

such as dissolution, merger, bankruptcy, non-routine spinoffs, or extraordinary dividends, will be made by Exchange staff in consultation with NatWest. Amex alone ultimately will select the actual replacement stock from the Replacement List without NatWest's assistance. Such replacements will be announced publicly at least 10 business days in advance of the effective change by the Amex through the dissemination of an information circular, whenever practicable. Fourth, the Commission believes that the procedures NatWest has established to detect and prevent material non-public information concerning the Index from being improperly used by the person or persons responsible for compiling the Replacement List, as well as other persons within NatWest responsible for coordinating with Amex on the Index, as discussed above,²⁶ adequately serve to minimize the likelihood of manipulation of options on the Index, the securities in the Index, and securities added to and deleted from any Replacement List. In summary, the Commission believes that the procedures outlined above help to ensure that NatWest will not have any informational advantages concerning modifications to the composition of the Index due to its limited role in consulting with Amex on the maintenance of the Index under certain circumstances.

D. Market Impact

The Commission believes that the listing and trading of options on the Index, including long-term full-value and reduced-value Index options, on the Amex will not adversely impact the underlying securities markets.²⁷ First, as described above, due to the "equal dollar-weighting" methodology, no one stock or group of stocks dominates the Index. Second, as noted above, the stocks contained in the Index have relatively large capitalizations and are relatively actively traded. Third, the currently applicable 15,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contraparty non-

performance will be minimized because the options on the Index will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring options on the Index (including long-term full-value and reduced-value Index options) based on the opening prices of component securities is reasonable and consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for stocks underlying options on the Index.²⁸

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁹ that the proposed rule change (SR-AMEX-97-15) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38697; File No. SR-MBSCC-97-03]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Establishment of the Comparison Only System

May 30, 1997.

On February 18, 1997, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-MBSCC-97-03) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on April 7, 1997.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change modifies MBSCC's rules to establish the

Comparison Only System ("COS") and to create a new category of participant, a "limited purpose participant," eligible to use this system. As a result of interest expressed by the Federal National Mortgage Association and other organizations, MBSCC developed COS.

Under current MBSCC rules, MBSCC processes securities through its Comparison and Clearing System ("CCS") which provides a comparison and confirmation service, risk management services, and a multilateral netting service. The proposed COS is a more limited system than the CCS in that it will only provide comparison and confirmation services. COS will be a system restricted to those that trade in a principal capacity (*i.e.*, as dealers) where specified trade data must exactly and promptly compare between like contra-sides.

Because the COS is limited to comparison, participants will not be required to meet specific net capital or net worth financial requirements. COS will require each limited purpose participant to submit financial information to demonstrate its financial ability to meet its cash balance debit obligations to MBSCC, which are limited to the fees for using the COS and any late fees imposed. It is expected that these fees will be significantly lower than those imposed on participants in the CCS; therefore, no basic deposit fee will be required of COS participants. MBSCC will bill the limited purpose participant on a monthly basis. The bill will be payable to MBSCC via the federal funds wire. Similarly, limited purpose participants are not subject to margin and participants fund requirements.

Under COS, after a trade is negotiated by the parties, trade data will be submitted electronically by the parties to MBSCC for comparison. The submitted trade data will be compared in MBSCC's AM or PM processing pass. If a trade compares, MBSCC will issue a purchase and sale report to each side of the trade.³ The purchase and sale report will serve as the sole binding confirmation of the matched trade.⁴ Trades compared through COS will be settled outside of the MBSCC system. Trades that do not compare will be reported as unmatched on a transaction

³ For a trade to compare in COS, certain trade data will have to match exactly. Specifically, the trade data will be buyer account, seller account, class code or CUSIP/pool number, price, trade type, trade date, settlement date, and par value.

⁴ Under MBSCC's rules, as the sole confirmation, the purchase and sale report will evidence a valid, binding, and enforceable contract, and MBSCC will be entitled to rely upon the purchase and sale report for all purposes under their rules. MBSCC Rules, Article II, Rule 4, Section 2.

²⁶ See NatWest Letter, *supra* note 10.

²⁷ In addition, the Amex and the OPRA have represented that the Amex and the OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of options on the Index. See Letter from Edward Cook, Jr., Managing Director, Trading Floor Systems & Technology, Amex, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated April 7, 1997; and letter from Joe Corrigan, Executive Director, OPRA, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated April 15, 1997.

²⁸ Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

²⁹ 15 U.S.C. 78s(b)(2).

³⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 38461 (April 1, 1997), 62 FR 16634.

summary report sent to the parties. Individually or jointly, the parties must then resolve or delete the unmatched trade by taking one or more of the following on-line actions: delete, DK (don't know), affirm, and new input. Unmatched trades will remain on a transaction summary report until resolved. Until an unmatched trade is resolved or deleted, the participant(s) that have not taken one or more of the on-line actions will be subject to the imposition of any associated late fees by MBSCC. Late fees are similarly assessed against the participant(s) with unmatched trades in CCS. For purposes of computing the late fees, each missed processing pass after a two pass grace period will result in a separate assessment against the participant(s). If the unmatched trade is resolved, MBSCC will compare and confirm it with a purchase and sale report as described above.

II. Discussion

Section 17A(b)(3)(F)⁵ of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that MBSCC's proposed rule change is consistent with MBSCC's obligation under the Act because the COS provides a more efficient means to compare trade data for mortgage-backed securities.

The objective of COS is to improve the means by which trades in mortgage-backed securities are compared by providing a centralized and automated alternative to the current method of verbal contact and physical processing. By automating the means by which trade data is compared, MBSCC is fulfilling its statutory obligation of promoting the prompt and accurate clearance and settlement of securities transactions.

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-97-03) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38694; File No. SR-MSRB-97-3]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Fee for Backlog Document Collection of its Official Statement/Advance Refunding Document Subsystem of the Municipal Securities Information Library

May 29, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 20, 1997, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR-MSRB-97-3). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Board has designated this proposal as establishing or changing a due, fee or other charge under Section 19(b)(3)(A) of the Act,² which renders the proposed rule change effective upon receipt of this filing by the Commission. 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 is filing herewith a proposed rule change to establish a fee relating to the operation of its Official Statement/Advance Refunding Document ("OS/ARD") subsystem of the Municipal Securities Information Library[®] ("MSIL[®]") system.³ The Board is establishing a price of \$7,000 (plus delivery or postage charges) for its 1996 document collection of official statements and refunding documents, sold as a "backlog" collection.

¹ 15 U.S.C. 78s(b)(1) (1988).

² 15 U.S.C. 78s(b)(3)(A).

³ Municipal Securities Information Library and MSIL are registered trademarks of the Board. The MSIL system, which was approved in Securities Exchange Act Release No. 29298 (June 13, 1991), 56 FR 28194 (June 19, 1991), is a central facility through which information about municipal securities is collected, stored and disseminated.

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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section 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

The OS/ARD subsystem, which was activated on April 20, 1992, is a central electronic facility through which information that is collected and stored pursuant to MSRB rule G-36 is made available electronically and in paper form to market participants and information vendors.⁴ The annual subscription fee for daily tapes of images of current year documents from the OS/ARD system currently is \$14,000.⁵ The fees for backlog collections are substantially less than fees for an annual subscription because an annual subscription requires the Board to send a computer tape to the subscriber each business day, but a backlog day, but a backlog collection requires fewer tapes.⁶ The Board is establishing a price of \$7,000 (plus delivery or postage charges) for the 1996 backlog collection.

In its prior filings with the Commission, the Board stated that it intends to use its general revenues to help fund collecting, indexing and storing the OS/ARD subsystem's

⁴ Rule G-36 requires underwriters to provide copies of final official statements and advance refunding documents within certain specified time frames for most new issues issued since January 1, 1990.

⁵ This fee was filed with the Commission. Securities Exchange Act Release No. 37361 (June 25, 1996), 61 FR 34463 (July 2, 1996).

⁶ Currently, several business day's worth of documents are on each tape in an annual collection. The backlog fee plus delivery costs for 1995 is \$9,000; 1994 is \$7,000; 1993 is \$9,000; 1992 is \$7,000; 1991 is \$8,000; 1990 is \$6,000. These fees were filed with the Commission. Securities Exchange Act Release No. 37361 (June 25, 1996), 61 FR 34463 (July 2, 1996) (1996 and 1995 fees); Securities Exchange Act Release No. 35848 (June 14, 1995), 60 FR 32187 (June 20, 1995) (1994 fee); Securities Exchange Act Release No. 32482 (June 16, 1993), 58 FR 34115 (June 23, 1993) (1992 and 1990 fees); Securities Exchange Act Release No. 34602 (Aug. 25, 1994), 59 FR 45319 (Sept. 1, 1994) (1993 and 1991 fees). The fees for the backlog collections vary based on the number of documents received and processed in any given year.

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶ 17 CFR 200.30-3(a)(12).