

The Board of Directors of the Company unanimously approved a resolution on February 13, 1999, to withdraw the Company's Security from listing on the Amex.

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company believes: (i) Their market capitalization can now support an over-the-counter trading system like that offered by the Nasdaq Stock Market ("Nasdaq"); (ii) Nasdaq is the preferred stock market for high-technology companies; and (iii) other companies in the Company's market sector that most closely compare to the Company are listed on Nasdaq.

The Company has complied with the rules of the Exchange by notifying the Exchange of its intention to withdraw its Security from listing on the Exchange by letter dated January 14, 1999. The Exchange replied by letter dated January 14, 1999, advising the Company that they would not interpose any objection to the withdrawal of the Company's Security from listing on the Exchange.

On January 29, 1999, the Company's Security started trading on the Nasdaq under the "INCX" symbol.

Any interested person may, on or before, March 16, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 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.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41087; File No. SR-MBSCC-99-01]

### Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Eliminating the Investment Service Fee

February 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 29, 1999, the 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 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 proposed rule change eliminates the investment service fee that MBSCC charges a participant to recover the handling costs associated with investing the cash the participant has on deposit in the participants fund.

#### 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.<sup>2</sup>

##### (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 eliminate the investment service fee that MBSCC charges its participants. MBSCC's rules allow it to charge this fee to recover the handling costs associated with investing the cash that a participant has on deposit in the participants fund.<sup>3</sup> MBSCC has

historically charged a flat fee of one half of one percent of the amount invested.<sup>4</sup>

MBSCC has determined that the investment service fee significantly exceeds the actual cost to MBSCC of handling investments. In addition, MBSCC does not charge participants for handling costs associated with other forms of collateral such as securities or letters of credit deposited to the participants fund. Accordingly, the proposed rule change deletes the provision of MBSCC's rules that allows it to recover its handling costs.

MBSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act<sup>5</sup> and the rules and regulations thereunder because it provides for the equitable allocation of reasonable dues, fees, and other charges among MBSCC participants.

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

MBSCC does not believe that the proposed rule change will have an impact on or impose a 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 relating to the proposed rule change have been solicited or received. MBSCC will notify the Commission of any written comments received by MBSCC.

#### 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) of Act<sup>6</sup> and pursuant to Rule 19b-4(f)(2)<sup>7</sup> promulgated thereunder because the proposal changes a due, fee, or other charge imposed by MBSCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is

any, on cash deposits in excess of required basic deposits, less an amount to compensate the corporation for its handling costs, shall be paid to participants at such intervals, in such manner, and in such amounts as the corporation from time to time may determine. Under the proposed rule change, the provision "less an amount to compensate the corporation for its handling costs," has been deleted.

<sup>4</sup> Telephone conversation between Anthony Davidson, Vice President and Associate General Counsel, MBSCC; Jeffrey Mooney, Special Counsel, Division of Market Regulation ("Division"), Commission; and Jessie L. Nice, Attorney, Division, Commission (February 2, 1999).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The Commission has modified the text of the summaries prepared by MBSCC.

<sup>3</sup> Specifically, Article IV, Rule 2, Section 7 of MBSCC's rules provides that investment income, if

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 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, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of MBSCC.

All submissions should refer to File No. SR-MBSCC-99-01 and should be submitted by March 23, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41086; File No. SR-NSCC-99-01]

#### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Revising the Fee Schedule for the Annuity Processing Service

February 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 4, 1999, the National Securities Clearing Corporation ("NSCC") 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 NSCC. 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 proposed rule change revises NSCC's fee schedule with regard to its Annuity Processing Service ("APS").<sup>2</sup>

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

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

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

On December 28, 1998, NSCC filed with the Commission its fee schedule for certain APS transactions, which became effective upon filing.<sup>4</sup> In that filing, NSCC erroneously stated that the fee to be charged for the transmission of a financial activity report ("FAR") by insurance carriers to distributors was \$0.50 per FAR transmitted or received.<sup>5</sup> The proposed rule change corrects NSCC's fee schedule to reflect that the fee for the transmission of a FAR by insurance carriers to distributors is \$.05 per each FAR transmitted or received.<sup>6</sup>

<sup>2</sup> For a detailed description of APS, refer to Securities Exchange Act Release Nos. 39096 (September 19, 1997), 62 FR 50416 [File No. SR-NSCC-96-21] (order approving the establishment of APS and the implementation of phase one of APS) and 40799 (December 16, 1998), 63 FR 71175 [File No. SR-NSCC-98-07] (order approving the implementation of phase two of APS).

<sup>3</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>4</sup> Securities Exchange Act Release No. 40975 (January 25, 1999), 64 FR 4920 [File No. SR-NSCC-98-16].

<sup>5</sup> NSCC has not charged its members any fee for such transactions since NSCC filed its fee schedule with the Commission on December 28, 1998. For transactions submitted on or after February 1, 1999, NSCC will charge its member the corrected fee.

<sup>6</sup> The text of the proposed revision to NSCC's fee schedule is attached as Exhibit A to NSCC's rule filing, which is available for inspection and copying

NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act<sup>7</sup> and the rules and regulations thereunder because it provides for the equitable allocation of reasonable dues, fees, and other charges among NSCC's participants.

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

NSCC does not believe that the proposed rule change will impact or impose a 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 have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

#### 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) of Act<sup>8</sup> and pursuant to Rule 19b-4(f)(2)<sup>9</sup> promulgated thereunder because the proposal changes a due, fee, or other charge imposed by NSCC. At any time within sixty days of the filing of such 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 those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

in the Commission's Public Reference Room and through NSCC.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).