

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

GSCC's loss allocation process is designed to provide members with incentives to assess the creditworthiness of their counterparties. Thus, to the extent that GSCC, using its own capital, does not absorb the loss that results from a member default, it allocates the loss among members pro rata based on the extent of their recent activity with the defaulting member. In order to determine which members will be subject to loss allocation, GSCC will look at trading activity that entered GSCC's netting system during as many days as is necessary to reach a level of activity that is equal to or greater than five times the dollar value of the liquidated positions.

Over the years, a number of members and prospective members have raised an issue regarding the application of the loss allocation process for losses arising from blind brokered transactions. Their concern is that members that are not interdealer brokers neither have knowledge nor have control over whether they may be matched against any other member. Thus, they have no ability to limit the amount of trading that they do on a blind basis against a member on which they would otherwise place trading limits for credit or other reasons. The concern by a dealer firm over the inability to exercise control from a credit perspective over its trading activity with particular counterparties has been heightened with last year's introduction of blind brokering activity involving repurchase agreement transactions.

GSCC believes that while the possibility of a loss allocation occurring is de minimis the concern over bearing a disproportionate amount of loss is a legitimate one that needs to be addressed. Among other methods, GSCC considered simply mutualizing among all netting members, either in an equal or pro rata manner, any loss allocation arising from blind brokered activity. The disadvantage of this approach is that it removes any incentive for a member to assess the creditworthiness of one's counterparties. GSCC believes that the loss allocation process should continue to function in a manner that preserves to some extent this incentive.

In order to balance these considerations, GSCC is seeking authority to cap at a preset level the degree to which any netting member that is not an interdealer broker is liable for loss allocation arising from blind

brokered activity.³ The proposed cap per loss event will be equal to the lesser of \$5 million or five percent of the total loss amount arising from blind brokered activity that is allocated to members that are not interdealer brokers as a group. To the extent that this cap is applicable, any amounts not collected from individual netting members will be reallocated to the entire netting membership pro rata based on each member's average daily clearing fund deposit requirement over the twelve month period prior to the insolvency.

GSCC believes that the \$5 million cap will provide to all members the same level of protection that interdealer broker members currently have for blind brokered activity. GSCC also states that because dealer members do not control the degree to which they may be matched by interdealer brokers against other members, the number of trades that they engage in with an insolvent member is outside of their control. The 5% limit is intended to compensate for this lack of control by ensuring that no single member will be liable for an amount of loss for blind brokered activity that is significantly greater than the amount of loss allocated to other dealer members.

GSCC believes the proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder because the rule proposal will promote the prompt and accurate clearance and settlement of securities transactions and will assure the safeguarding of securities and funds in the custody or control of GSCC 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

No written comments have been solicited or received. 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**

³ Interdealer broker netting members already have a \$5 million cap per loss event on their liability for loss allocation.

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 GSCC 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, 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 GSCC. All submission should refer to the file number SR-GSCC-97-05 and should be submitted by October 10, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39054; File No. SR-GSCC-97-04]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Implementation of a Fine Schedule

September 11, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

⁴ 17 CFR 200.30-3(a)(12).

("Act"),¹ notice is hereby given that on May 21, 1997, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-GSCC-97-04) as described in Items I, II, and III below, which items have been prepared primarily by GSCC. 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 will implement a fine schedule in order to ensure compliance by members with deadlines for payment of funds settlement debts and satisfaction of clearing fund deposit deficiency calls. The fine schedule is attached as Exhibit 1 to this notice.

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

In its filing with the Commission, GSCC included statements concerning the purpose of the 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. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.²

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

GSCC believes that the most critical elements of its risk management process are the timely collections of mark-to-market and clearing fund margin amounts. Therefore, it is essential for GSCC to ensure the compliance by netting members with GSCC's deadlines for payment of funds settlement debts and satisfaction of clearing fund deposit deficiency calls. Failures to meet these deadlines result in increased exposure as well as potentially higher costs to GSCC and its members.

Currently, members must pay funds-only settlement obligations via GSCC's designated depository institution in Fed funds by 10:00 a.m. In addition, members must satisfy clearing fund deficiencies within two hours after notification from GSCC. Typically,

GSCC telephones its members by 8:30 a.m. to notify members of a call for an additional clearing fund deposit. The telephone call is followed up by telefax. The exact time that the telephone call is made is recorded and becomes the formal time that the call is made. Therefore, the usual deadline for satisfaction of a clearing fund deficiency is around 10:30 a.m.³

In order to promote greater compliance with GSCC's funds debit and deficiency call deadlines, the proposed rule change will implement a fine schedule.⁴ According to GSCC, the fine schedule will enable it to assess predetermined monetary penalties against members who fail to meet their financial responsibilities on a timely basis. The severity of any fine will be a function of the magnitude and recent history of the subject member's late payments. In addition, the proposed rule change will eliminate the current limitation of \$5,000 on the maximum size of any single fine GSCC may impose.

GSCC proposes to implement the fine schedule as it relates to late payment of a funds-only settlement obligation concurrently with the establishment of an "autodebit" arrangement, which will be the subject of a future rule filing. The autodebit arrangement involves an agreement between GSCC and participating banks that allows GSCC to use the banks to effect timely cash payments between it and participating netting members in settlement of their morning funds-only settlement obligations with GSCC. GSCC believes that this arrangement will bring more certainty and will increase the timeliness of payment of funds-only settlement obligations with GSCC. Netting members that participate appropriately in the autodebit process will not be subject to fines for late payment of funds settlement obligations.

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act⁵ and the rules and regulations thereunder because it will assure the safeguarding of securities and funds

which are in the custody or control of GSCC or for which it 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

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the filing of the proposed rule change 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 GSCC 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 submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of this submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications 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 GSCC. All submissions should refer to the file number SR-GSCC-97-04 and should be submitted by October 10, 1997.

