

available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of Amex. All submission should refer to File No. SR-Amex-99-15 and should be submitted by July 21, 1999.

For the foregoing reasons, the Commission finds that the Amex's proposal to list and trade Warrants and Notes on the Index is consistent with the requirements 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 (SR-Amex-99-15), as amended, is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.²⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41550; File No. SR-MBSCC-99-4]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying MBSCC's Schedule of Charges Relating To the Electronic Pool Notification Service

June 23, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 30, 1999, MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission"), the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by MBSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

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

The proposed rule change modifies the schedule of charges relating to MBSCC's Electronic Pool Notification ("EPN") service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC 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. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to add new fees for dial-up circuits and modems relating to MBSCC's EPN service. EPN participants currently are required to own the circuits and modems necessary for dial-up connectivity to EPN. Participant ownership of circuits and modems at EPN data centers makes installation, service, and deinstallation cumbersome because circuit providers and modem vendors typically require the participant to become involved in the process. The proposed rule change will allow MBSCC to own the dial-up circuits and modems at EPN data centers which MBSCC believes will streamline the process of installation, service, and deinstallation.

The new fees will offset the cost of MBSCC ownership of the dial-up circuits and modems. The new dial-up circuit wage fee will be \$30.00 per month (per circuit to MetroTech and Water Street) and the new dial-up modem usage fee will be \$30.00 per month (per circuit to MetroTech and Water Street) and the new dial-up modem usage fee will be \$15.00 per month (per modem at MetroTech and Water Street). These fees are in addition to the existing monthly access fees that cover port charges for dial-up connectivity to the EPN data centers.

EPN participants that currently own dial-up modems and circuits will not be affected by the new fees. Participants with new dial-up connectivity to EPN will not be required to purchase circuits or modems for the EPN data centers but will be charged the new fees.

The proposed rule change also makes a conforming change to the statement in the EPN schedule of charges that "telecommunication circuit charges from Sector (or vendor of choice) will apply." The word "will" is changed to

"may" because EPN participants will not receive circuit charges from vendors when MBSCC owns the circuit.

The proposed rule change is consistent with the requirements of Section 17A of the Act³ and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among MBSCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No comments on the proposed rule change were solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)⁴ of the Act and pursuant to Rule 19b-4(f)(2)⁵ promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by MBSCC. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. 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

³ 15 U.S.C. 78q-1.

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

²⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by MBSCC.

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. SR-MBSCC-94-4 and should be submitted by July 21, 1999.

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

Margaret H. McMcFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41549; File No. SR-NYSE-99-21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Relating to the Reimbursement of Member Organizations for Costs Incurred in the Transmission of Proxy and Other Shareholder Communication Material

June 23, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 under the Act,² notice is hereby given that on May 17, 1999, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On June 23, 1999, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule

change, as amended, from interested persons.

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

The Exchange proposes to revise Exchange Rule 451, "Transmission of Proxy Material" and Exchange Rule 465, "Transmission of Interim Reports and Other Material" (collectively, the "Rules"), and section 402.10 of the Exchange's Listed Company Manual. In particular, the Exchange seeks to amend the guidelines in the Rules that govern the reimbursement of NYSE member organizations for out-of-pocket expenses incurred in processing and delivering proxy materials (Exchange Rule 451) and other issuer materials (Exchange Rule 465) to security holders whose securities are held in street name.⁴ These reimbursement guidelines, which are currently effective through August 31, 1999, comprise the "Pilot Fee Structure."⁵ The Exchange also proposes to define the term "nominee" for purposes of determining the nominee coordination fee.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

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.

⁴ The ownership of shares in street name means that a shareholder, or "beneficial owner," has purchased shares through a broker-dealer or bank, also known as a "nominee." In contrast to direct ownership, where the shares are directly registered in the name of the shareholder, shares held in street name are registered in the name of the nominee, or in the nominee name of a depository such as The Depository Trust Company.

⁵ The Pilot Fee Structure originally was approved by the Commission on March 14, 1997. See Securities Exchange Act Release No. 38406 (Mar. 14, 1997), 62 FR 13922 (Mar. 24, 1997). The Exchange has extended the effectiveness of the Pilot Fee Structure on several occasions, most recently through August 31, 1999. See Securities Exchange Act Release No. 41177 (Mar. 16, 1999), 64 FR 14294 (Mar. 24, 1999) ("Order Extending Pilot Fee Structure").

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In its recent order extending the effectiveness of the Pilot Fee Structure, the Commission requested that the Exchange "carefully review the Pilot Fee Structure and make changes where necessary to develop an improved fee structure."⁶ Pursuant to the Commission's request, the Exchange now proposes to revise the rates of reimbursement in the Pilot Fee Structure. The Exchange also proposes to extend the effectiveness of the Pilot Fee Structure from August 31, 1999, through August 31, 2001.

Substantively, the proposed rule change would amend the Exchange's Rules regarding reimbursement of NYSE member organizations for the expenses incurred in connection with proxy solicitations and other mailings by:

- Reducing the suggested rate of reimbursement from \$0.50 to \$0.45 for each set of proxy materials (*i.e.*, proxy statement, form of proxy, and annual report when mailed as a unit).
- Reducing from \$20 to \$18 the suggested per-nominee compensation of intermediaries that coordinate the proxy and mailing activities of multiple nominees ("nominee coordination fee").
- Limiting the universe of "nominees" in respect of whom the \$18 nominee coordination fee is payable to "any entity whose name and participant account number both appear on a listing that accompanies and is referred to in an omnibus proxy that a registered clearing agency supplies to the issuer." This change would exclude from reimbursement "secondary" nominees, that is, nominees in respect of whom issuers have no direct interface.

Each of these proposals is designed to reduce the fees that NYSE member organizations are permitted to recover in connection with the transmission of proxy and other materials to security holders whose securities are held in street name. The Exchange believes that the proposed changes will create substantial savings for NYSE issuers.

The Exchange further believes that a reduction in the level of reimbursed fees is appropriate given the findings of the Exchange-sponsored audit that examined NYSE member firm reimbursements for the 1998 proxy season (1998 Audit⁷). The results of the 1998 Audit convinced the Exchange that the level of reimbursement has been too

⁶ See Order Extending Pilot Fee Structure, *supra* note 5.

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 removed from the proposed rule change the provision that would have permitted the householding of proxy and other materials through implied consent. At the request of the Commission, the Exchange will include the householding through implied consent proposal in a separate rule filing. Amendment No. 1 also clarified certain text discussing the proposed definition of nominee. See Letter from James E. Buck, Senior Vice President and Secretary, Exchange, to Sharon Lawson, Senior Special Counsel, Division of Market Regulation, Commission, dated June 22, 1999 ("Amendment No. 1").