

[Investment Company Act Rel. No. 21502A; International Series Release No. 885A; 812-8654]

Merrill Lynch, Pierce, Fenner & Smith Incorporated, et al.; Extension of Notice Period

November 21, 1995.

AGENCY: Securities and Exchange Commission (the "SEC").

ACTION: Application for exemption under the Investment Company Act of 1940; extension of notice period.

APPLICANTS: Merrill Lynch, Pierce, Fenner, & Smith Incorporated, Smith Barney Inc., Prudential Securities Incorporated, Dean Witter Reynolds Inc., PaineWebber Incorporated, Corporate Income Fund, Equity Income Fund, the Fund of Stripped U.S. Treasury Securities, Government Securities Income Fund, International Bond Fund, The Merrill Lynch Fund of Stripped U.S. Treasury Securities, The Mortgage-Backed Income Fund, Defined Asset Funds, Municipal Investment Trust Fund, and The Tax-Exempt Mortgage Fund.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Special Counsel, at (202) 942-0582, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

On November 13, 1995, a notice was issued giving interested persons until December 8, 1995 to request a hearing on an application filed by applicants (Investment Company Act Release No. 21502; International Series Release No. 885). The notice was assigned release numbers on November 13, 1995 but was not published in the Federal Register at that time. Since the notice is now being published, the period for interested persons to request a hearing on the matter is being extended to December 18, 1995.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-28867 Filed 11-24-95; 8:45 am]
BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Ocelot Energy Inc., Class B Subordinate Voting Shares, No Par Value) File No. 1-12076; Extension of Comment Period

November 20, 1995.

Due to a delay in the publication of the Federal Register, the Commission is

extending the comment period concerning Ocelot Energy Inc.'s application to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. Any interested person may, on or before December 12, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

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

Jonathan G. Katz,
Secretary.

[FR Doc. 95-28869 Filed 11-27-95; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-36492; File No. SR-MSRB-95-13]

Self-Regulatory Organizations; Notice of Amendment to Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Fee Assessments and Reporting of Sales or Purchases, Pursuant to Rules A-13, A-14, and G-14

November 20, 1995.

Pursuant to section 19(b)(2) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(2), notice is hereby given that on November 13, 1995, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") Amendment No. 1 to a proposed rule change (File No. SR-MSRB-95-13). Notice of the filing had previously been provided in Securities Exchange Act Release No. 36150 (Aug. 23, 1995), 60 FR 45197 (Aug. 30, 1995). The Commission received 13 comment letters in response to publication of the original notice. The comments are discussed subsequently in this document. The amendment to the proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the amendment from interested persons.

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

The Board is filing an amendment to its proposed rule change SR-MSRB-95-13, relating to certain changes in the fees assessed to brokers, dealers and municipal securities dealers ("dealers"). The proposed rule change, as amended, comprises an amendment to rule A-13 on Underwriting Assessments, a corollary amendment to rule G-14 on Reports of Sales and Purchases, and an amendment to rule A-14 on the Annual Fee. The Board requests that the amendment to rule A-14 be effective for the Board's fiscal year 1996 (October 1, 1995-September 30, 1996, referred to herein as "FY96"). Since \$100 already has been collected from each dealer for FY96, upon approval of the proposed rule change, the Board would bill each dealer an additional \$100 for FY96.

Because of the Board's immediate need for the additional revenue that would be raised by the proposed fee on transactions included in the amendment to rule A-13, the Board requests that the A-13 amendment and the corollary amendment to rule G-14 become effective on January 1, 1996. The Board requests that the Commission approve the proposed rule change prior to that date, so that needed revenues can be collected in a timely manner.