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by GSCC.

³ Recently, GSCC released a White Paper to its members and other interested parties that discussed various initiatives GSCC plans to implement in the coming years. Among other things, GSCC outlined future plans to enhance its risk management process by conducting a second afternoon funds-only settlement and by calculating and collecting clearing fund margin more dynamically.

⁴ A copy of GSCC's fine schedule is attached as Exhibit A to the proposed rule change, which is available for inspection and copying at the Commission's Public Reference Room or through GSCC.

⁵ U.S.C. 78q-1(b)(3)(F).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

Exhibit 1—GSCC Fine Schedule

LATE PAYMENT OF FUNDS SETTLEMENT DEBIT/LATE SATISFACTION OF CLEARING FUND DEFICIENCY CALL

| Amount | First occasion | Second occasion | Third occasion | Any lateness more than 1 hour or fourth occasion |
|-------------------------------------|----------------|-----------------|----------------|--|
| \$1 to \$100M | (1) | \$100 | \$200 | \$500 |
| Greater than \$100M to \$1MM | (1) | 300 | 600 | 1,000 |
| Greater than \$100MM to \$2MM | (1) | 600 | 1,200 | 2,000 |
| Greater than \$2MM | \$250 | 1,000 | 2,000 | 3,000 |

Notes

(1) A warning letter is sent to senior officials of the offender describing the nature of the violation and the consequences of successive violations.

(2) Each instance of late payment of a funds settlement debit or late satisfaction of a Clearing fund deficiency call is deemed to be a separate occasion. Such instances are combined, regardless of type, to determine the number of occasions.

(3) The number of occasions is determined over a moving 30 calendar-day period beginning with date of the first occasion.

(4) A specific determination will be made by the Membership & Standards Committee of the Board of Directors when the number of occasions exceeds four, or when the number of occasions of lateness of more than an hour exceeds two.

(5) The Membership & Standards Committee reserves the discretion to waive or reduce scheduled fines when a particular occasion is not deemed to be the fault of the affected member.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39060; File No. SR-GSCC-97-03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Eligibility of Forward-Starting Repos for Netting and Guaranteed Settlement Prior to Their Scheduled Start Date

September 11, 1997.

On May 8, 1997, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") and on June 13, 1997, amended a proposed rule change (File No. SR-GSCC-97-03) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on July 30, 1997.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change amends several of GSCC's rules to make transactions in forward-starting repurchase agreements ("repos") eligible for netting and guaranteed settlement before they reach their scheduled start date.³ Previously, forward-starting repos were not eligible for netting and guaranteed settlement until they reach their scheduled settlement date.

Since November 1995, GSCC has provided netting services for repo transactions.⁴ After GSCC nets repo transactions, it interposes itself between the submitting participants for transaction settlement purposes as it does for cash transactions. In doing so, GSCC guarantees settlement of all repos that enter its netting system. GSCC's guarantee for netted repos includes guaranteeing the return of repo

collateral to repo participants, the return of principal (*i.e.*, repo start amount) to reverse participants, and the payment of repo interest to the full term of the repo to reverse participants.

Forward-starting repos generally are either: (1) "specific collateral" repos for which the underlying CUSIP is known from the date of execution of the repo, or (2) "general collateral" repos for which the specific security and par amount that will be transferred from the repo participant to the reverse participant on the start date are not known at the time of execution. Repo participants submitting to GSCC data on general collateral repo transactions will use one of the seventeen generic CUSIP numbers established by the CUSIP service bureau for identifying collateral. These CUSIP numbers identify the type of Government security (*e.g.*, bill, bond, or note) and indicate the remaining length to maturity for the issue. In addition, the par amount of the underlying collateral is no longer an item that must be included when the repo is submitted to GSCC. This will allow GSCC to match submitted trades in general collateral forward-starting repos upon their submission to GSCC without inclusion of the par amount. The parties to a general collateral forward-starting repo have the obligation to inform GSCC when the specific CUSIPs and associated par values that will be used for settlement purposes are determined. The notification must be made to GSCC no later than by the close of business on the business day prior to the date on which the repo is scheduled to start.⁵

Until a forward-starting repo actually starts, the forward margin and clearing fund requirements applied to it will differ from those applied to all other repos. With regard to forward margin, because a forward-starting repo that has not yet started presents only interest rate exposure and not exposure to movements in the value of the underlying collateral, only an interest

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 38871 (July 24, 1997), 62 FR 40877.

³ Forward-starting repo transactions are repo transactions that have start legs settling one or more business days in the future.

⁴ Each business day, all eligible repo transactions are netted with regular cash activity and Treasury auction purchases in the same CUSIP to establish a single net position in the security for each netting member participating in the repo netting process. For netting purposes, the settlements associated with repo close legs and reverse start legs are treated as long positions. The settlements associated with repo start legs and reverse close legs are treated as short positions. The difference between a participant's total short activity and its total long activity within a CUSIP is the participant's net position in the CUSIP.

⁵ The notification must be made by submitting an "intent to substitute" notification that provides specific collateral details to GSCC using an on-line function (*i.e.*, a screen input facility) provided by GSCC. If one of the members that has submitted the data on the repo is a broker, GSCC will accept the "intent to substitute" notification solely from that broker without the need for a matching notification from the dealer counterparty. If neither of the members that submitted the data on the repo are brokers, GSCC will accept the "intent to substitute" notification from the member in the short or delivering position without the need for a matching notification from the dealer counterparty. However, GSCC will attempt to verify manually with the other member the accuracy of the details of the notification from the member with the short position.

⁶ 17 CFR 200.30-3(a)(12).