

Thursday, February 1, 2001

9:30 a.m.—Briefing on Status of OCFO Programs, Performance and Plans (Public Meeting) (Contact: Lars Solander, 301-415-6080)

This meeting will be webcast live at the Web address—[www.nrc.gov/live.html](http://www.nrc.gov/live.html)

*Week of February 5, 2001—Tentative*

Monday, February 5, 2001

1:55 p.m.—Affirmation Session (Public Meeting) (If needed)

*Week of February 12, 2001—Tentative*

Wednesday, February 14, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (If needed)

*Week of February 19, 2001—Tentative*

Tuesday, February 20, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (If needed)

10:30 a.m.—Briefing on Spent Fuel Pool Accident Risk at Decommissioning Plants and Rulemaking Initiatives (Public Meeting) (Contact: George Hubbard, 301-415-2870)

This meeting will be webcast live at the Web address—[www.nrc.gov/live.html](http://www.nrc.gov/live.html)

*Week of February 26, 2001—Tentative*

Monday, February 26, 2001

2:00 p.m.—Meeting with the National Association of Regulatory Utility Commissioners (NARUC) (Public Meeting) (Contact: Spiros Droggitis, 301-415-2367)

This meeting will be webcast live at the Web address—[www.nrc.gov/live.html](http://www.nrc.gov/live.html)

Tuesday, February 27, 2001

10:25 a.m.—Affirmation Session (Public Meeting) (If needed)

10:30 a.m.—Briefing on Threat Environment Assessment (Closed-Ex. 1)

*Week of March 5, 2001—Tentative*

There are no meetings scheduled for the Week of March 5, 2001.

\*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: David Louis Gamberoni (301) 415-1651.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like

to be added to it, please contact the Office of the Secretary, Washington, D.C. 20555 (301-415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: January 25, 2001.

**David Louis Gamberoni,**  
*Technical Coordinator, Office of the Secretary.*

[FR Doc. 01-2630 Filed 1-26-01; 10:16 am]

**BILLING CODE 7590-01-M**

## UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

### Sunshine Act Meeting

**TIME AND DATES:** 10:30 a.m., Monday, February 5, 2001; 8:30 a.m., Tuesday, February 6, 2001.

**PLACE:** San Antonio, Texas, at the Plaza San Antonio Marriott Hotel, 555 South Alamo Street, in Hidalgo Ballroom C.

**STATUS:** February 5 (Closed); February 6 (Open).

#### MATTERS TO BE CONSIDERED:

*Monday, February 5—10:30 a.m. (Closed)*

1. Financial Performance.
2. Fiscal Year 2001 Integrated Financial Plan.
3. Preliminary Annual Performance Plan Targets FY 2002.
4. Workforce Planning and Development.
5. Rate and Classification Matters.
6. Compensation Issues.
7. Personnel Matters.

*Tuesday, February 6—8:30 a.m. (Open)*

1. Minutes of the Previous Meeting, January 8–10, 2001.
2. Remarks of the Postmaster General and CEO.
3. Appointment of Members to Board Committees.
4. Fiscal Year 2000 Comprehensive Statement on Postal Operations.
5. Fiscal Year 2001 Operating Budget.
6. Capital Investment Plan.
7. Fiscal Year 2001 Financing Plan.
8. Quarterly Report on Service Performance.
9. Capital Investment.
  - a. Los Angeles, California, Mar Vista Station.
10. Report on the Southwest Area and Rio Grande District.
11. Tentative Agenda for the March 5–7, 2001, meeting in Washington, DC.

**CONTACT PERSON FOR MORE INFORMATION:** David G. Hunter, Secretary of the Board,

U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260-1000. Telephone (202) 268-4800.

**William T. Johnstone,**

*Deputy Secretary.*

[FR Doc. 01-2675 Filed 1-26-01; 1:48 pm]

**BILLING CODE 7710-12-M**

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-24834; 812-11900]

### Goldman Sachs Trust, et al.; Notice of Application

January 23, 2001.

