

algorithm. In the June 1997 Extension Request, the Participants also request that the Commission grant an extension of the exemptive relief described above to the BSE for so long as the BSE is a Limited Participant under the Plan.

IV. Summary of Comments

In response to the Commission's request for comment on the aforementioned issues, the Board of Directors of The Nasdaq Stock Market, Inc. ("Nasdaq") approved two recommendations at its meeting on March 25, 1997 as set forth below.¹² These recommendations were subsequently ratified by the Board of Governors of the NASD at its meeting on April 10, 1997.¹³ With respect to the BBO calculation issue, the Nasdaq Board approved a recommendation to modify the methodology for calculating the BBO on Nasdaq to prioritize quotes based on a price/size/time algorithm instead of the current price/time/size algorithm, provided that Nasdaq market makers are subject to a minimum quote size requirement of 100 shares for at least 1,000 Nasdaq securities.¹⁴ With respect to the intermarket linkage issue, the Nasdaq Board approved a recommendation to provide specialists on an exchange trading Nasdaq securities on an UTP basis access to Nasdaq's Small Order Execution System ("SOES"), or its successor system, to the same extent that registered Nasdaq market makers have access to SOES, provided that (1) Nasdaq market makers are afforded virtually identical access to the automated execution system operated by such UTP exchange, and (2) the order execution algorithms of the exchange's automated execution system are virtually identical to SOES's or its successor system.¹⁵

The Commission continues to solicit comment on (1) whether the BBO calculation for securities traded pursuant to the Plan should be based on a price/time/size methodology or a price/size/time methodology; (2) whether there is a need for an intermarket linkage for order routing and execution; and (3) whether there is a need for a trade-through rule.¹⁶

V. Solicitation of Comment

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 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 Room. All submissions should refer to File No. S7-24-89 and should be submitted by July 29, 1997.

VI. Discussion

The Commission finds that an extension of temporary approval of the operation of the Plan, as amended, through December 31, 1997, is appropriate and in furtherance of Section 11A of the Act as it will provide the Participants with additional time to make reasonable proposals concerning the BBO calculation and whether there is a need for an intermarket linkage for order routing and execution and an accompanying trade through rule to facilitate the trading of OTC securities pursuant to UTP. While the Commission continues to solicit comment on these matters, the Commission believes that these matters should be addressed directly by the Participants on or before October 3, 1997 so that the Commission may have ample time to determine whether to approve the Plan on a permanent basis by December 31, 1997.

The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Ac1-2 under the Act

until the earlier of December 31, 1997 or until such time as the calculation methodology for the BBO is based on a price/size/time algorithm pursuant to the 1997 Extension Request or other mutual agreement among the Participants approved by the Commission. The Commission further finds that it is appropriate to extend the exemptive relief from Rule 11Aa3-1 under the Act, that requires transaction reporting plans to include market identifiers for transaction reports and last sale data, to the BSE through December 31, 1997. The Commission believes that the extensions of the exemptive relief provided to vendors and the BSE, respectively are consistent with the Act, the Rules thereunder, and specifically with the objectives set forth in Sections 12(f) and 11A of the Act and in Rules 11Aa3-1 and 11Aa3-2 thereunder.

VII. Conclusion

It is therefore ordered, pursuant to Sections 12(f) and 11A of the Act and (c)(2) of Rule 11Aa3-2 thereunder, that the Participants' request to extend the effectiveness of the Joint Transaction Reporting Plan, as amended, for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis through December 31, 1997, and certain exemptive relief until such time as the calculation method for the BBO is based on a price/size/time algorithm, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(29).

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38784; File No. 600-22]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Order Granting Approval of Extension of Temporary Registration as a Clearing Agency

June 27, 1997.

On February 28, 1997, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") an application pursuant to Section 19(a) ¹ of the Securities Exchange Act of 1934 ("Act") requesting that the Commission grant MBSCC permanent registration as

¹² See June 1997 Extension Request, *supra* note 2. See also March 1997 Extension Request, *supra* note 5.

¹³ See June 1997 Extension Request, *supra* note 2. See also March 1997 Extension Request, *supra* note 5.

¹⁴ See June 1997 Extension Request, *supra* note 2. In the event that Nasdaq develops the technological capability to afford market makers simultaneous electronic access to all market maker quotes at the same price level, the Nasdaq Board believes that the methodology used to determine the quoted size of the Nasdaq market must be reconsidered to accommodate reflection of the fully accessible size displayed on Nasdaq. *Id.*

NASD Rule 4613(a)(1)(C) allows market makers to reduce their minimum quotation size from 1000 to 100 shares in the first fifty Nasdaq securities subject to the Commission's Limit Order Display Rule. See Securities Exchange Act Release No. 38512 (April 15, 1997), 62 FR 38512 (April 21, 1997). The NASD has proposed that the Rule be expanded to apply to 100 additional Nasdaq securities. See Securities Exchange Act Release No. 38513 (April 15, 1997), 62 FR 19369 (April 21, 1997).

