associated with issuers acquiring this computer hardware and software. As noted above, the Commission expects that most issuers already have the computer equipment and software associated with this annual cost estimate. Thus, the Commission believes that the actual annual costs for issuers associated with acquiring computer hardware and software will be substantially lower than the Commission’s estimate.

<sup>3</sup> For purposes of submitting this request to OMB, the Commission has amortized certain one-time costs for the MSRB over a three year period to determine an annual cost associated with this information collection. Amortizing the MSRB’s one-time costs over three years results in an annual cost of approximately \$333,334:  $\$1,000,000$  (one-time annual cost) / 3 years =  $\$333,334$  (rounded to  $\$333,334$ ). This results in an annual cost burden for the MSRB of

c. Total Costs

The Commission estimates the total annual cost for all respondents will be approximately \$21,016,668.<sup>4</sup>

(14) Estimate of Cost to the Federal Government

Cost to the federal government results from appropriate regulatory agency staff time and related overhead costs for inspection and examination for compliance with requirements of the Rule. Since the Commission inspects broker-dealers regularly, inspection for compliance with the requirements of this Rule is a part of the overall broker-dealer inspection. Thus, the Commission uses little additional resources to ensure compliance with the Rule. Commission staff estimates that approximately 100 hours of staff time per year are devoted to ensuring compliance with the requirements of the Rule at a cost of \$3,500 per year.

(15) Explanation of Changes in Burden

In 2006, the Commission submitted a request to OMB for extension and approval of the collection of information associated with the existing Rule (“2006 PRA Submission”). OMB approved the extension of the 2006 PRA Submission on March 29, 2007.

a. Brokers, Dealers, and Municipal Securities Dealers

Under the 2006 PRA Submission, the Commission estimated that the Rule imposes a paperwork collection burden for 500 broker-dealers. However, the Commission now estimates that, under the amended Rule, the number of broker-dealers affected by the Rule would be 250. This estimate represents a reduction of 250 broker-dealers from the current paperwork collection associated with the Rule. Commission staff believes that this estimated reduction in the number of broker-dealer respondents could be attributed in part to the fact that it may have been over-inclusive in estimating the number of broker-dealer respondents in the past. Further, both large and small broker-dealer firms increasingly have consolidated their operations during the past several years and some firms have left the municipal securities business, which also could account for a reduction in the number of broker-dealer respondents. Moreover, in connection with developing the proposed amendments to the Rule, Commission staff has attempted to obtain more current information with respect to the number of respondents that would be subject to a paperwork collection.

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approximately \$683,334 over each of the first three years: (\$350,000 (regular annual cost burden) + \$333,334 (amortized one-time annual burden)) = \$683,334.

<sup>4</sup> The annual aggregate cost for the information collection is approximately \$21,016,668: \$20,333,334 (estimated annual cost for issuers) + \$683,334 (estimated annual cost for MSRB) = \$21,016,668.

Under the 2006 PRA Submission, the Commission also estimated that it would require each of these broker-dealers an average burden of one hour per year to comply with the Rule. The current amendments to the Rule would not impose any additional recurring burden on brokers-dealers. Thus the annual recurring paperwork burden for broker-dealers would be 250 hours (250 broker-dealers x 1 hour). This represents a reduction of 250 hours in the total annual paperwork collection burden for broker-dealers.

The Commission, however, does estimate that a broker-dealer would incur a one-time paperwork burden to have its internal compliance attorney prepare and issue a notice advising its employees who work on primary offerings of municipal securities about the proposed revisions to Rule 15c2-12. Commission staff estimates that it would take the internal compliance attorney approximately 30 minutes to prepare a notice describing the broker-dealer's obligations in light of the proposed amendments to Rule. Preparation of this notice would result in a one-time paperwork burden of 125 hours for broker-dealers (250 broker-dealers x .5 hours = 125 hours).

