

the general limitations placed on netting members posting cash and letters of credit collateral for Category 1 IDBs should reduce the hardship of raising the clearing fund deposit requirement. However, because Category 2 IDBs represent a higher risk of loss for GSCC, they should be subject to the more stringent standards applied to non-Category 1 IDB netting members.

Category 1 IDBs are not required under GSCC's current rules to participate in the daily funds-only settlement process.<sup>10</sup> GSCC believes that requiring all IDBs to participate in the morning funds-only settlement process is necessary at this time because of the required pass-through of forward margin credits, which became effective with the 1995 implementation of the first phase of netting services for repurchase agreements ("repos").<sup>11</sup> If the forward margin debits are not submitted to GSCC in the morning funds-only settlement, GSCC will be unable to pass through the forward margin credits. Thus, all netting members must participate in the morning funds-only settlement process. This rule change should not result in any major changes for the IDBs, as the single Category 1 IDB and all Category 2 IDBs already participate in the funds-only settlement process as a matter of practice.

In addition, the proposed rule change will eliminate the exception in Section 3 of GSCC Rule 11 that permits IDBs to exclude trades from GSCC's netting system if the inclusion of such trade will result in the IDB having a net settlement position other than zero. GSCC Rule 11, Section 3 will continue to permit netting members to exclude repo transactions from the netting system in accordance with GSCC Rule 18.

GSCC believes the proposed rule changes are consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder, because they will result in a more fair and appropriate loss allocation methodology and a higher level of margin protection for GSCC and thereby will promote the safeguarding of securities and funds in GSCC's custody or control or for which GSCC is responsible.

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

GSCC does not believe that the proposed rule change will have an 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*

Comments on the proposed rule change have not yet been solicited or received. Members will be notified of the rule filing, and comments will be solicited by an important notice. GSCC will notify the Commission of any written comments received by GSCC.

#### *III. Date of Effectiveness of the Proposed Rule Change 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 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.

#### *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 in the Commission's Public Reference Section, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR-GSCC-96-07 and should be submitted by September 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

Margaret H. McFarland,

*Deputy Secretary.*

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[Release No. 34-37555; File Nos. SR-MCC-96-04; SR-MSTC-96-04]

#### **Self-Regulatory Organizations; Midwest Clearing Corporation; Midwest Securities Trust Company; Notice of Filing of Proposed Rule Changes Relating to Nominations for Board Membership, the Risk Assessment Committee, the Appeals Process, Audits and Financial Reports, and Temporary Sponsored Participants and Accounts**

August 9, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that the Midwest Clearing Corporation ("MCC") and Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") on June 26, 1996, the proposed rule changes as described in Items I and II below, which items have been prepared primarily by MCC and MSTC, respectively. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

#### **I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes**

MCC and MSTC respectively propose to (i) eliminate the sections of their by-laws that require the corporate secretary to mail copies of the list of nominees for the respective boards of directors to each participant of MSTC and MCC;<sup>2</sup> (ii) amend their respective rules to remove any reference to their risk assessment committees;<sup>3</sup> (iii) adjust some of the appeal time periods, the composition of the appeal panels, and eliminate a second level of internal appeals;<sup>4</sup> (iv) eliminate their respective

<sup>12</sup> 17 CFR 200.30-3(a)(12) (1995).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1995).

<sup>2</sup> MSTC proposes to amend Article III, Section 2 of its By-Laws and MCC proposes to amend Article 3, Section 3.2 of its By-Laws. The specific proposed amendments to MSTC's and MCC's respective rules are attached as exhibit A to MSTC's and MCC's respective proposed rule changes, which are available for inspection at the places specified in Item IV below.

<sup>3</sup> MSTC proposes to delete Article I, Rule 4 and to amend Article V, Rule 2. MCC proposes to delete Article I, Rule 4 and to amend Article VIII, Rule 2.

<sup>10</sup> Until recently, Tullett & Tokyo Securities was the only Category 1 IDB, and they participate in the morning funds-only settlement.

