

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

The self-regulatory organization does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to section 19(b)(3)(A) of the Act⁶ and subparagraph (e) of Rule 19b-4 thereunder on July 1, 1996.⁷

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-96-07

and should be submitted by August 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-37413; File Nos. SR-MBSCC-96-02, SR-GSCC-96-03, and SR-ISCC-96-04]

Self-Regulatory Organizations; MBS Clearing Corporation, Government Securities Clearing Corporation, and International Securities Clearing Corporation; Notice of Filings of Proposed Rule Changes Seeking Authority To Enter Into Limited Cross-Guarantee Agreements

July 9, 1996.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on April 11, 1996, May 10, 1996, and May 16, 1996, the MBS Clearing Corporation ("MBSCC"), the Government Securities Clearing Corporation ("GSCC"), and the International Securities Clearing Corporation ("ISCC") (collectively referred to as "the clearing corporations"), respectively, filed with the Securities and Exchange Commission ("Commission") the proposed rule changes (File Nos. SR-MBSCC-96-02, SR-GSCC-96-03, and SR-ISCC-96-04) as described in Items I, II, and III below, which items have been prepared primarily by MBSCC, GSCC, and ISCC, respectively. On May 13, 1996, GSCC filed an amendment to the proposed rule change to a change the specific rule numbers used in the proposed rule change.² On July 2, 1996 and July 3, 1996, ISCC and GSCC, respectively, filed amendments to their proposed rule changes to make certain technical corrections.³ The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

¹ 15 U.S.C. 78s(b)(1) (1988).

² Letter from Karen Walraven, Vice President and Associate Counsel, GSCC, to Jerry Carpenter, Assistant Director, Division of Market Regulation ("Division"), Commission (May 13, 1996).

³ Letter from Julie Beyers, ISCC, to Peter Geraghty, Special Counsel, Division, Commission (July 1, 1996), and letter from Karen Walraven, Vice President and Associate Counsel, GSCC, to Peter Geraghty, Special Counsel, Division, Commission (July 2, 1996).

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

The purpose of the proposed rule change is to modify the clearing corporations' rules to enable them to enter into limited cross-guarantee agreements with other clearing agencies.

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, MBSCC, GSCC, and ISCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments that they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. MBSCC, GSCC, and ISCC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.⁴

(A) Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The purpose of the proposed rule changes is to modify the rules of the clearing corporations to enable them to enter into limited cross-guarantee agreements with other clearing agencies. Generally, limited cross-guarantee agreements contain a guarantee from one clearing agency to another clearing agency that can be invoked in the event of a default of a common member. The guarantee provides that resources of a defaulting common member remaining after the defaulting common member's obligations to the guaranteeing clearing agency have been satisfied will be used to satisfy the obligations of the defaulting common member that remain unsatisfied at the other clearing agency. The guarantee is limited to the amount of a defaulting common member's resources remaining at the guaranteeing clearing agency.⁵

Generally, limited cross-guarantee agreements should be beneficial to the clearing corporations because amounts available under limited cross-guarantee agreements may be applied to unpaid obligations of the defaulting participant. With regard to GSCC, these amounts may reduce possible pro rata allocations against original counterparties of the defaulting participant. Similarly, these

⁴ The Commission has modified the text of the summaries submitted by MBSCC, GSCC, and ISCC.

⁵ In the case of GSCC, the principal resources likely to exist are funds-only settlement payments and clearing fund deposits.

⁶ 15 U.S.C. 78s(b)(3)(A) (1988).

⁷ CFR 240.19b-4.

⁸ 17 CFR 200.30-3(a)(12).

amounts available to ISCC may reduce the possibility of pro rata charges against its clearing fund. Furthermore, even though MBSCC does not mutualize risk, these amounts may reduce allocations against and losses of the original contrasides of a defaulting participant.

The benefits accruing to the clearing corporations from a limited cross-guarantee agreement are illustrated by the following example:

Dealer A, a common participant of Clearing Agency X and Clearing Agency Y, declares bankruptcy. Upon insolvency, Dealer A owes Clearing Agency Y \$10 million and Clearing Agency X owes A \$7 million. In the absence of an inter-clearing agency limited cross-guarantee agreement, Clearing Agency X would be obligated to pay \$7 million to Dealer A's bankruptcy estate and Clearing Agency Y would have a claim for \$10 million against Dealer A's bankruptcy estate as a general creditor with no assurance as to the extent of recovery. However, an effective cross-guarantee arrangement would obligate Clearing Agency X to pay Clearing Agency Y an amount equal to Dealer A's \$7 million receivable from Clearing Agency X thereby reducing Clearing Agency Y's net exposure from \$10 million to \$3 million. This approach would enable Clearing Agency Y to secure earlier payment and would allow Clearing Agency X to fulfill its obligations without making an actual payment to Dealer A's bankruptcy estate.