b. Issuers

In the 2006 PRA Submission, the Commission estimated that Rule 15c2-12 imposed a total paperwork burden of 5,000 hours on 10,000 issuers in any given year. In determining the paperwork burden for issuers under the 2006 PRA Submission, the Commission estimated that each issuer would submit each year one annual filing that describes its finances and operations. Thus, under the 2006 PRA Submission, the Commission estimated that issuers would prepare approximately 10,000 packages of annual filings yearly and that it would take each issuer 30 minutes to do so, for a total burden of 5,000 hours. However, based on information provided to Commission staff by MSRB staff in a series of telephone conversations in February 2008, Commission staff estimates that, in connection with the proposed amendments, 10,000 municipal issuers with continuing disclosure agreements would prepare approximately 15,000 annual filings yearly. In the 2006 PRA Submission, the Commission estimated that the process for an issuer to submit the annual filings to each of the four NRMSIRs would require approximately 30 minutes. Commission staff estimates that, under the proposed amendments, an issuer would take approximately 45 minutes to submit the same annual filings to a single repository in an electronic format accompanied by identifying information. This estimate includes approximately 30 minutes to prepare the annual filing, which is consistent with the 2006 PRA Submission, plus a new burden of an additional 15 minutes to convert the information into an electronic format and add any identifying information that the repository may prescribe. Therefore, under the proposed amendments, the total burden on issuers of municipal securities to submit 15,000 annual filings to the MSRB is estimated to be 11,250 hours (15,000 annual filings x .75 hours = 11,250 hours). This amount represents an increase of 6,250 hours from the 5,000 hours included in the 2006 PRA Submission.

Based on information provided to Commission staff by MSRB staff in a series of telephone conversations in February, 2008, it is estimated that, on an annual basis, the MSRB would receive approximately 60,000 notices of the occurrence of a material event.

Commission staff notes that this new estimate represents a substantial increase in the estimated number of material event notices that issuers would file relative to the number of material event notices included in the 2006 PRA Submission, and believes that the disparity could be due in part to the difficulty in obtaining an accurate, non-duplicative estimate of the number of paper documents filed with the various NRMSIRs, as well as Commission staff's decision to use conservative estimates for purposes of the proposed amendments. Under the 2006 PRA Submission, the Commission estimated that the process for an issuer to submit a material event notice to a NRMSIR would require approximately 30 minutes. Commission staff estimates that, under the proposed amendments, providing this same information to the MSRB would require approximately 45 minutes. This estimate includes approximately 30 minutes to prepare the material event notice, which is consistent with the 2006 PRA Submission, plus a new burden of an additional 15 minutes to convert the information into an electronic format and add any identifying information that the repository may prescribe. Therefore, under the proposed amendments, the total burden on issuers to submit material event notices to the MSRB would require 45,000 hours (60,000 material event notices x .75 hours = 45,000 hours). This amount represents an increase of 44,250 hours from the 750 hours included in the 2006 PRA Submission.

Based on information provided to Commission staff by MSRB staff in a series of telephone conversations in February, 2008, Commission staff estimates that, on an annual basis, the MSRB would receive approximately 2,000 failure to file notices. Commission staff estimates that the current process of preparing and submitting a failure to file notice to a NRMSIR would require approximately 15 minutes. Commission staff estimates that, under the proposed amendments, providing this same information to the MSRB would require approximately 30 minutes. This estimate includes approximately 15 minutes to prepare and submit the failure to file notice, plus an additional 15 minutes to convert the information into an electronic format and add any identifying information that the repository would prescribe. Therefore, under the proposed amendments, the total burden on issuers to prepare and submit failure to file notices to the MSRB would be 1,000 hours (2,000 failure to file notices x .5 hours = 1,000 hours). Thus, the estimated 1,000 hours to prepare and submit failure to file notices to the MSRB represents a new paperwork burden of 1,000 hours.