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 Sections (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 initial filing of the proposed rule change on August 11, 1995 (File No. SR-MSRB-95-13 as filed, referred to herein as the "August 1995 filing") proposed three changes in the fees assessed by the Board on dealers: (i) The annual fee of \$100 assessed under rule A-14 would be raised to \$200; (ii) the underwriting assessment of \$.03 per \$1,000 par value, assessed on primary offerings of most long-term municipal

securities under rule A-13, would be decreased to \$0.2 per \$1,000 par value; and (iii) rule A-13 would include a new transaction fee of \$.01 per \$1,000 par value of inter-dealer sales transactions.

As amended, the proposed rule change would result in the following fees: (i) The annual fee would be increased to \$200, as proposed in the August 1995 filing; (ii) the underwriting assessment of \$.03 per \$1,000 par value would remain at its current level of \$.03 and thus would no longer be included as part of the proposed rule change; and (iii) the proposed transaction fee would be assessed at \$.005 per \$1,000 par value—one half the rate originally proposed.

In the August 1995 filing, the Board discussed the reasons for the proposed rule change, the Board's philosophy that fees should be assessed upon dealers based upon the level of the dealers' participation in the market, and the Board's need for additional revenues. These stated purposes of the proposed rule change also apply to the proposed rule change, as amended.

Because the proposed transaction fee has been halved by the amendment, the estimated revenue from the proposed transaction fee also is halved, from approximately \$4 million per year to approximately \$2 million per year. However, the underwriting fee will remain at \$.03 per \$1,000 par value of primary offerings, so that revenues from this source are projected to be approximately \$3.9 million. This approximately \$1.3 million more than was projected under the August 1995 filing, which contemplated an underwriting fee of \$.02 per \$1,000. The proposed rule change, as amended, will provide the Board with approximately \$700,000 per year less in revenue than the proposed rule change as initially filed. In addition, the Board is requesting a January 1, 1996 effective date for the transaction fee, which means that the first three months of FY96 will pass without any revenue from the proposed transaction fee.

The Board believes that the reduced revenues from the proposed rule change, as amended, will be sufficient to meet the Board's requirements because, among other reasons, the Board now anticipates that a lower level of expenditure will be required for the Board's transaction reporting program during FY96. The lower level of expenditures is now expected because the Board recently decided to combine Phase II of the program (the reporting of institutional customer transactions for transparency and audit trail purposes) and Phase III of the program (reporting of retail transactions) into one phase.

This combined "customer transaction reporting phase" is expected to become operational in January 1998. Previously, Phase II was scheduled to become operational during FY96, which would have required greater FY96 expenditures on the program than are now required.¹

The Board noted in the August 1995 filing that, although inter-dealer transaction volume is an acceptable measure of dealer participation in the market for purposes of fee assessment, the Board intends, in future years, to review the possible use of customer transaction data, provided by the Board's transaction reporting program, as an additional way to measure dealer participation in the market. The Board continues to view customer transaction volume as an appropriate measure of dealer participation in the market and will review the use of customer transaction information for fee assessment purposes once it becomes available. Due to revisions in the schedule for the customer transaction phase, it will not be possible to use customer transactions as a basis for fee assessment until sometime in the second half of the Board's 1998 fiscal year. This date is somewhat later than the Board anticipated when the August 1995 filing was made.

The Board understands that the proposed transaction fee would have a substantial impact on participants whose transaction activity is primarily or exclusively in the interdealer market. In recognition of this fact, the Board concluded to leave the \$.03 per \$1,000 underwriting assessment in rule A-13 at its current level and to reduce the proposed transaction fee by 50 percent to \$.005 per \$1,000 par value in the proposed rule change, as amended.

In its August 1995 filing of the proposed rule change the Board noted that it was proposed pursuant to the Section 15B(b)(2)(J) of the Act, which requires, in pertinent part, that the Board's rules shall:

provide that each municipal securities broker and municipal securities dealer shall pay to the board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges.

The same statutory basis applies to the proposed rule change, as amended. It would provide reasonable fees, based upon dealer involvement in the

municipal securities market, that are necessary to defray Board expenses.

