

[Release No. 34-36540; File No. SR-MBS-95-09]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Requesting Permanent Approval of the Electronic Pool Notification Service

November 30, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 3, 1995, the MBS Clearing Corporation ("MBS") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-MBS-95-09) as described in Items I and II below, which Items have been prepared primarily by MBS. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

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

The proposed rule change requests permanent approval of the rules that set forth and establish the Electronic Pool Notification ("EPN") service. The Commission previously approved on a temporary basis through November 30, 1995, a proposed rule change that added Articles VI, VII, VIII, IX, and X to MBS's rules to establish the EPN service.²

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

In its filing with the Commission, MBS 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. Summaries of the most significant aspects of such statements are set forth in sections A, B, and C below.³

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

The purpose of the proposed rule change is to request permanent approval of the rules that set forth and establish

the EPN service. EPN was developed by MBS in response to a Public Securities Association ("PSA") initiative to automate the pool notification process with the ultimate goal of supplementing and/or replacing the manually intensive telephone and fax environment. EPN is an electronic, post-trade communication system for mortgage-backed securities.⁴ EPN provides an electronic communications network through which EPN users can quickly and efficiently transmit mortgage-backed securities pool allocation information regarding deliveries of securities for settlement. EPN was designed for use by organizations actively engaged in the allocation and notification process associated with mortgage-backed securities and derivative securities. EPN user firms may be acting as principal to the underlying trade activity or as agent on behalf of another EPN user in a fully disclosed capacity.⁵

An EPN message will be required to contain (1) the lot sequence of "good delivery millions" (i.e., the number of million dollar lots delivered in accordance with PSA guidelines), (2) a pool number that references a specific pool of mortgages, (3) the principal amount at date of issue, (4) the coupon rate, and (5) a termination code. In addition, an EPN message may contain, among other things, additional information such as the maturity date, CUSIP number, current outstanding principal amount, an MBS trade number, internal control number, and interest accrued.

MBS decided that a complete stand-alone set of rules for EPN was preferable to trying to integrate the EPN rules into existing MBS rules. As a result, many of the EPN rules mirror the language of existing MBS rules in order to make the provisions of those rules applicable to the EPN service. There has been an attempt to use the same terms and definitions that MBS uses in its current rules wherever possible. However, the EPN rules do differ from existing MBS rules in several respects. The EPN rules define new terms specifically related to EPN. Another change from existing MBS

rules concerns who can become an EPN user. Because EPN is essentially a sophisticated e-mail/database system that does not involve traditional clearance or settlement functions, the risk to MBS from defaulting EPN users is limited to nonpayment of fees. As a result, the standards for applicants to become EPN users are significantly less demanding than the standards for applicants that wish to become full participants of MBS. It is anticipated that some applicants that do not qualify as full participants of MBS will still qualify to become EPN users. The EPN rules also provide for an EPN user fund. The EPN user fund will be similar in purpose to the existing MBS participants fund, but because the risk to MBS is limited to nonpayment of fees, the EPN user fund will be smaller.

MBS believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act⁶ and the rules and regulations thereunder because it facilitates the prompt and accurate clearance and settlement of securities transactions.

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

MBS does not believe that the proposed rule change will have an impact or impose any burden on competition.

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

No written comments relating to the proposed rule change have been solicited or received. MBS will notify the Commission of any written comments received by MBS.

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

Section 17A(b)(3)(F) of the Act⁷ requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that MBS's proposal to establish the EPN service on a permanent basis is consistent with this obligation.

One reason the Commission previously approved the EPN service only on a temporary basis was EPN's lack of a disaster recovery program. During the temporary approval period, MBS established and thoroughly tested the EPN service's disaster recovery program. Because the EPN disaster

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Securities Exchange Act Release No. 35009 (November 25, 1994), 59 FR 61913 [File No. SR-MBS-94-02] (order temporarily approving proposed rule change).

³ The Commission has modified the text of the summaries prepared by MBS.

⁴ The number of securities eligible for the EPN service will be greater than those eligible for the comparison and clearing service at MBS. All mortgage-backed securities eligible for comparison and clearing at MBS will be eligible for the EPN service. In addition, securities which are not eligible for comparison and clearing because of lack of volume or inability to be valued will be eligible for the EPN service.

⁵ MBS commenced the EPN service on a pilot basis in February 1995. During September 1995, EPN users processed 6,936 messages comprised of 56,224 pools with a current face value of approximately \$58 billion. Currently there are fourteen EPN users.

⁶ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

⁷ 15 U.S.C. 78q-1(b)(3)(F) (1988).