Accordingly, under the proposed amendments to the Rule, the total burden on issuers to submit annual filings, material event notices and failure to file notices to the MSRB would be 57,250 hours (11,250 hours (for annual filings) + 45,000 hours (for material event notices) + 1,000 hours (for failure to file notices) = 57,250 hours). This represents an increase in the total number of burden hours for issuers of 51,500 hours from the 5,750 hours included in the 2006 PRA Submission.

c. MSRB and NRMSIRs

In the 2006 PRA Submission, the Commission estimated that the total burden on each NRMSIR of collecting, indexing, storing, retrieving and disseminating information requested by the public to be 29,400 hours and that the total burden on all four NRMSIRs

was 117,600 hours (4 NRMSIRs x 29,400 hours). The proposed amendments to the Rule contemplate that the MSRB would be the sole repository and would receive disclosure documents in an electronic, rather than paper, format. Based on information provided to Commission staff by MSRB staff in a series of telephone conversations in February, 2008, Commission staff estimates that the burden to collect, index, store, retrieve, and make available the pertinent documents would be the number of hours that MSRB employees would be assigned to the system for collecting, storing, retrieving, and making available the documents. In a series of telephone conversations between MSRB staff and Commission staff in February, 2008, the MSRB advised that three full-time employees and one half-time employee would be assigned to these tasks and that each full-time employee would spend approximately 2,000 hours per year working on these tasks. Therefore, the total burden on the MSRB to collect, store, retrieve, and make available the disclosure documents covered by the proposed amendments would be 7,000 hours per year (3.5 employees x 2,000 hours worked per year per full-time employee = 7,000 hours). Thus, the total burden on the MSRB to collect, store, retrieve, and make available the disclosure documents covered by the proposed amendments would be 22,400 hours (29,400 – 7,000 = 22,400) less than the burden for each NRMSIR to collect, index, store, retrieve and make available disclosure documents under the 2006 PRA Submission, and 110,600 hours (117,600 – 7,000 = 110,600) less than the burden for all four NRMSIRs to collect, index, store, retrieve and make available disclosure documents as estimated in the 2006 PRA Submission. The Commission believes the difference in the burden hour estimate for the MSRB to collect, store, retrieve, and make available continuing disclosure documents under the proposed amendments in comparison to the burden on the NRMSIRs estimated in the 2006 PRA Submission could be attributed to the fact that the proposed amendments contemplate that the continuing disclosure documents would be collected, stored, retrieved and made available electronically, whereas the 2006 PRA Submission contemplated that these documents would be collected, stored, retrieved and made available in paper format. In part, the estimate in the 2006 PRA Submission was based on the expectation that the documents would be collected, stored, retrieved and made available in paper rather than electronic format, which would require more people to perform these tasks.

d. Annual Aggregate Change

The ongoing annual aggregate information collection burden for the proposed amendments to the Rule would be 64,542 hours (250 hours (total estimated burden for broker-dealers) + 57,250 hours (total estimated burden for issuers) + 7,000 hours (total estimated burden for the MSRB) + 42 hours (one-time burden for broker-dealers amortized over three years) = 64,542 hours). The current annual aggregate information collection burden for the Rule indicated in the 2006 PRA Submission is 123,850 hours. Therefore, the Commission estimates that the ongoing annual aggregate information collection burden for Rule 15c2-12 would be reduced by 59,308 hours (123,850 – 64,542 = 59,308) under the proposed amendments.

e. Annual Aggregate Cost Change

For the reasons described above, the Commission estimates the maximum total annual cost for all respondents will be approximately \$21,016,668.<sup>5</sup> The 2006 PRA Submission included no costs for respondents under the current Rule. Accordingly, the Commission estimates, that under the proposed amendments to the Rule, the total costs for all respondents will increase by approximately \$21,016,668.

(16) Information Collection Planned for Statistical Purposes

Not applicable.

(17) Explanation as to Why Expiration Date Will Not Be Displayed

Not applicable.

(18) Exceptions to Certification

Not applicable.

**B. Collections of Information Using Statistical Methods**

No statistical methods are employed in connection with the collections of information.

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<sup>5</sup> The annual aggregate cost for the information collection is approximately \$21,016,668: \$20,333,334 (estimated annual cost for issuers) + \$683,334 (estimated annual cost for MSRB) = \$21,016,668 (for purposes of submitting this request to OMB this number has been rounded to \$21,016,668). As noted above, these costs include a one-time cost of \$43,000,000 for all issuers, and a one-time cost of \$1,000,000 for the MSRB, each of which has been amortized over a three-year period.