

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-36431; File No. SR-MBSCC-95-05]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Approving a Proposed Rule Change Authorizing the Release of Clearing Data Relating to Participants

October 27, 1995.

On June 28, 1995, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-MBSCC-95-05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ On July 24, 1995, MBSCC filed an amendment to the proposed rule change.² Notice of the proposal was published in the Federal Register on August 24, 1995.³ No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

The proposed rule change modifies Article V of MBSCC's Rules by adding a new Rule 14 concerning the release of data relating to participants' clearance and settlement activity. MBSCC receives transaction data and other data relating to its participants in the normal course of its business. The rule change sets forth MBSCC's obligation to preserve its participants' rights with respect to such data and the conditions under which MBSCC will disclose such data.

The rule change permits MBSCC to disclose such data to regulatory organizations, self-regulatory organizations, clearing organizations affiliated with or designated by contract markets trading specific futures products under the oversight of the Commodity Futures Trading Commission, and others under certain conditions. The rule change also provides that, absent valid legal process or as provided for elsewhere in Rule 14, MBSCC will only release clearing data relating to a particular participant to such participant upon its written request.⁴ Furthermore, the rule provides

that MBSCC is not prevented from releasing clearing data to parties other than those discussed above provided that such data be in format that does not disclose proprietary and/or confidential financial, operational, or trading data of a particular participant or groups of participants. Finally, the rule change also defines "clearing data" to mean transaction and other data which is received by MBSCC in the clearance and/or settlement process or such reports or summaries which may be produced as a result of processing such data.

The rule change facilitates MBSCC's participation in the National Securities Clearing Corporation's ("NSCC") Collateral Management Service ("CMS")⁵ because it enables MBSCC to provide information regarding MBSCC's participants fund, including excess or deficit amounts, and comprehensive data on the collateral deposited in the participants fund to NSCC for inclusion in NSCC's CMS. Participants of MBSCC that desire access to the CMS data are required to execute a CMS application. The executed CMS application will constitute a participant's written request required under MBSCC's new Rule 14 to Article V to authorize MBSCC to release the participant's clearing data to that participant.⁶

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.⁷ As discussed below, the Commission believes the proposed rule change is consistent with MBSCC's obligation under Section 17A(b)(3)(F) because the proposal sets forth MBSCC's responsibilities and obligations with regard to releasing participants' clearing data. MBSCC's new rule sets forth specific procedures that MBSCC and a participant must comply with before that participant's clearing data will be

share data with other regulatory or self-regulatory organizations for regulatory purposes.

⁵ Generally, NSCC's CMS will provide participating participants and clearing agencies with access to information regarding participating participants' clearing fund, margin, and other similar requirements and deposits at participating clearing agencies. For a complete description of the CMS, refer to Securities Exchange Act Release No. 36091 (August 10, 1995), 60 FR 42931 [File No. SR-NSCC-95-06] (order approving the CMS).

⁶ A separate CMS agreement between MBSCC and NSCC sets forth MBSCC's and NSCC's authorizations and obligations to collect and provide information relating to the participants' clearing fund and margin requirements and deposits.

⁷ 15 U.S.C. 78q-1(b)(3)(F) (1988).

released for purposes such as participation in NSCC's CMS. MBSCC's and its participants' participation in NSCC's CMS should help MBSCC and other clearing agencies to better monitor clearing fund, margin, and other similar required deposits that protect a clearing agency against loss should a member default on its obligations to the clearing agency.⁸

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-MBSCC-95-05) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

⁸ Although MBSCC currently does not have any cross-guarantee agreements or arrangements with other clearing agencies, NSCC's CMS will be especially beneficial to those participating clearing entities that have executed cross-guaranty agreements or have other cross-guarantee arrangements. The Commission supports the use of cross-guaranty agreements and other similar arrangements among clearing agencies as a method of reducing clearing agencies' risk of loss due to a common participant's default and encourages MBSCC to explore such agreements or arrangements.

Currently, the Depository Trust Company ("DTC") and NSCC are the only clearing agencies registered with the Commission that have executed a cross-guaranty agreement. The agreement provides that in the event of a default of a common member, any resources remaining after the failed common member's obligations to the guaranteeing clearing agency have been satisfied will be made available to the other clearing agency. The guaranty is not absolute but rather is limited to the extent of the resources relative to the failed member remaining at the guaranteeing clearing agency. The principal resources will be the failed member's settlement net credit balances and deposits to the clearing agencies' clearing funds. For a complete description of DTC's and NSCC's agreement, refer to Securities Exchange Act Release No. 33548 (January 31, 1994), 59 FR 5638 [File Nos. SR-DTC-93-08 and SR-NSCC-93-07].

The Midwest Securities Trust Company ("MSTC") and Midwest Clearing Corporation ("MCC") and the Philadelphia Depository Trust Company ("Philadep") and the Stock Clearing Corporation of Philadelphia ("SCCP") each have cross-guarantee arrangements with their related affiliate. Pursuant to Section 3, Rule 2, Article VI of MSTC's Rules, a defaulting participant's obligations at MSTC or MCC will be discharged by application of that participant's deposits at either clearing agency if that participant is a common member to both clearing agencies. MCC's Rules contain a similar provision. Similarly, pursuant to Section 4, Rule 4 of SSCP's Rules, SSCP will make available any portion of a defaulting participant's contribution to its participants fund to offset a loss suffered by Philadep by reason of that participant's default. Philadep's Rules contain an identical provision.