The benefits specifically accruing to MBSCC from a limited cross-guarantee agreement are illustrated by the following example:

A sells to B who sells to C. A also sells to X who sells to Y; and A also sells to Q. B and X net out, leaving obligations of A owing to C, Y, and Q. A becomes insolvent. Under MBSCC's rules, if A's participants fund contribution is not adequate to cover the aggregate of C's and Y's losses, then B, X, and Q, as original contra-sides, would be responsible for covering such losses. However, before allocating C's and Y's aggregate loss to B, X, and Q, MBSCC may obtain resources under a limited cross-guarantee agreement to reduce, if not eliminate, the amount of such allocations. If those resources are sufficient to satisfy C's and Y's losses, any remaining funds would also be available for the satisfaction of O's losses.

The limited cross-guarantee agreements are designed to preserve substantial flexibility to the counterparty clearing corporation. The agreements will provide a list of all the limited cross-guarantee agreements to which the clearing agencies are a party, including the counterparties to those agreements. The agreements will set forth the clearing agency's priority structure with respect to the order in which it will make guarantee payments to its counterparty clearing agencies (if

more than one exist) in the event of a defaulting common participant. GSCC intends to prioritize its counterparty clearing agencies in the following manner: (1) Pro rata to those counterparty clearing agencies with a transactional nexus to GSCC; (2) the National Securities Clearing Corporation; and (3) pro rata to all other counterparty clearing agencies.⁶

An additional source of flexibility in a limited cross-guarantee agreement is the length of time within which a demand for payment must be made. This period is negotiated and agreed to by the counterparty clearing agencies. GSCC believes that an appropriate time period for this purpose is six months.⁷ During this six month period, the limited cross-guarantee agreement would permit recalculations of each clearing agency's available resources and losses. A six month period would allow for changed circumstances at one or several clearing corporations.

The Commission has stated its support of the use of limited cross-guarantee agreements and other similar arrangements among clearing agencies as a method of reducing clearing agencies' risk of loss due to a common member's default and has encouraged clearing agencies to explore such agreements or arrangements.⁸

Accordingly, GSCC's proposed rule change modifies GSCC's rules to enable GSCC to enter into one or more limited cross-guarantee agreements. Proposed Rule 41 governing limited cross-guarantee agreements provides that a participant is obligated to GSCC for any guarantee payment that GSCC is required to make to a clearing agency pursuant to the terms of any limited cross-guarantee agreement. GSCC's Rule 41 and the proposed modifications to Section 8 of Rule 4 provide that amounts received by GSCC under any limited cross-guarantee agreement will be applied to the common participant's unpaid obligations to GSCC and will reduce assessments against original counterparties of the defaulting participant. The proposed rule change also modifies Rule 1 of GSCC's rules to add definitions of the terms "common member," "cross-guarantee obligation," "cross-guarantee party," "defaulting

common member," "defaulting member," and "limited cross-guarantee agreement." GSCC is proposing to amend Section 6 of Rule 4 to clarify that liabilities of GSCC include limited cross-guarantee payments made to a counterparty clearing agency pursuant to a limited cross-guarantee agreement.⁹

MBSCC's proposed rule change will add new Rule 4 to Article III of MBSCC's rules. The new rule will enable MBSCC to enter into one or more limited cross-guarantee agreements. The new rule provides that a former participant¹⁰ is obligated to MBSCC for any guarantee payment MBSCC is required to make to a clearing agency pursuant to the terms of any limited cross-guarantee agreement. The new rule also provides that amounts received by MBSCC under any limited cross-guarantee agreement will be applied to unpaid obligations of the former participant to MBSCC and to reduce assessments against and losses of original contra-side participants. A technical modification will be made to the current Rule 4 of Article III to renumber such rule as Rule 5. MBSCC's proposed rule change also modifies Rule 1 of Article I of MBSCC's rules to add definitions of the terms "limited cross-guarantee agreement," "cross-guarantee obligation," and "cross-guarantee party." MBSCC's proposed rule change also modifies Chapter VI of MBSCC's procedures relating to application of the participants fund to reflect that amounts received by MBSCC under any limited cross-guarantee agreement will be applied to unpaid obligations of a former participant of MBSCC and to reduce assessments against and losses of original contra-side participants.¹¹

ISCC's proposed rule change will add new Rule 13 to ISCC's rules. The new rule provides that an ISCC member is obligated to ISCC for any guarantee payment ISCC is required to make to a clearing agency pursuant to the terms of any limited cross-guarantee agreement. ISCC's proposed rule change also modifies ISCC's rules to indicate that amounts available to satisfy aggregate

⁹ The definitions of the terms described above as well as the specific changes to GSCC's rules and procedures are attached as Exhibit A to GSCC's proposed rule change which is available through GSCC or through the Commission's public reference room.