**AGENCY:** Securities and Exchange Commission (“Commission” or “SEC”).

**ACTION:** Notice of application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the “Act”) for an exemption from section 17(a) of the Act.

**SUMMARY OF APPLICATION:** Applicants request an order that would permit certain money market funds to engage in principal transactions in tax-exempt money market instruments with an affiliated dealer.

**APPLICANTS:** Goldman Sachs Trust (the “Trust”), Goldman, Sachs & Co., Goldman Sachs Funds Management, L.P. (“GSFM”), and Goldman Sachs Asset Management International (“GSAMI”).

**FILING DATES:** The application was filed on December 21, 1999 and amended on May 24, 2000, September 1, 2000 and November 14, 2000. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 20, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Person may request notification of a hearing by writing to the SEC’s Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549-0609.

**APPLICANTS:** The Trust, 4900 Sears Tower, Chicago, Illinois 60606-6303; Goldman, Sachs & Co., 85 Broad St., New York, NY 10004; GSFM, 32 Old Slip, New York, NY 10005; GSAMI, Procession House, 55 Ludgate Hill, London EC4A 3AM7JW, England.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Mann, Senior Counsel, at (202) 942-0582, or Mary Kay Frech, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549-0102 (telephone (202) 942-8090).

### Applicants' Representations

1. Goldman, Sachs & Co. is a New York limited partnership registered as a broker-dealer under the Securities Exchange Act of 1934 (the "1934 Act"), and as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act").<sup>1</sup> GSFM is a Delaware limited partnership registered as an investment adviser under the Advisers Act and GSAMI is a United Kingdom corporation registered as an investment adviser under the Advisers Act. Goldman, Sachs & Co., in its capacity as a dealer in securities and financial instruments, is referred to as "Goldman Sachs" or the "Dealer." Goldman, Sachs & Co., acting through a business unit of its Investment Management Division (Goldman Sachs Asset Management ("GSAM")), GSFM and GSAMI are individually referred to as an "Adviser" and collectively as the "Advisers."<sup>2</sup>

2. The Trust is a Delaware business trust and is registered under the Act as an open-end management investment company. For purposes of the application, a "Money Market Series" is a separate series of the Trust that is a money market fund (as that term is defined in rule 2a-7(b) under the Act) that is permitted to invest in Municipal Instruments. "Municipal Instruments" are short-term tax-exempt money market

securities, including tax-exempt securities that qualify for purchase by a money market fund under rule 2a-7 due to the existence of a floating rate of interest or a demand feature. The requested relief would permit each existing or future Money Market Series of the Trust,<sup>3</sup> and other registered investment company or separate series thereof that is a money market fund for which any one of the Advisers may, in the future, serve as investment adviser or subadviser (the "Future Funds," and collectively with the Money Market Series of the Trust, the "Funds") to engage in purchases and sales of Municipal Instruments with Goldman Sachs.<sup>4</sup>

3. The investment objective of each Money Market Series is a maximize current income, to the extent consistent with the preservation of capital and the maintenance of liquidity. The Tax-Free Money Market Fund, Tax-Exempt Diversified Portfolio, Tax-Exempt California Portfolio and Tax-Exempt New York Portfolio seek income excluded from gross income for federal income tax purposes, and in the case of the Tax-Exempt California Portfolio and Tax-Exempt California Portfolio and Tax-Exempt New York Portfolio, exempt from California State and New York State and City personal income taxes, respectively.

4. Each Fund values its portfolio by using the amortized cost method of valuation in reliance on rule 2a-7 under the Act. Each of the existing Funds has an investment advisory agreement with Goldman, Sachs & Co., pursuant to which Goldman, Sachs & Co. provides investment advisory and management services through its operating division GSAM, and a distribution agreement with Goldman, Sachs & Co., pursuant to

which Goldman, Sachs & Co. serves as distributor for shares of the Funds.

