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

On January 5, 1996, the Commission approved proposed rule changes filed by MCC, MSTC, and Chicago Stock Exchange, Incorporated (''CHX'') regarding a decision by MCC, MSTC, and CHX to terminate as of January 15, 1996, securities clearing, depository, and other services offered by CHX, MCC, MSTC, and the Securities Trust Company of New Jersey, a CHX subsidiary, in conjunction with an agreement with the National Securities Clearing Corporation and The Depository Trust Company.[4]

MCC and MSTC propose to issue an Administrative Bulletin listing the termination dates for various MCC and MSTC services.[5] The bulletin advises MCC and MSTC participants that they should have alternative clearing and/or depository arrangments in advance of MCC/MSTC's last service date and that participant action taken after the last day for the MCC/MSTC service will result in rejected and/or reclaimed instructions. In addition, the bulletin notes that MCC and MSTC will continue to perform limited security processing functions until all participant positions have been eliminated. Furthermore, the bulletin advises that MCC and MSTC recognize that certain firms may have a small number of safekeeping positions remaining at MSTC and that MCC/MSTC intend to work with each firm on a case-by-case basis to convert or exit the positions.

MCC and MSTC believe that the proposed rule changes are consistent with Section 17A of the Act and the rules and regulations thereunder because they will facilitate the prompt and accurate clearance and settlement of securities transactions.

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

MCC and MSTC do not believe the proposed rule changes will impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments on the proposals have not been solicited or received.

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

The foregoing rule changes have become effective pursuant to Section 19(b)(3)(A)(i)[6] of the Act and pursuant to Rule 19b–4(e)(1)[7] promulgated thereunder because each proposal constitutes a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of an existing rule of MCC and MSTC. At any time within sixty days of the filing of such rule changes, the Commission may summarily abrogate such rule changes 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 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. Copies of such filing also will be available for inspection and copying at the principal office of MCC. All submissions should refer to the file numbers SR–MCC–96–01 and SR–MSTC–96–01 and should be submitted by March 15, 1996.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–4125 Filed 2–22–96; 8:45 am]

BILLING CODE 8010–01–M

[4] Securities Exchange Act Release No. 36684 (January 5, 1996), 61 FR 1195, [File Nos. SR–MCC–95–04 and SR–MSTC–95–10] (order approving proposed rule changes).

[5] The Administrative Bulletin is attached as Exhibit A to MCC's and MSTC's respective proposed rule changes and is available in the Commission's Public Reference Room or through MCC or MSTC.

[6] 15 U.S.C. 78s(b)(3)(A)(i) (1988).

[7] 17 CFR 240.19b–4(e)(1) (1995).

[8] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–36857; File No. SR–MSRB–96–1]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rule G–37 on Political Contributions and Prohibitions on Municipal Securities Business

February 16, 1996.

On January 16, 1996,[1] the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder. 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 proposed rule change from interested persons.

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

The Board is filing herewith a notice of interpretation concerning rule G–37[2] on political contributions and prohibitions on municipal securities business (hereafter referred to as ''the proposed rule change'').[3] The Board has requested accelerated approval of the proposed rule change because the clarifications provided in the proposed rule change are needed to eliminate uncertainty over the specific application of rule G–37 to certain situations.

[1] On February 14, 1996, the MSRB filed Amendment No. 1 with the Commission. Amendment No. 1 withdraws question-and-answer number 3, as well as certain language in the filing pertaining thereto. *See* Letter from Jill C. Finder, Assistant General Counsel, MSRB, to Katherine A. England, Assistant Director, Division of Market Regulation, SEC (February 14, 1996) (''February 14 Letter'').

[2] *MSRB Manual.* General Rules, rule G–37 (CCH) ¶3681.

[3] The Board published the interpretation as originally submitted in the January 1996 MSRB Reports (Vol. 16, no. 1, pp. 31–34). The interpretation is also available for inspection and copying at the Commission's public reference room and at the Board.

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 III 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

On April 7, 1994, the Commission approved rule G–37, concerning political contributions and prohibitions on municipal securities business.[4] Since that time, the Board has received inquiries concerning the application of the rule. In order to assist the municipal securities industry and, in particular, brokers, dealers and municipal securities dealers in understanding and complying with the provisions of the rule, the Board has published five prior notices of interpretation which set forth, in question-and-answer (''Q&A'') format, general guidance on rule G–37.[5]