<sup>11</sup> Securities Exchange Act Release No. 36941 (November 17, 1995), 60 FR 61577 [SR-GSCC-95-02] (order approving a proposed rule change relating to the netting and risk management services for non-same-day-settling aspects of next-day and forward-settling repo transactions).

Risk Assessment Committees;<sup>5</sup> (v) delete their respective rules relating to audits and financial reports;<sup>6</sup> and (vi) delete their respective rules relating to Temporary Sponsored Accounts.<sup>7</sup>

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

In their filings with the Commission, MSTC and MCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. MSTC and MCC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>8</sup>

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

On December 26, 1995, MSTC and MCC filed proposed rule changes relating to MSTC's withdrawal from the securities depository business and MCC's withdrawal from the securities clearance and settlement business.<sup>9</sup> Subsequent to the Commission's approval of the filings, MSTC commenced an orderly wind-down of its operations and a transition of all of its participants, including Temporary Sponsored Participants, to other service providers, and MCC ceased operations for all of its participants except its Sponsored Participants.

Because MSTC no longer has any active participants, it is no longer appropriate to require MSTC to provide participants with information relating to the nomination and election of board members. Membership in the Chicago Stock Exchange ("CHX") is a

prerequisite to being accepted by MCC as a Sponsored Participant, and thus all of MCC's Sponsored Participants are CHX members. As CHX members, MCC's Sponsored Participants receive information relating to the nomination and election of the CHX board of governors pursuant to CHX rules. As a result, one purpose of the proposed rule changes is to amend MSTC's and MCC's By-Laws to eliminate the requirement that participants receive the list of nominations and to eliminate the provisions that give participants an opportunity to nominate additional persons.

Another purpose of the proposed rule changes is to delete the provisions relating to MSTC's and MCC's respective Risk Assessment Committees from their rules. Again, because of MSTC's withdrawal from the securities depository business and MCC's withdrawal from the securities clearance and settlement business, MSTC and MCC believe that it is no longer necessary to maintain a Risk Assessment Committee that serves as an appellate review board and independent consultant to management. Because of the elimination of the Risk Assessment Committees, the rule changes also propose to (i) eliminate the requirement that MSTC and MCC consult with the Risk Assessment Committee before ceasing to act for a participant, (ii) amend MSTC's rules and MCC's rules to allow their respective boards to appoint a panel of board members to hear appeals, and (iii) replace subsequent references to the Risk Assessment Committee with references to a panel of board members.

The proposed rule changes also amend MSTC's and MCC's appeal processes. These changes will conform MSTC's and MCC's appeal procedures to similar procedures currently used by the CHX for emergency suspensions. Because all MCC participants are also required to be CHX floor members, MCC desires to coordinate the CHX emergency suspension provision and the MCC ceasing to act provision. Specifically, the proposed rule changes will eliminate a second level of internal appeals and will adjust some of the time periods set forth in the rules.

An additional purpose of the proposed rule changes is to delete MSTC's rules and MCC's rules relating to audits and financial reports of MSTC and MCC. Because MSTC and MCC have withdrawn from the securities depository business, and the securities clearance and settlement business, MSTC and MCC believe that it is no longer necessary to produce independent financial statements or maintain internal accounting controls.

Currently, there are no internal operations at MSTC, and MCC no longer maintains independent positions of securities. MCC merely acts as a conduit for Sponsored Participants to enable them to hold their positions at NSCC. As a result, MCC believes that it is no longer necessary to produce independent financial statements or maintain internal accounting controls. However, MSTC's and MCC's financial statements will be reflected as part of the consolidated annual audited financials of their parent, the CHX.

Finally, the proposed rule changes will delete in their entirety MSTC's and MCC's rules relating to Temporary Sponsored Participants and Accounts. As a result of MCC's withdrawal from the Securities clearance and settlement business and MSTC's winding-down of business activities and transition of participants, including Temporary Sponsored Participants, to other service providers, it is no longer necessary to sponsor Temporary Sponsored Participants or maintain Temporary Sponsored Accounts.