Currently, neither GSFM nor GSAMI acts as investment adviser to a Fund.<sup>5</sup>

5. Goldman, Sachs & Co., GSFM and GSAMI are directly or indirectly partnership or corporate subsidiaries of The Goldman Sachs Group, Inc. ("GS Group"), a Delaware corporation. GS Group is the general partner and a limited partner of Goldman, Sachs & Co. The other general partner of Goldman, Sachs & Co., Goldman, Sachs & Co. L.L.C., is a limited liability company whose membership interests are held solely by GS Group. GSFM is a Delaware limited partnership of which the general partner is a corporation wholly-owned directly by GS Group and the sole limited partner is GS Group. GSAMI is an English company wholly-owned indirectly by GS Group. The Advisers maintain offices that are physically separate from those of the Dealer.

6. The investment advisory operations for the Funds are handled by a group currently consisting of 12 persons (the "Money market Trading Desk") within GSAM. The personnel assigned to the Money Market Trading Desk are exclusively devoted to the business and affairs of GSAM. Subject to the supervision of the Board of Trustees (the "Trustees") of the Funds, the executive management of GSAM, the Investment Policy Committee (discussed below) and the Credit Department (discussed below), all portfolio selection and trading decisions made for the Funds are made by personnel assigned to the Money Market Trading Desk. All portfolio managers responsible for the Funds are assigned to the Money Market Trading Desk.

7. Personnel on the Money Market Trading Desk are not responsible for the marketing or sale of Fund shares or other Goldman, Sachs & Co. products, although from time to time they participate in meetings with significant potential clients and may provide other client services. Because of their expertise in and knowledge of the markets for short-term money market instruments, other Goldman, Sachs & Co. personnel, may, from time to time, solicit their views on the viability (from the portfolio management perspective) of proposals for pooled investment vehicles involving such markets or instruments. Finally, Money Market Trading Desk personnel, who are generally familiar with instruments structured to satisfy various provisions

<sup>1</sup> The relief would also apply to any successors to all or substantially all of the business, assets or property of Goldman, Sachs & Co. Any such succession shall be solely by way of change of organization, such as incorporation, reincorporation or reorganization as a public company, partnership, limited liability company or business trust, whether publicly traded or privately held.

<sup>2</sup> As used in the application, the term "Advisers" also includes any other division of, or other person controlled by, controlling or under common control with, Goldman, Sachs & Co. that is engaged in providing advisory services, now or in the future, to the Trust or to any other Fund, as defined below, subject to the terms and conditions of the order.

<sup>3</sup> Currently, the Money Market Series of the Trust are the Prime Obligations Portfolio, Money Market Portfolio, Tax-Exempt Diversified Portfolio, Tax-Exempt California Portfolio and Tax-Exempt New York Portfolio (the "ILA Funds"), which are five of the Goldman Sachs-Institutional Liquid Assets Portfolios ("ILA") and Prime Obligations Fund, Money Market Fund and Tax-Free Money Market Fund (the "FST Funds"), which are three of the Financial Square Funds ("FTS").

The Prime Obligations Portfolio, Money Market Portfolio, Prime Obligations Fund and Money Market Fund are taxable money market funds. In 1994 a Commission order was issued permitting these Funds to engage in principal transaction in taxable money market instruments with Goldman Sachs. Institutional Liquid Assets, Investment Company Act Release Nos. 20653 (Oct. 25, 1994) (notice) and 20733 (Nov. 23, 1994) (order). While none of these Funds currently invests in Municipal Instruments, each has the investment flexibility to do so under its investment objectives and policies.

<sup>4</sup> All registered investment companies that currently intend to rely on the order are named as applicants. Any of the Future Funds that rely on the order will comply with the terms and conditions of the order.

<sup>5</sup> GSFM and GSAMI are included as applicants because either or both may act in the future as investment adviser to a Fund.

of rule 2a-7, may also be solicited from time to time by various dealers, including Goldman Sachs, for their views on the structure of new instruments designed to be eligible under rule 2a-7.