¹⁵ *Id.*

¹⁶ The Commission requests that all comments be submitted no later than October 3, 1997 so that the Commission may have adequate time to consider all comments prior to December 31, 1997, the date by which the Commission intends to determine whether to approve the Plan on a permanent basis.

¹ 15 U.S.C. 78s(a).

a clearing agency under Section 17A² of the Act. Because MBSCC's current temporary registration expires on June 30, 1997, the Commission is extending MBSCC's temporary registration as a clearing agency through March 31, 1998, while it completes its review of MBSCC's application for permanent registration. The Commission is publishing this notice and order to solicit comments from interested persons and to extend MBSCC's temporary registration as a clearing agency through March 31, 1998.

On February 2, 1987, the Commission granted MBSCC's application for registration as a clearing agency pursuant to Sections 17A(b)³ and 19(a)(1)⁴ of the Act and Rule 17ab2-1(c)⁵ thereunder for a period of eighteen months.⁶ Subsequently, the Commission has issued orders that extended MBSCC's temporary registration as a clearing agency. The last extension order extends MBSCC's temporary registration through June 30, 1997.⁷

As discussed in detail in the original order granting MBSCC's registration, one of the primary reasons for MBSCC's registration was to enable it to provide for the safe and efficient clearance and settlement of transactions in mortgage-backed securities. Since the original temporary registration order, MBSCC has implemented several improvements to its operating and financial standards and continues to work towards enhancing the safety and efficiency of its operations. For example, over the past year MBSCC has modified its rules to explicitly state that MBSCC has a lien on all property placed in its possession by its participants in order to ensure that MBSCC can cover a participant's unpaid obligations to MBSCC.⁸ In addition, MBSCC has established the Comparison Only System ("COS") which is a limited system that allows principals to compare trade data.⁹

MBSCC has functioned effectively as a registered clearing agency for over ten years. Accordingly, in light of MBSCC's

past performance and the need for continuity of the services MBSCC provides to its participants, the Commission believes that it is necessary and appropriate in the public interest and for the prompt and accurate clearance and settlement of securities transactions to extend MBSCC's temporary registration through March 31, 1998. During this temporary registration period, the Commission will continue its review of MBSCC's application for permanent registration. Any comments received during MBSCC's temporary registration will be considered in conjunction with the Commission's consideration of whether to grant MBSCC permanent registration as a clearing agency under Section 17A(b)¹⁰ of the Act.

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 submission, all subsequent amendments, all written statements with respect to the request for permanent registration as a clearing agency that are filed with the Commission, and all written communications relating to the extension 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, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. 600-22.

Conclusion

On the basis of the foregoing, the Commission finds that extending MBSCC's temporary registration as a clearing agency is consistent with the Act and in particular with Section 17A¹¹ of the Act.

It is therefore ordered, pursuant to Section 19(a) of the Act, that MBSCC's temporary registration as a clearing agency (File No. 600-22) be, and hereby is, extended through March 31, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38789; File No. SR-CBOE-97-26]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Listing of Regular and Long-Term Index Options and FLEX Options on the Dow Jones Industrial Average

June 30, 1997.

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 23, 1997, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") 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 by the self-regulatory organization. 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

CBOE hereby proposes to amend certain of its rules to provide for the listing and trading on the Exchange of options on the Dow Jones Industrial AverageTM ("DJIA" or "Index"), a broad-based index designed by Dow Jones & Company, Inc. ("Dow JonesTM").¹ Options on the DJIATM will be cash-settled and will have European-style exercise provisions. The Exchange also proposes to amend its rules to provide for the trading of Flexible Exchange Options ("FLEX Options") on the DJIA. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

¹ "Dow Jones," and "Dow Jones Industrial AverageTM" are trademarks of Dow Jones & Company, Inc. and have been licensed for use for certain purposes by CBOE. CBOE's options based on the Dow Jones Industrial Average are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such products.

² 15 U.S.C. 78q-1.

³ 15 U.S.C. 78q-1(b).

⁴ 15 U.S.C. 78s(a)(1).

⁵ 17 CFR 240.17ab2-1(c).

⁶ Securities Exchange Act Release No. 24046 (February 2, 1987), 52 FR 4218.

⁷ Securities Exchange Act Release Nos. 25957 (August 2, 1988), 53 FR 29537; 27079 (July 31, 1989), 54 FR 32412; 28492 (September 28, 1990), 55 FR 41148; 29751 (September 27, 1991), 56 FR 50602; 31750 (January 21, 1993), 58 FR 6424; 33348 (December 15, 1993), 58 FR 68183; 35132 (December 21, 1994), 59 FR 67743; and 37372 (June 26, 1996), 61 FR 35281.

⁸ Securities Exchange Act Release No. 38598 (May 9, 1997), 62 FR 27091 [File No. MBS-96-08].

⁹ Securities Exchange Act Release No. 38461 (April 1, 1997), 62 FR 16634 [File No. MBS-97-03].

¹⁰ 15 U.S.C. 78q-1(b).

¹¹ 15 U.S.C. 78q-1.

¹² 17 CFR 200.30-3(a)(50)(i).