B. Self-Regulatory Organization's Statement on Burden on Competition

In the August 1995 filing, the Board discussed why it believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The board believes that the same rationale applies to the proposed rule change, as amended.

In the August 1995 filing, the Board noted that, for dealers that previously have not engaged in underwriting activities, the proposed transaction fee may constitute a substantial net increase in fees paid to the Board. The Board noted at that time its belief that the proposed transaction fee, at a level of \$.01 per \$1,000 par value, did not represent an undue burden on those dealers since the fee would directly reflect the dealers' participation in the inter-dealer market. At the revised level of \$.005 per \$1,000 par value, the proposed transaction fee would require these dealers to pay only half the amount of fees to the Board that was originally proposed and so any burden on these dealers would be commensurately reduced. The Board, therefore, believes that the proposed rule change, as amended, does not place any undue burden on dealers.

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

The Board did not request comment on the August 1995 filing or on the proposed rule change, as amended. The board understands, however, that the Commission received 13 comment letters on the August 1995 filing, from the following:

Barr Brothers & Co. Inc. ("Barr Brothers")
Cantor Fitzgerald Partners ("Cantor Fitzgerald")
Chapdelaine & Co. ("Chapdelaine")
R.W. Ellwood & Co. ("Ellwood")
EMR Securities Inc. ("EMR")
J.F. Hartfield & Co., Inc. ("Hartfield")
J.J. Kenny Drake Co., Inc. ("Kenny")
Municipal Partners Inc. ("MPI")
The Public Securities Association (the "PSA")
R.W. Smith & Associates, Inc. ("R.W. Smith")
Smith Peters & Stark ("Smith Peters")
Sonoma Securities Corporation ("Sonoma")
(sent via the Board)
Tullett and Tokyo Securities, Inc. ("Tullett")

In addition to these comment letters regarding the August 1995 filing, the Board also has received two letters

¹ A description of the revised plan for the transaction reporting system is included in SR-MSRB-95-17, filed with the Commission on November 13, 1995.

proposing alternative fee structures.² The comments received by the Commission on the August 1995 filing and the two alternative proposals are discussed below.

Broker's Brokers

All commentators on the August 1995 filing except three³ identified themselves as municipal securities broker's brokers ("broker's brokers"). All broker's brokers commenting on the August 1995 filing specifically criticized the transaction fee and opposed its application to broker's brokers, as did one other commentator.⁴

A broker's broker is a dealer that deals exclusively with other dealers and not with public investors or issuers. Broker's brokers are heavily involved in the inter-dealer market for municipal securities, working with other dealers who wish to buy or sell specific municipal securities issues. A broker's broker avoids taking inventory positions in municipal securities and does not execute an order for a purchase or sale unless an offsetting order or orders can be executed at the same time. Broker's brokers are subject to Board rules, as are all other dealers, based upon the municipal securities activities which they undertake.

The exact number of broker's brokers operating in the municipal securities market is unknown. The commentators give estimates ranging from 15⁵ to 21.⁶ The Board has identified 19 dealers who are known to have advertised themselves as broker's brokers.⁷

Broker's brokers execute offsetting purchase and sale transactions and would be assessed transaction fees based upon their sale transactions.

Some commentators suggest that the proposed rule change results in an inappropriate double assessment of transactions because it assesses the sale transactions of broker's brokers and also assesses the transactions of those dealers that sell securities through the

use of broker's brokers.⁸ These commentators state that a sale transaction executed by a broker's broker should not be viewed as a separate transaction, but rather as part of one trade between two other dealers, with the broker's broker "in the middle."