8. Credit analysis for the Money Market Trading Desk, Goldman, Sachs & Co. and other affiliates of GS Group is performed by the Credit Department. The Credit Department is a central department of Goldman, Sachs & Co. which analyzes securities credit, counterparty risk, customer credit and related issues. The Credit Department maintains a list of eligible instruments which is used by the Money Market Trading Desk for portfolio management. The Money Market Trading Desk is not authorized to purchase instruments that are not on this list.

9. In general, the Money Market Trading Desk develops and implements portfolio investment strategies within a preselected average maturity range. The average maturity range is selected in weekly meetings of the Investment Policy Committee (the "Committee"). The Committee determines the target average maturity range based on (1) fundamental economic analysis and technical market data; (2) anticipated trends in monetary and fiscal policy; and (3) anticipated customer activity. In connection with (1) and (2), personnel of the Money Market Trading Desk solicit views of dealers, including Goldman Sachs, on economic and market developments. For example, such personnel routinely canvas dealers, including Goldman Sachs, to determine the "market" consensus regarding pending economic data releases, anticipated changes in Federal Reserve policy, and the forecast for gross supply of money market securities available for investment.<sup>6</sup>

10. The Committee is not involved in review or approval of specific securities to be purchased, the terms of any transactions or the types of securities in which the Funds may invest. The Committee is currently composed of 10 GSAM employees (including personnel of the Money Market Trading Desk, but no other portfolio management personnel) and one employee from the Investment Research Division of Goldman, Sachs & Co. The Goldman, Sachs & Co. employee's input into the process is limited to participation in the Committee's deliberations on economic policy outlook, as it pertains to the very narrow issues for which the Committee

is responsible. Security and sector selection remain the exclusive responsibility of the portfolio managers, subject of the Funds' prospectus and credit guidelines, and are entirely outside the Committee process. The Committee's decisions on average maturity ranges are made by consensus, and no member has a veto over the decisions made by the Committee. Once a decision is made, the Money Market Trading Desk implements the decision, managing each Fund's average maturity range until the Committee's decision is modified at a subsequent meeting of the Committee.

11. Neither GSFM nor GSAMI currently manages any U.S. registered money market funds. As a result, neither has established a unit corresponding to the Money Market Trading Desk or to the Committee. It has not been determined whether, if GSFM or GSAMI were to manage a Fund, either would establish such a unit, or alternatively whether GSFM and/or GSAMI would rely in whole or in part on GSAM's Money Market Trading Desk and Committee. In any event, any counterpart of the Money Market Trading Desk or the Committee established by either GSFM or GSAMI would conform in all material respects to the description set forth in the application and would comply with all of the conditions to the order.

12. Applicants state that the operators of the Advisers, on the one hand, and those of the Dealer, on the other hand, are independent of each other. Condition 6 below describes certain elements of this independence and is designed to ensure that the Advisers and the Dealer continue to operate independently.

13. Municipal Instruments are commonly referred to as "tax-exempt money market instruments" and are traded in the "tax-exempt money market." Applicants state that the tax-exempt money market is generally characterized by: (a) Obligors or guarantors having high credit ratings and, accordingly, relatively low risk of principal losses due to credit events; (b) trading in over-the-counter markets, consisting of dealer firms that are primarily major securities firms or large banks; (c) trading costs to the portfolio primarily consisting of dealer or underwriter spreads, typically not greater than 12.5 basis points (0.125%), but subject to variations based on the type of instrument or the occurrence of turbulent market conditions; (d) an elaborate telephone communication network to match buyers with sellers, which generally precludes being able to obtain a single market price for a given

instrument at any given time; and (e) varying price, volatility, liquidity and availability for each type of instrument within the market.

14. Applicants state that recent growth in tax-exempt money market fund assets and withdrawals by several major dealers from making markets in Municipal Instruments have contributed to the limited availability of Municipal Instruments to money market funds that are authorized to purchase Municipal Instruments. Applicants assert that, over the past ten years, the growth in money market funds that purchase Municipal Instruments has substantially outpaced the growth in Municipal Instruments.