In July 1995, the Board published a Q&A notice in *MSRB Reports* which addressed the issue of when a municipal finance professional would be ''entitled to vote'' for an issuer official candidate, and, thus be able to make a *de minimis* contribution without causing a two-year ban on municipal securities business with that issuer.[6] The Board stated that a municipal finance professional is entitled to vote for an official of an issuer if the issuer official is on the ballot in the locality in which the municipal finance professional may vote. Since publication of this ''entitled to vote'' interpretation, the Board has received comments from dealers concerning the burden this interpretation has placed on their compliance departments. Upon further review, the Board has decided to withdraw this interpretation and to issue a new interpretation. Accordingly, a municipal finance professional is ''entitled to vote'' for an issuer official if the municipal finance professional's principal residence is in the locality in which the issuer official seeks election. In such instances, a municipal finance professional is able to make a *de minimis* contribution without resulting in a ban on municipal securities business. For example, if an issuer official is a governor running for re-election, then anyone residing in that state may make a *de minimis* contribution to the official without causing a ban on municipal securities business with that issuer. In the example of an issuer official running for President, anyone in the country may contribute the *de minimis* amount to the official's Presidential campaign. By focusing on the municipal finance professional's principal residence for determining permissible *de minimis* contributions, this interpretation should allow any interested municipal finance professional to participate in the political process where he or she lives without resulting in a ban on municipal securities business.

In prior filings with the Commission, the Board stated that it will continue to monitor the application of rule G–37, and, from time to time, will publish additional notices of interpretations, as necessary.[7] Recently, the Board has received several inquiries concerning the applicability of rule G–37 when a person makes a contribution to an issuer official on behalf of others. This situation includes, but is not limited to, the following examples:

1. A municipal finance professional signs a check drawn on a joint account and sends it as a contribution to an issuer official, along with a writing which states that the contribution is being made, in whole or in part, on behalf of the other holder of the joint account (who is not a municipal finance professional).

2. Both holders of a joint account, one of whom is a municipal finance professional, sign a check and send it as a contribution to an issuer official.

The Board is of the view that, in these and similar situations, if a municipal finance professional has his or her name associated with a contribution, then this creates, at the very least, the appearance that the contribution is being given by the municipal finance professional. Accordingly, the Board believes that, for purposes of rule G–37, it is appropriate to attribute such a contribution to the municipal finance professional. If the contribution exceeds, or does not qualify for, the $250 *de minimis* exception set forth in rule G–37(b), then the two-year ban on municipal securities business will be triggered.

In addition to questions concerning making contributions to issuer officials on behalf of other persons, the Board has received other questions and comments concerning (i) making contributions to a candidate who later loses the election; (ii) reporting requirements for holding companies; and (iii) making payments to a national political party for its non-federal account. In light of these questions, the Board has determined that it is necessary to provide further guidance to the municipal industry. Accordingly, the Board is publishing a sixth set of questions and answers.[8]

The Board believes the proposed rule change is consistent with section 15B(b)(2)(C) of the Securities Exchange Act of 1934 (''Act''), which provides that the Board's rules shall:

> Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

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

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, since it would apply equally to all brokers, dealers, and municipal securities dealers.

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

The Board did not publish or solicit comments on the proposed rule change. However, the Board has received five letters addressing some of the issues contained in the proposed rule change. Letters were received from the following:

Chemical Securities Inc. (''Chemical'')
J.C. Bradford & Co. (''JC Bradford'')
Morgan Keegan & Company, Inc. (''Morgan Keegan'')
Raymond James & Associates, Inc. (''Raymond James'')

[4] *See* Securities Exchange Act Release No. 33868 (April 7, 1994); 59 FR 17621 (April 13, 1994). The rule applies to contributions made on and after April 25, 1994.

[5] *See MSRB Reports,* Vol. 14, No. 3 (June 1994) at 11–16; Vol. 14, No. 4 (August 1994) at 27–31; Vol. 14, No. 5 (December 1994) at 8; Vol. 15, No. 1 (April 1995) at 21; and Vol. 15, No. 2 (July 1995) at 3–4. *See also MSRB Manual, supra* n.2, at ¶3681.

[6] *MSRB Reports,* Vol. 15, No. 2 (July 1995) at 3–4.

[7] *See, e.g.,* Securities Exchange Act Release No. 35879 (June 21, 1995), 60 FR 33447 (June 28, 1995) (Notice of Filing and Immediate Effectiveness of SR–MSRB–95–11).

[8] *See* February 14 Letter.

Wolf, Robert R. (''Mr. Wolf'')

As noted previously, in the Q&A notice published in July 1995, the Board provided clarification of its *de minimis* exception with regard to determining when a municipal finance professional is ''entitled to vote'' for an issuer official. In general, the Board stated that a municipal finance professional is entitled to vote for an issuer official (incumbent or candidate) after determining that the issuer official's name has been placed ''on the ballot'' for the primary or general election of the locality in which the municipal finance professional may vote. If the incumbent or candidate is not ''on the ballot,'' then any contribution given to that issuer official by a municipal finance professional would trigger the rule's two-year ban on municipal securities business.