Transactions executed by a broker's broker may be executed either at the direction of a dealer that wishes to sell a quantity of securities or a dealer that wishes to purchase a quantity of securities. Broker's brokers work at the direction of the selling dealer most of the time. In such cases, the selling dealer agrees that the broker's broker will buy a quantity of securities from the selling dealer at a specific price and simultaneously sell the securities to one or more purchasing dealers at a price (or prices) that allow the broker's broker to make an agreed-upon sum on the transaction(s). The offsetting purchase and sale transactions by broker's brokers are confirmed and submitted for clearing as separate purchase and sale transactions. The difference between the purchase and sale prices represents the compensation to the broker's broker.⁹ When the broker's broker works for the purchasing dealer, the situation generally is the same except that the agreement on prices and compensation is reached with the purchasing dealer. In all cases, the broker's broker maintains strict anonymity between the selling and purchasing dealers. Even the dealer directing the broker's broker to execute a transaction cannot learn the identity of the broker's broker's contra-party.

Accordingly, even though the transactions of broker's brokers are executed at the direction of other dealers, the transactions reasonably can be viewed as separate, offsetting purchase and sale transactions. For purposes of the proposed transaction fee, the Board believes that this is the correct analysis. A broker's broker with a high transaction volume should be assessed proportionately more in transaction fees than a broker's broker with a low transaction volume. Were the transactions of broker's brokers found

not to be separate transactions, broker's brokers would not be subject to the proposed transaction fee at all.

The total transaction fees levied against all broker's brokers would be exactly proportionate to the total inter-dealer transaction volume of all broker's brokers.

A number of commentators stated opposition to the proposed transaction fee because the total fees that would be generated by broker's brokers transactions would be disproportionate to the percentage of broker's brokers in the overall dealer population.¹⁰ The Board estimates that approximately 35% of the par value of inter-dealer transactions reported to it under rule G-14 have a broker's broker on the sale side of the transaction and therefore 35% of the transaction fee would be derived from broker's brokers. That this percentage would be disproportionate to the percentage of dealers who are broker's brokers is not surprising since broker's brokers execute comparatively high numbers of inter-dealer municipal securities transactions, *i.e.*, they participate very heavily in this portion of the market. In contrast, broker's brokers do no underwriting and consequently would pay zero percent of the underwriting assessment.

Under the proposed rule change, as amended, broker's brokers would contribute less than 11 percent of Board revenues.¹¹ This latter percentage shows the effect of blending the heavy participation of broker's brokers in the inter-dealer market, the nil participation in the underwriting market and the payment of \$200 per broker in annual fees. As discussed more fully below, given the available options for allocating fees among dealers based upon their participation in the market, the Board does not believe this result to be unreasonable.

The proposed rule change is not tied to the profitability of specific categories of dealers,

¹⁰ Cantor, Chapdelaine, Ellwood, EMR, Hartfield, Kenny, PSA, and Tullett. One commentator, for example, notes that "[i]t is . . . inequitable for twenty brokers' brokers who compose less than 1% of the over 2700 broker-dealers registered with the MSRB to pay twenty-five to thirty-three percent of the new transaction fee" (PSA).

¹¹ The 11 percentage figure is based upon the following assumptions: \$400 billion in interdealer sales transactions during the year, generating \$2 million in transaction fees for the year; the transaction fee effective for the entire year; broker's brokers paying an estimated 35 percent of transaction fees; \$130 billion in new issuance, generating \$3.9 million in underwriting fees; and 2,700 dealers generating \$540,000 in annual fees. In FY96, the transaction fee would be in effect only for the last nine months, reducing the total amount of revenue to the Board and the portion of revenue obtained through the transaction fee. Accordingly, in FY96, the percentage of fees paid by broker's brokers is estimated to be less than 9 percent of total Board revenues.

² These are a September 19, 1995 letter from Kenny ("Kenny II") and a November 1, 1995 letter from the PSA ("PSA II").

³ The exceptions are Barr Brothers, the PSA and Sonoma.

⁴ The PSA was the non-broker's broker that opposed the transaction fee and its application to broker's brokers. In addition, Barr Brothers commented to suggest a revenue-based fee system and Sonoma opposed the increase in the annual fee. These issues are discussed below.

⁵ EMR.

⁶ Hartfield.