MSTC and MCC believe that the proposed rule changes are consistent with Section 17A<sup>10</sup> of the Act because the proposed changes will facilitate the prompt and accurate clearance and settlement of securities transactions and are designed to assure the safeguarding of securities and funds which are in their control or for which they are responsible.

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

MSTC and MCC believe that the proposed rule changes will not impose a burden on competition.

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

MSTC and MCC have neither solicited nor receive any comments on the proposed rule changes.

## 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 MSTC and MCC consent, the Commission will:

(A) By order approve such proposed rule changes or

<sup>10</sup> 15 U.S.C. § 78q-1 (1988).

<sup>4</sup> MSTC proposes to amend Article VII, Rule 8, Section 3 and to delete Section 5, and MCC proposes to amend Article X, Rule 8, Section 3 and to delete Section 5.

<sup>5</sup> MSTC proposes to delete Article I, Rule 4, and MCC proposes to delete Article I, Rule 4.

<sup>6</sup> MSTC proposes to delete Article VII, Rule 5, and MCC proposes to delete Article X, Rule 5.

<sup>7</sup> MSTC proposes to delete Article VIII, Rules 1 through 5, and MCC proposes to amend Article XI, Rules 1, 2(a), 2(b), 2(c), 3(a), 3(b), 3(c), 5(d), 7(a) through 7(e), 7(g), 7(i), 10(a), 11(a), 11(d)(3) through 11(d)(6), 11(e) through 11(i), and delete Rules 5(c), 7(f), and 7(h).

<sup>8</sup> The Commission has modified the language in these sections.

<sup>9</sup> For a complete discussion of MCC's and MSTC's withdrawal from the clearing and depository businesses, refer to Securities Exchange Act Release No. 36684 (January 5, 1996), 61 FR 1195 (File Nos. SR-CHX-95-27, SR-DTC-95-22, SR-MCC-95-4, and SR-MSTC-95-10) (order approving MCC's and MSTC's withdrawal from the clearance and settlement and securities depository businesses).

(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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, 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 such filings will also be available for inspection and copying at the principal offices of MSTC and MCC. All submissions should refer to file numbers SR-MSTC-96-04 and SR-MCC-96-04 and should be submitted by September 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

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[Release No. 34-37561; File No. SR-NASD-96-14]

### **Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Requirement That Members Provide Information to Other Regulators for Regulatory Purposes**

August 13, 1996.

#### I. Introduction

On April 4, 1996, the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a

proposed rule change to amend NASD Rules 8210 and 8220.<sup>3</sup> The proposed rule change was published for comment in the Federal Register on May 6, 1996.<sup>4</sup> The Commission received two comment letters opposing the proposal.<sup>5</sup> The NASD submitted two letters supporting its proposal and responding to the Banc One Letter and the SCG Letter.<sup>6</sup>

#### II. Background

Currently, Rule 8210 of the NASD's Procedural Rules provides that the NASD's District Business Conduct Committees ("DBCC"), Board of Governors ("Board"), or any duly authorized members or agents of the Committees or Board may require members and associated persons to provide information, and may investigate a member's books and records, in connection with investigations or proceedings conducted by the NASD. The NASD periodically receives requests from other regulatory organizations with whom the NASD has entered into agreements to share regulatory information, including self-regulatory organizations ("SROs") who participate in the Intermarket Surveillance Group ("ISG"),<sup>7</sup> for

<sup>3</sup> On April 19, 1996, the NASD filed Amendment No. 1 to the proposed rule change. Letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Mark P. Barracca, Special Counsel, Division of Market Regulation, SEC, dated April 19, 1996.

<sup>4</sup> See Securities Exchange Act Release No. 37150 (Apr. 29, 1996), 61 FR 20299 (May 6, 1996) (notice of File No. SR-NASD-96-14).