All of the commentators expressed concern over this ''entitled to vote'' interpretation. In general, the commentators believe that it creates confusion and will make compliance with the rule more burdensome. Chemical notes that ''the process of running for office begins well in advance of a person actually having their name placed 'on the ballot' and that, under the Board's current interpretation, municipal finance professionals would be precluded from contributing 'early money' to campaign efforts.'' Chemical further notes that in some jurisdictions ''a candidate's name is not placed 'on the ballot' until very late in the election process—sometimes days before the election.'' Chemical argues that because the procedures for placing a candidate on the ballot vary from jurisdiction to jurisdiction, compliance with the ''on the ballot'' standard will not be uniform. Therefore, Chemical suggests that the appropriate standard should be ''whether the official is a candidate for an office for which the MFP is eligible to vote.''

JC Bradford also is concerned about the Board's ''entitled to vote'' interpretation, particularly as it applies to an issuer official's campaign for the U.S. Presidency. JC Bradford states that the interpretation ''has the practical effect of prohibiting any contribution from a municipal finance professional until such time as . . . [the issuer official] has qualified for the Presidential primary ballot in the state of residence of the municipal finance professional. At the moment . . . [the issuer official] qualifies for the ballot, a de minimis contribution, impermissible to that point, suddenly becomes permissible. . . . [This] is both arbitrary and capricious.''

Morgan Keegan and Raymond James both state that the interpretation has made their compliance efforts significantly more difficult. Mr. Wolf, a registered representative with Morgan Keegan, notes that because of the peculiarities of certain state laws vis-a-vis the Board's interpretation, he is effectively prohibited from making a *de minimis* contribution until after an election. Mr. Wolf argues that ''this cannot be the way the rule is intended to operate. . . .''

Board's Response

In light of the concerns expressed by these and other commentators, and upon further review, the Board has decided to withdraw its previous ''entitled to vote'' interpretation and to issue a new interpretation. Accordingly, a municipal finance professional is ''entitled to vote'' for an issuer official if the municipal finance professional's principal residence is in the locality in which the issuer official seeks election. In such instances, a municipal finance professional may make a *de minimis* contribution without triggering the ban on municipal securities business. For example, if an issuer official is a governor running for re-election, then anyone residing in that state may make a *de minimis* contribution to the official without causing a ban on municipal securities business with that issuer. In the example of an issuer official running for President, anyone in the country may contribute the *de minimis* amount to the official's Presidential campaign. The focus on the principal residence of municipal finance professionals for *de minimus* contributions should allow interested municipal finance professionals to participate in the political process where they live.

If the Board discovers that dealers or municipal finance professionals are soliciting municipal finance professionals to make *de minimis* contributions for Presidential elections, in contravention of rule G–37(c), then the Board may consider additional rulemaking in this area.

III. 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 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–96–1 and should be submitted by March 15, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Board has requested that the Commission find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the 30th day after publication in the Federal Register. The Commission has reviewed the MSRB's proposed rule change and believes, for the reasons set forth below, that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Board. Specifically, the Commission believes the proposal is consistent with Section 15B(b)(2)(C) of the Act,[9] which provides in pertinent part that, the rules of the Board shall be designed to remove impediments to and perfect the mechanism of a free and open market in municipal securities; and not be designed to permit unfair discrimination between customers, issuers, municipal securities brokers or municipal securities dealers.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the 30th day after publication in the Federal Register. The clarifications provided by the proposed rule change are needed to eliminate uncertainty over the specific application of rule G–37, particularly with respect to the previous interpretation of ''entitled to vote.'' These clarifications are intended to reduce compliance burdens and costs relating to the previous interpretation. The Commission believes that accelerated approval of the proposed rule change will help to clarify applicable guidelines for those who wish to participate in the political process through financial means. The issues addressed in the questions and answers will assist dealers in understanding the requirements of rule G–37, and will thereby facilitate compliance with the rule.

[9] 15 U.S.C. 78*o*–4.

Based on the foregoing, the Commission deems it appropriate to approve the proposed rule change on an accelerated basis, pursuant to Section 15B of the Act and the rules and regulations thereunder.[10]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change SR–MSRB–96–01 be, and hereby is, approved.

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. 96–4123 Filed 2–22–96; 8:45 am]

BILLING CODE 8010–01–M

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed amendments to sentencing guidelines and commentary. Request for public comment. Notice of hearing.