⁷ They are Associated Bond Brokers, Butler Larsen Pierce & Co., Cantor Fitzgerald, Chapdelaine, Cowen & Co., EMR, Ellwood, Hammond & Botzum, Hartfield, Kenny, O'Brien & Shepard, MPI, Murphy & Durieu, Schmidt Securities, R.W. Smith, Smith Peters, Titus & Donnelly, Tullett, and Wolfe & Hurst Bond Brokers.

⁸ Cantor, Chapdelaine, Kenny and PSA.

⁹ For example, the broker's broker might confirm to the selling dealer at a dollar price of \$99.90 and confirm to the purchasing dealer at a price of par. The difference between the two prices is the compensation to the broker's broker. In some cases, the broker's broker purchases one block of securities from the selling dealer and sells the securities to two or more other dealers, in smaller blocks, at different prices. In these cases, the transaction with the selling dealer is confirmed and cleared as one transaction at a specific price, while the offsetting sale transactions are confirmed separately at the prices agreed upon.

but rather applies in an identical manner to all inter-dealer transactions.

Several commentators opposing the proposed rule change noted that broker's brokers' profit margins on inter-dealer transactions are smaller than those of other dealers and that broker's brokers generally do not provide municipal securities services other than the execution of inter-dealer transactions.¹² These commentators accordingly believe that the proposed transaction fee would reduce the profits of broker's brokers more than those of other dealers. Some commentators further suggested that, as a result, the proposed transaction fee would cause some broker's brokers to exit the business, reducing liquidity in the municipal securities market.¹³

Although the proposed transaction fee would represent a new cost of doing business for broker's brokers, the Board does not believe that, at a rate of \$.005 per \$1,000 par value, it would be a major factor in the ongoing viability of broker's brokers. The transaction fee would be imposed on all dealers at the same rate. It would apply to all broker's brokers in exactly the same way and thus would have no impact on broker's brokers competing with each other. Moreover, given that certain broker's brokers state that they will be unable to pass the transaction fee on to purchasing or selling dealers,¹⁴ the Board does not believe the proposed fee would provide any disincentive to the use of broker's brokers.

As a matter of policy, the Board does not believe that it would be advisable to exempt or to set lower rates for transactions executed by a specific category of dealers such as broker's brokers. The Board nevertheless is sensitive to the profitability concerns of broker's brokers and acknowledges that, on average, the profits earned by broker's brokers in proportion to their inter-dealer transactions may be lower than for other dealers. Broker's brokers execute all of their transactions on a "riskless" basis, *i.e.*, they only execute orders when there already exists an offsetting order. The compensation to dealers for executing such "riskless" transactions normally is lower than the compensation received for transactions sold from inventory, where market risk has been undertaken. Any dealer may execute riskless transactions. The Board did not and could not propose a lower transaction fee for "riskless" transactions because there is no mechanism for reliably identifying an

inter-dealer transaction as "riskless." It should be noted, however, that if such a mechanism were to become available, and a lower fee were established for "riskless" transactions, it would be necessary to raise Board fees in other areas to compensate for the reduction in revenue.

Need for Additional Revenue

Some commentators suggested that the Board does not need the additional revenue that would be raised by the proposed rule change,¹⁵ that the Board should consider scaling back operations and expenses in a period of industry contraction,¹⁶ or that the Board has not considered how changes in underwriting volume or other factors may affect Board revenues in the future.¹⁷

The Board has budgeted approximately \$7.5 million in operating expenditures and \$200,000 in capital expenditures in FY96 and expects its FY97 operating budget to be approximately \$8.4 to \$8.7 million, with capital expenditures of about \$1 million. While these projections do represent substantial increases over actual operating expenditures in FY95 (which were approximately \$6.6 million, unaudited), the Board does not agree with the commentators' suggestion that the Board should scale back its regulatory functions and projects during cyclical periods of market contraction. In fact, there may be a need for increased regulatory vigilance during these periods. In addition, many ongoing Board projects affecting the budget—such as completion of the Board's Transaction Reporting System, the continued operation of the Official Statement/Advance Refunding System, and the planned Job Delineation Survey for professional qualification examinations—are long-range projects which are critical to regulation of the