<sup>5</sup> See Letter from Steven Alan Bennett, Senior Vice President and General Counsel, Banc One Corporation, to Jonathan G. Katz, Secretary, SEC, dated May 28, 1996 ("Banc One Letter"), and Letter from Joseph W. Mays, Jr., President, Securities Consulting Group, Inc. ("SCG") to Jonathan G. Katz, Secretary, SEC, dated June 27, 1996 ("SCG Letter").

<sup>6</sup> See Letter from John Ramsay, Deputy General Counsel, NASD Regulation, Inc. ("NASDR"), to Katherine England, Assistant Director, Division of Market Regulation, SEC, dated July 2, 1996, and Letter from John Ramsay, Deputy General Counsel, NASDR, to Katherine England, Assistant Director, Division of Market Regulation, SEC, dated July 19, 1996.

<sup>7</sup> The ISG is an organization of securities industry self-regulatory organizations ("ISG/SROs") formed in 1983 to coordinate and develop intermarket surveillance programs designed to identify and combat fraudulent and manipulative acts and practices. In order to promote its purposes, members agree to exchange such information as is necessary for ISG members to perform their self-regulatory and market surveillance functions. The NASD has been a member of the ISG since its formation.

The ISG's self-regulatory organization members (ISG/SROs) include all of the registered securities exchanges and associations: American Stock Exchange (AMEX), Boston Stock Exchange (BSE), Chicago Board Options Exchange (CBOE), Chicago Stock Exchange (CHX), Cincinnati Stock Exchange (CSE), National Association of Securities Dealers, Inc. (NASD), New York Stock Exchange (NYSE), Pacific Stock Exchange (PSE), and Philadelphia Stock Exchange (PHLX). In addition, other domestic

information from NASD members in connection with investigations being conducted by these regulators. Rule 8210, however, does not expressly permit the NASD to require members to provide information in connection with investigations being conducted by other regulatory organizations, or to bring disciplinary action against a member that refuses to cooperate.

#### III. Description of Proposal

The NASD proposes to amend NASD Rules 8210 and 8220. The NASD is proposing to amend Rule 8210 to require that members or persons associated with a member<sup>8</sup> provide information and access to their books, records, and accounts to any DBCC, the Market Surveillance Committee ("MSC"), or the Board, or any duly authorized members or agents of the Committees or Board for certain purposes. Specifically, the proposal would require the member or persons associated with a member to provide information to the above-mentioned Committees, Board, and members and agents thereof for the purpose of any investigation, or determination as to filing of a complaint or any hearing of any complaint against any member of the Association or any person associated with a member made or held by another domestic or foreign SRO, association, securities or contract market or regulator of these markets, with whom the Association has entered into an agreement providing for the exchange of information and other forms of material assistance for market surveillance, investigative, enforcement or other regulatory purposes. By amending Rule 8210, the NASD also will have a clear basis to discipline members and associated persons who fail to provide information to other domestic or foreign SROs, associations, securities or contract markets or regulators of such markets with whom the NASD has information sharing agreements. The NASD also proposes to amend Rule 8220 to authorize any Market Surveillance Committee to require any

contract markets and foreign SROs have been granted "affiliate" membership in the ISG: Alberta Stock Exchange (ASE), Amsterdam Stock Exchange (AMSE), Australian Stock Exchange (ASX), Chicago Board of Trade (CBOT), Chicago Mercantile Exchange (CME), London International Financial Futures and Options Exchange (LIFFE), London Stock Exchange (LSE), Montreal Exchange (ME), New York Futures Exchange (NYFE), Securities and Futures Authority (SFA), Toronto Stock Exchange (TSE), and the Vancouver Stock Exchange (VSE). ISG/SROs and ISG affiliates are referred to herein as "ISG participants."

<sup>8</sup> The term "persons associated with a member" includes persons no longer associated with a member when the persons are subject to the Association's jurisdiction to report information.

<sup>11</sup> 17 CFR 200.30-3(a)(12) (1995).

<sup>1</sup> 15 U.S.C. § 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.