SUMMARY: The Commission is considering promulgating certain amendments to the sentencing guidelines and commentary. This notice sets forth the proposed amendments and a synopsis of the issues addressed by the amendments as well as additional issues for comment. The Commission seeks comment on the proposed amendments, alternative proposed amendments, and any other aspect of the sentencing guidelines, policy statements, and commentary. The Commission may submit amendments to the Congress not later than May 1, 1996.

DATES: The Commission has scheduled a public hearing on the proposed amendments set forth in this notice and on the money laundering proposals set forth in the notice dated January 2, 1996, (see 61 F.R. 79–83). Testimony at the public hearing shall be limited to only those amendments. The public hearing is scheduled for March 11, 1996, at 1:00 p.m. at the Education Center (concourse level), South Lobby, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, NE., Washington, DC 20002–8002.

A person who desires to testify at the public hearing should notify Michael Courlander, Public Information Specialist, at (202) 273–4590 not later than February 27, 1996.

Written testimony for the hearing should be received by the Commission not later than March 6, 1996. Comment on the amendments and issues set forth in this notice (relating to penalties for child pornography and sex crime offenses) also may be submitted after the public hearing, but not later than March 29, 1996, in order to be considered by the Commission in the promulgation of amendments and in the possible submission of those amendments to the Congress by May 1, 1996.

ADDRESSES: Public comment should be sent to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, Washington, DC 20002–8002, Attention: Public Information.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. § 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. § 994(o). If guideline amendments are promulgated, those amendments are submitted to Congress not later than the first day of May pursuant to 28 U.S.C. § 994(p).

The proposed amendments are presented in this notice in one of two formats. First, some of the amendments are proposed as specific revisions to a guideline or commentary. Bracketed text within a proposed amendment indicates alternative proposals; for example, a proposed enhancement of [3][4][5] levels means a proposed enhancement of either three, four, or five levels. The Commission invites comment and suggestions for appropriate policy choices where bracketed text is indicated. Second, the Commission has highlighted certain issues for comment and invites suggestions for specific amendment language.

As set forth more fully in its notice dated September 22, 1995, (see 60 FR 49316–17), the Commission currently is engaged in a comprehensive guideline assessment and simplification effort. This project is expected to be a two-year initiative that may produce amendments in the 1996–97 amendment cycle for submission to Congress not later than May 1, 1997. During this initial year of the project, the Commission generally plans to promulgate no guideline amendments, except as may be necessary to implement legislation enacted by Congress. The amendments presented in this notice are proposed in order to implement congressional directives in the Sex Crimes Against Children Prevention Act of 1995. (For additional amendments proposed in response to enacted legislation, see the notice dated January 2, 1996, 61 FR 79–83).

Authority. 28 U.S.C. § 994(a), (o), (p), (x).

Richard P. Conaboy,

Chairman.

Child Sex Offenses

Chapter Two, Part G (Offenses Involving Prostitution, Sexual Exploitation of Minors, and Obscenity)

1. Synopsis of Proposed Amendments: The Sex Crimes Against Children Prevention Act of 1995 contains several directives to the Commission to amend the current guidelines relating to the sexual exploitation of minors. The amendment set forth below implements sections 2 and 3 of the Act. Those sections direct the Commission to increase by at least two levels the base offense level in the current guidelines for offenses involving the sexual exploitation of minors under sections 2251 and 2252 of title 18, United States Code, and for offenses under sections 2251(c)(1)(A) and 2252(a) of such title if a computer was used to transmit certain notices or advertisements of visual depictions involving minors engaged in sexually explicit conduct or to transport or ship those visual depictions.

In addition to implementing the congressional directives, the amendment set forth below includes a proposal to clarify that if an adjustment under § 2G2.1(b)(2) applies because of the nature of the defendant's relationship with the minor involved in the offense, § 3B1.3 does not apply based on an abuse of a position of trust; § 3B1.3 may nevertheless apply based on the use of a special skill.

(A) Proposed Amendment: Section 2G2.1(a) is amended by striking ''25'' and inserting ''[27][28][29]''.

The Commentary to § 2G2.1 captioned ''Statutory Provisions'' is amended by striking ''§ 2251(a), (b), (c)(1)(B)'' and inserting ''§§ 2251(a), (b), (c)(1)(B), 2258(a), (b)''.

The Commentary to § 2G2.1 captioned ''Application Notes'' is amended in Note 3 by inserting ''based on an abuse of a position of trust'' after ''Use of Special Skill)''.

Section 2G2.2(a) is amended by striking ''15'' and inserting ''[17][18][19]''.

[10] *Id.*

[11] 15 U.S.C. 78s(b)(2).