⁹ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1) (1988).

² Letter from Anthony H. Davidson, MBSCC, to Peter R. Geraghty, Division of Market Regulation, Commission (July 21, 1995).

³ Securities Exchange Act Release No. 36107 (August 16, 1995), 60 FR 44092.

⁴ As a self-regulatory organization, MBSCC currently is permitted without obtaining a participant's written authorization to cooperate and

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SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0563]

Notice of Issuance of a Small Business Investment Company License

On July 6, 1995, a notice was published in the Federal Register (60 FR 35352) stating that an application had been filed by Sixty Wall Street SBIC Fund, L.P., 60 Wall Street, New York, New York 10260 with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1994)) for a license to operate as a small business investment company.

Interested parties were given until close of business August 5, 1995 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-0563 on August 25, 1995 to Sixty Wall Street SBIC Fund, L.P. to operate as a small business investment company.

The Licensee has initial private capital of \$2.5 million, and Mr. David Cromwell will manage the fund. The capital of the Licensee is owned initially by J.P. Morgan Capital Corporation. With the exception of this entity, no one investor is expected to own more than 10% of the partnership.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 26, 1995.

Don A. Christensen,
Associate Administrator for Investment.
 [FR Doc. 95-27247 Filed 11-1-95; 8:45 am]
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DEPARTMENT OF STATE

[Public Notice No. 2277]

Shipping Coordinating Committee, Subcommittee on Ocean Dumping; Notice of Meeting

The Subcommittee on Ocean Dumping of the Shipping Coordinating Committee will hold an open meeting on November 17, 1995 from 1:00 p.m. to

3:00 p.m. to obtain public comment on the issues to be addressed December 4-8, 1995, at the Eighteenth Consultative Meeting of the Contracting Parties to the London Convention of 1972, which regulates ocean dumping. The meeting will also review the Eighteenth Scientific Group Meeting held in July 1995 and the Third Amendment Conference held in April 1995.

The meeting will be held at the Environmental Protection Agency, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460, in the 8th Floor Conference Room of the West Tower. Interested members of the public are invited to attend, up to the capacity of the room. Upon entry to the West Tower, participants without government identification should dial 260-8199 to obtain clearance.

For further information, please contact Mr. John Lishman, Chief, Marine Pollution Control Branch, telephone (202) 260-8448; or Bryan Wood-Thomas, Office of International Activities, telephone (202) 260-6983.

Dated: October 25, 1995.

Richard T. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 95-27147 Filed 11-1-95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration [Docket No. 28371]

Study of FAA Regulation and Certification Capabilities

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Study and Request for Comments.

SUMMARY: On July 13, 1995, the Federal Aviation Administration initiated Challenge 2000, a comprehensive review of the FAA's safety oversight mission. The purpose of Challenge 2000 is to position the Agency to continue providing effective safety oversight in the face of technological advances and other changes in the aviation operating environment. An independent management consultant is undertaking a review of the FAA's regulation, certification, and enforcement capabilities and plans to make recommendations for appropriate actions. This notice provides an opportunity for the public to participate in this effort and comment on the future design and goal of FAA's regulation and certification functions.

DATES: Comments must be received on or before December 15, 1995.

ADDRESSES: Send or deliver comments in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-200), Docket 28371, 800 Independence Avenue, SW, Washington, DC 20591. Comments must be marked Docket No. 28371. They will be on display in Room 915G weekdays between 8:30 a.m. and 5:00 pm., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kris Burnham, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, (202) 267-7947.

SUPPLEMENTARY INFORMATION:

Background

Secretary of Transportation Federico Pena and FAA Administrator David Hinson have committed to a safety goal of zero accidents for the aviation community. Consistent with this Zero-accident goal, the FAA has initiated Challenge 2000, a comprehensive review of the agency's safety oversight capabilities. The review and subsequent report are being undertaken by an independent management consultant. The FAA will also receive input from its Research, Engineering, and Development Advisory Committee (RE&D Committee), whose membership represents various parts of the aviation industry. A committee of AA executives is overseeing the effort.

In the course of its review, the management consultant is studying the structure of the aviation industry, current and anticipated risks associated with air transportation, the structure and approach to safety used by aviation authorities in other countries and in other industries, and the FAA's safety organization. It is discussing pertinent issues with aviation organizations from government and the private sector. The RE&D Committee is evaluating the FAA's relationship to the technology environment and the agency's ability to respond strategically to rapid technological changes. A team of senior FAA officials is responsible for assisting the consultant and the RE&D Committee by providing essential expertise and perspective on the FAA and its current practices.

Comments Invited

The FAA invites public comments to supplement the data gathered by our management consultant. Taken together, the information will help the agency appropriately adjust its regulation, certification, and enforcement capabilities to respond to recent and expected changes in the aviation