15. Applicants state that Goldman Sachs has remained committed to the tax-exempt market, and has moved to fill the void left by departing dealers. As the number of dealers with which the Funds can transact business has decreased, it has become even more important for the Funds to have meaningful access to all of the major dealers in Municipal Instruments in order to diversify each Fund's portfolio, to maintain portfolio liquidity, and to increase opportunities for obtaining best price and execution with respect to portfolio trades.

16. Applicants state that, for the most part, Municipal Instruments consist of conventional municipal notes ("conventional notes"), tax-exempt commercial paper, variable rate demand notes, put bonds and flexible notes. Applicants state that there is no comprehensive information published as to the dollar amount and volume of secondary market transactions executed in Municipal Instruments. However, Goldman Sachs believes that it is generally one of the top secondary market dealers in Municipal Instruments, and leads the distribution of outstanding tax-exempt commercial paper and remarketing of flexible notes. Based upon Goldman Sachs estimates, Goldman Sachs was responsible for 21% of the trading volume in variable rate demand notes, tax-exempt commercial paper and put bonds among Goldman Sachs and seven other leading dealers as of March, 2000. This estimate includes 16% of the trading volume in variable rate demand notes, 37% for tax-exempt commercial paper, and 12% for put bonds.<sup>7</sup> The broker-dealer operations at Goldman Sachs are handled by its Fixed Income, Currency & Commodities Division.

<sup>6</sup> GSAM may also consult regarding municipal securities with Goldman Sachs business groups that conduct brokerage and advisory services for private clients (collectively, "PCS").

<sup>7</sup> Flexible notes are aggregated in variable rate demand notes, put bonds and commercial paper in these statistics.

### Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(30) defines an affiliated person of another person to include, if such other person is an investment company, any investment adviser of the company. Applicants state that Goldman, Sachs & Co., as investment adviser to the Funds, is an affiliated person of the Funds.<sup>8</sup> Goldman Sachs is thus prohibited from engaging in principal transactions with the Funds.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction, or any class of persons, securities, or transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) if evidence establishes that (a) the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, (b) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act, and (c) the proposed transaction is consistent with the general purposes of the Act.

4. Applicants state that the Funds are major buyers and sellers in the tax-exempt money market with a strong need for access to large quantities of high quality Municipal Instruments. The applicants believe that having access to a major dealer, such as Goldman Sachs, would increase the Funds' ability to obtain suitable portfolio securities. The applicants also submit that the protective conditions set forth below will prevent any overreaching on the part of any person that could act to the detriment of a Fund and will ensure that each transaction is effected on a basis that is reasonable and fair to the Fund and its shareholders. The applicants also believe that the proposed exemption is necessary and

appropriate in the public interest and consistent with the protection of investors, consistent with the policies of each Fund, and consistent with purposes fairly intended by the policy and provisions of the Act.

### Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. The exemption shall be applicable to principal transactions in the secondary market and primary or secondary fixed price dealer offerings not made pursuant to underwriting syndicates. Principal purchase or sale transactions will be conducted only in Municipal Instruments that are First Tier Securities as defined in rule 2a-7(a)(12)(i) under the Act. Notwithstanding the foregoing, if a Fund purchases a Municipal Instrument meeting the above requirements from the Dealer and, subsequent to such purchase the security becomes no longer an "Eligible Security," the Fund may sell the security to the Dealer in a manner consistent with the requirements of rule 2a-7(c)(6)(i)(B). The exemption shall not apply to any purchase or sale of any security issued by Goldman Sachs or any affiliated person thereof or to any security subject to a Demand Feature or Guarantee, as defined in rule 2a-7, issued by Goldman Sachs or any affiliated person thereof. For purposes of this requirement, Goldman Sachs will not be considered to be the issuer of a Demand Feature or Guarantee solely by reason of serving as a remarketing agent for a Municipal Instrument.