¹⁵ Hartfield. In addition, one commentator suggested that the Board would raise more from the transaction fee than the Board has projected. The Board has estimated \$400 billion in annual transaction volume based upon nine months of actual sell-side trade data submitted to the Board under rule G-14, from January 1995 through September 1995. This commentator estimates the annual level at closer to \$700 billion, based in part upon reports of \$48 billion in "compared municipal transactions" for July 1995. This July figure apparently was provided to the commentator by National Securities Clearing Corporation. Since the July figure given is approximately double the sales transactions tracked by the Board for July, it appears that the numbers being used by the commentator represent the par value of each buy-side and sell-side added together. The fee under the proposed rule change, however, would be assessed for only the sell-side of transactions. (The commentator was Kenny.)

¹⁶ Kenny.

¹⁷ R.W. Smith.

market and are not logically related to cyclical market activity.

The Board's policy is to maintain cash and liquid assets equal to six months' to one year's operating expense. This reserve amount at the end of the Board's 1995 fiscal year (September 30, 1995) was approximately \$6.3 million (unaudited). Without the proposed rule change, the Board would start FY97 below the minimum level of reserves required by Board policy and would be expected to exhaust almost all reserves by the end of FY97. With the proposed rule change, cash and liquid assets at the end of FY96 are projected to be within the range established by the Board's policy. The Board reviews projected new-issue volume regularly, along with other budgetary matters, and in doing so, reviews and sets fee levels to meet the Board's policy. Under the proposed rule change, the Board would regularly review transaction volume as well.

Proposed Alternative Fee Structures

A number of commentators suggested that Board fees should be imposed based upon the revenues earned by dealers, rather than transaction volume.¹⁸ There also have been suggestions that the Board raise its annual fee or impose flat fees for dealer categories to obtain needed revenue.¹⁹ The Board has considered these and a number of other suggestions, but continues to believe that the combination of annual fees, underwriting assessments and transaction fees included in the proposed rule change represents the best available, auditable, fee structure.

There is no source of "municipal securities revenue" that could be used to produce an auditable fee structure for the Board.

The Board has considered carefully whether Board fees should be linked in some way to the "municipal securities revenues" of dealers. Based on the advice of its outside auditors, the Board has concluded that it could not adopt a fee based on the "municipal securities revenue" unless this term is clearly defined and uniformly and computed by dealers and unless such computations are independently audited prior to being reported to the Board. Without these requirements being met, the Board would be in danger of having its own audited financial statements qualified if it were to assess fees linked to "municipal securities revenue."

The Board has been unable to locate any source of audited information that

¹⁸ Barr Brothers, Cantor Fitzgerald, Hartfield, MPI, and the PSA.

¹⁹ *E.g.*, PSA and PSA II.

¹² Cantor, Kenny, MPI, and R.W. Smith.

¹³ Kenny and PSA.

¹⁴ Chapdelaine and Kenny.

uniformly calculates and identifies "municipal securities revenue" earned by securities firms and dealer banks. Even if the Board were, by rule, to define "municipal securities revenue," establish accounting rules for its computation, and require each dealer to use these rules to perform these calculations, it also would be necessary for each dealer to obtain an independent audit of the calculation before the figures could be used to generate fee assessments. The Board believes that the high cost to the dealer community of achieving compliance with these requirements would make this method of fee assessment impractical.

Increasing annual fees above the proposed \$200 level, or the creation of "dealer categories" with relatively large assessments for low-volume dealers, would create barriers to participation in the municipal securities market by low-volume dealers.

The Board also has considered the suggestion of a commentator²⁰ that the annual fee could be increased to \$1,000. The Board currently receives annual fees from approximately 2,700 dealers. The commentator therefore estimates that a \$1,000 fee would raise \$2.7 million and could be implemented in lieu of the proposed transaction fee.