¹⁰ Under Section 10 of Rule 3 of Article III of MBSCC's rules, the term "former participant" is defined as a participant for whom MBSCC has ceased to act pursuant to Sections 1 and 2 of Rule 3 of Article III.

¹¹ The definitions of the terms described above as well as the specific changes to MBSCC's rules and procedures are attached as Exhibit A to MBSCC's proposed rule change which is available through MBSCC or through the Commission's public reference room.

⁶ At this time, MBSCC and ISCC have not determined the priority structures of their limited cross-guarantee agreements.

⁷ At this time, MBSCC and ISCC have not determined a specific recovery period for their limited cross-guarantee agreements.

⁸ Securities Exchange Act Release Nos. 36431 (October 27, 1995), 60 FR 55749 [File No. SR-GSCC-95-03] and 36597 (December 15, 1995), 60 FR 66570 [File No. SR-MBSCC-95-05] (orders approving proposed rule changes authorizing the release of clearing data relating to participants).

losses will include amounts available under limited cross-guarantee agreements. ISCC's proposal also modifies Rule 1 of the ISCC's rules to add definitions of the terms "limited cross-guaranty agreement," "cross-guaranty obligation," and "cross-guaranty party."¹²

MBSCC, GSCC, and ISCC believe the proposed rule changes are consistent with Section 17A of the Act and the rules and regulations thereunder because the proposals should help to safeguard securities and funds in their custody or control or for which they are responsible and should foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organizations' Statements on Burden on Competition

MBSCC, GSCC, and ISCC do not believe that the proposed rule changes will impact or impose a burden on competition.

(C) Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

No written comments relating to the proposed rule changes have been solicited or received. MBSCC, GSCC, and ISCC will notify the Commission of any written comments they receive.

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

Within thirty-five 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 ninety 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 MBSCC, GSCC, and ISCC consents, the Commission will:

- (a) By order approve such proposed rule changes or
- (b) Institute proceedings to determine whether the proposed rule changes should be disapproved.

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, N.W.,

¹²The definitions of the terms described above as well as the specific changes to ISCC's rules and procedures are attached as Exhibit A to ISCC's proposed rule change which is available through ISCC or through the Commission's public reference room.

Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the respective filings will also be available for inspection and copying at the respective principal offices of MBSCC, GSCC, and ISCC. All submissions should refer to file number SR-MBSCC-96-02, SR-GSCC-96-03, and SR-ISCC-96-04 and should be submitted by August 5, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37412; File No. SR-NASD-96-26]

Self-Regulatory Organizations; Notice of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Obligations of CQS Market Makers To Have Available Quotation Services That Provide Quotation Information for CQS Securities

July 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 21, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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

The NASD proposes to amend NASD Rule 6630, formerly Section 2 of Part VI of Schedule D to the NASD By-Laws, to

¹³ 17 CFR 200.30-3(a)(12) (1995).

require NASD members registered with The Nasdaq Stock Market, Inc. ("Nasdaq") as Consolidated Quotation Service¹ ("CQS Service" or "CQS") market makers to have available in close proximity to the Nasdaq terminals at which they make markets in CQS securities a quotation service that disseminates the bid prices and offer prices then being furnished by or on behalf of all exchanges and CQS market makers in the CQS issues for which they are registered. (Additions are in italic; deletions are bracketed.)

NASD Rule 6330 Obligations of CQS Market Makers

- (a)-(c). No change.
- (d) *A CQS market maker shall be obligated to have available in close proximity to the Nasdaq terminal at which it makes a market in a CQS security a quotation service that disseminates the bid price and offer price then being furnished by or on behalf of all exchanges and CQS market makers trading and quoting that CQS security.*

* * * * *

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 NASD 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 NASD 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 NASD is proposing to amend NASD Rule 6330,² the NASD's rule governing CQS market maker obligations, to provide that a CQS market maker must have available, in close proximity to the Nasdaq terminal at which it makes a market in a CQS security, a quotation service that disseminates the bid price and offer

¹ CQS is Nasdaq's service that provide subscribers with quotation, last sale, and volume information for securities listed on the New York and American Stock Exchanges. With respect to quotations, the Service provides a non-dynamically-updated montage of quotations from all exchanges and NASD members registered as CQS market makers in a particular issue.

² NASD Rule 6330 was formerly Section 2 of Part VI of Schedule D to the NASD By-Laws prior to the revision of the NASD Manual.