Of the approximately 2,700 dealers currently paying the Board annual fees, only approximately 850 have reported any inter-dealer transactions to the Board since January 1995.²¹ Given that the remaining dealers have not reported any inter-dealer transactions, the Board believes that the remaining entities either: (1) Are merely executing occasional municipal securities transactions as an accommodation to customers requesting them to do so; or (ii) are not active at all in the inter-dealer market, but wish to remain capable of executing municipal securities transactions in the future. Raising the annual fee to \$1,000 likely would result in the list of dealers eligible to execute transactions in municipal securities dropping in size from 2,700 to substantially under 1,000. This would decrease the revenue expectations for a \$1,000 annual fee to \$1 million—only \$460,000 more than is expected from the proposed \$200 annual fee.

In amending the proposed rule change, the Board carefully considered

whether it should increase the \$100 annual fee at all, since a larger annual fee might constitute a barrier to low-volume dealers participating in the market. In fact, a low-volume dealer has commented in opposition to the proposed \$100 increase in annual fee.²² The Board has concluded that the proposed \$200 annual fee is not a significant barrier for dealer participation in the market; however, the Board is concerned that a much more substantial barrier would be created by a \$1,000 fee and accordingly believes that a \$200 annual fee should be the maximum at this time.

The Board also has considered suggestions that categories of dealers be created based upon market indicators such as underwriting volume and transaction volume, and that all dealers in a specific category be annually assessed the same flat fee ("flat fee proposals").²³ The flat fee proposals reviewed by the Board are similar to the proposals to raise annual fees to \$1,000 in that each depends heavily upon obtaining a higher percentage of board revenue from dealers having a relatively low percentage of market activity. As noted above, however, dramatically raising fees for dealers with little or no market activity is unlikely to have the desired revenue effect because lower-volume dealers simply will drop out of the market when faced with high annual fees. In addition, the Board is concerned that relatively high annual fees for low-volume dealers may constitute an inappropriate barrier to participation in the market by these dealers.

In effect, the proposed rule change does "categorize" dealers based on their market activity by assessing separate fees based on underwriting activity and transaction volume, and assessing a flat \$200 annual fee for all dealers. Each dealer pays a particular fee amount based on its own underwriting and transaction volume. The Board does not believe that it would be appropriate to re-adjust the allocation of fees by creating other categories, merely to shift fee burdens to lower volume dealers.

Using Dealer Participation in the Market for Measuring Fee Assessment

In proposing alternative fee structures, several commentators criticized the general concept of levying fees based heavily upon measures of dealer participation in the municipal securities market such as underwriting volume and transaction activity. In addition to the suggestions that much higher annual fees be assessed, or that

"municipal securities revenues" be used for fee assessment, another criticism was made that assessing dealers based on their transaction activity does not fit within "value-added tax methodologies" that look to the value added to a product to determine a tax to be paid, rather than the activity of market participants.²⁴

The Board has carefully considered suggestions for a totally different approach in its fee assessment structure, but has concluded that assessments based upon objective measures of participation in the market still represent the best method for funding Board operations. After closely examining the various alternative measures of dealer participation in the market—including the suggestions for using "municipal securities revenue"—the Board has concluded that underwriting activity and inter-dealer transaction volume are the best available and auditable means upon which to base fees. These measures of dealer activity are admittedly imperfect because they do not track every important activity in the market, e.g., customer transactions. There is, however, currently no available source of customer transaction data. The Board is working on expanding the transaction reporting system to obtain customer transaction data and this component of the program is now expected to be in place in early 1998. The Board will review the use of customer transaction activity as a means of assessing fees when additional reliable information becomes available. The Board believes that, until that time, the proposed rule change presents a reasonable, practical and fair fee structure for funding Board operations.

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

The Board is requesting the Commission to make the proposed change to rule A-14 on the Annual Fee

²⁰ PSA II.

²¹ This figure, which is obtained from the Board's Transaction Reporting System, is approximate because reporting of executing dealer identities (as contrasted with clearing dealer identities) became mandatory only in July 1995. The figure nevertheless fits well with other estimates of the number of dealers that execute inter-dealer transactions.

²² Sonoma.

²³ Kenny II and PSA II.

²⁴ R.W. Smith.

effective for Board fiscal year 1996, *i.e.*, that it become effective as of October 1, 1995, for reasons discussed above. The Board is requesting that the proposed change to rule A-13 on fee assessments, and the corollary change to rule G-14 on reports of sales and purchases, be made effective on January 1, 1996, also for reasons discussed above.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 submissions, 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 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 Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR-MSRB-95-13 and should be submitted by December 18, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-28868 Filed 11-24-95; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Minneapolis/St. Paul Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Minneapolis/St. Paul District Advisory Council will hold a public meeting on Friday, December 8, 1995 at 11:30 am at the Decathlon Club, 1700 East 79th Street, Bloomington, Minnesota, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Edward A. Daum, District Director, U.S. Small Business Administration, 610-C Butler Square, 100 North Sixth Street, Minneapolis, Minnesota 55403 (612) 370-2306.

Dated: November 20, 1995.

Art DeCoursey,

Director, Office of Advisory Council.

[FR Doc. 95-28870 Filed 11-24-95; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

Bureau of Intelligence and Research

[Public Notice No. 2287]

Discretionary Grant Programs: Application Notice Establishing Closing Date for Transmittal of Certain Fiscal Year 1996 Applications

AGENCY: The Department of State invites applications from national organizations with interest and expertise in conducting research and training to serve as intermediaries administering national competitive programs concerning the countries of Eastern Europe and the independent states of the former Soviet Union. The grants will be awarded through an open, national competition among applicant organizations.

Authority for this Program for Research and Training on Eastern Europe and the Independent States of the Former Soviet Union is contained in the Soviet-Eastern European Research and Training Act of 1983 (22 U.S.C. 4501-4508, as amended).

SUMMARY: The purpose of this application notice is to inform potential applicant organizations of fiscal and programmatic information and closing dates for transmittal of applications for awards in Fiscal Year 1996 under a program administered by the Department of State.

ORGANIZATION OF NOTICE: This notice contains three parts. Part I lists the closing date covered by this notice. Part II consists of a statement of purpose and priorities of the program Part III provides the fiscal data for the program.

Part I

Closing Date for Transmittal of Applications

An application for an award must be mailed or hand-delivered by January 19, 1996.

Applications Delivered by Mail

An application sent by mail must be addressed to Kenneth E. Roberts, Executive Director, Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, INR/RES, Room 6841, U.S. Department of State, 2201 C Street, N.W., Washington, D.C. 20520-6510.

An applicant must show proof of mailing consisting of *one* of the following:

(1) a legibly dated U.S. Postal Service postmark.

(2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) a dated shipping label, invoice, or receipt from a commercial center.

(4) any other proof of mailing acceptable to the Department of State.

If any application is sent through the U.S. Postal Service, the Department of State does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Late applications will not be considered and will be returned to the applicant.

Applications Delivered by Hand

An application that is hand delivered must be taken to Kenneth E. Roberts, Executive Director, Advisory Committee for Studies of Eastern Europe and the Independent States of the Former Soviet Union, INR/RES, Room 6841, 2201 C Street, N.W., Washington, D.C. Please phone first (202) 736-4572 to ensure access to the building.

The Advisory Committee staff will accept hand-delivered applications between 9:00 a.m. and 4:00 p.m. EST daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:00 p.m. on the closing date.

Part II

Program Information

In the Soviet-Eastern European Research and Training Act of 1983 the Congress declared that independently verified factual knowledge about the countries of that area is "of utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs." Congress also declared that the development and maintenance of such knowledge and expertise "depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government." The program provides financial support for