2. A determination will be made with respect to each principal transaction conducted by a Fund pursuant to the order, based upon the information reasonably available to the Funds and the Advisers, that the price available from Goldman Sachs is at least as favorable to the Fund as the prices obtained from two other dealer bids in connection with securities falling within the same category of instrument, quality and maturity (but not necessarily the identical security or issuer) ("price test"). In the case of variable rate demand notes, for which dealer bids are not ordinarily available, the Fund will only undertake purchases and sales where the rate of interest to be earned from the variable rate demand note is at least equal to that of variable rate demands notes of comparable quality that are available from other dealers. GS Group will not have any involvement with respect to proposed transactions between the Funds and the Advisers and will not attempt to

influence or control in any way the placing by the Funds or the Advisers of orders with Goldman Sachs.

3. Before any principal transaction may be conducted pursuant to the order, the Funds or the Advisers must obtain such information as they deem reasonably necessary to determine that the price test has been satisfied. In the case of each purchase or sale transactions, the Funds or the Advisers must make and document a good faith determination with respect to compliance with the price test based on current price information obtained through the contemporaneous solicitation of bona fide offers in connection with securities falling within the same category of instrument, quality and maturity (but not necessarily the identical security or issuer). With respect to variable rate demand notes, contemporaneous solicitation of a bona fide offer will be construed to mean any bona fide offer solicited during the same trading day. With respect to prospective purchases of securities by a Fund, the dealer firms from which prices are solicited must be those who have securities of the same categories and the type desired in their inventories and who are in a position to quote favorable prices with respect thereto. With respect to the prospective sale of securities by a Fund, these dealer firms must be those who, in the experience of the Funds and the Advisers, are in a position to quote favorable prices.

4. Principal transactions conducted by a tax-exempt Fund pursuant to the order shall be limited to no more than an aggregate of 20% of the purchases and 20% of the sales of all transactions in Municipal Instruments conducted by that Fund. Principal transactions in Municipal Instruments conducted by a taxable Fund pursuant to the requested order shall be limited to no more than an aggregate of 20% of the purchases and 20% of the sales of all transactions in Municipal Instruments conducted by that Fund. These calculations shall be measured on an annual basis and shall be computed with respect to the dollar volume thereof. For the purposes of these calculations, purchases of Municipal Instruments by a taxable Fund shall also count towards the 25% cumulative limitation for purchases or sales set forth in condition 3 of Institutional Liquid Assets, Investment Company Act Release No. 20653 (Oct. 25, 1994).

5. Goldman Sachs' dealer spread regarding any transaction with the Funds will be no greater than its customary dealer spread on similar (with unaffiliated parties) of a similar

<sup>8</sup> In the case of a Fund advised by an affiliate of Goldman, Sachs & Co., Goldman, Sachs & Co. would be an affiliated person of an affiliated person of the Fund.

size during a comparable time period. Its customary dealer spread also will be consistent with the average or standard spread charged by dealers in money market securities of a similar type and transaction size.

6. The Advisers, on the one hand, and the Dealer, on the other, will operate on different sides of appropriate Chinese Walls with respect to the Funds and the Municipal Instruments. The Chinese Walls will include all of the following characteristics, and such others as may from time to time be considered reasonable by the Dealer and the Advisers to facilitate the factual independence of the Advisers from the Dealer:

(a) Each of the Advisers will maintain offices physically separate from those of the Dealer.

(b) The compensation of persons assigned to any of the Advisers (*i.e.*, executive, administrative or investment personnel) will not depend on the volume or nature of trades effected by the Advisers for the Funds with the Dealer under the exemption, exemption, except to the extent that such trades may affect the profits and losses of the GS Group or Goldman, Sachs & Co. as a whole.

(c) The Fixed Income, Currency & Commodities Division of Goldman Sachs will not compensate to Advisers from its profits or losses on such specific transactions with any of the Advisers, *provided* that the allocation of the profits by GS Group to its shareholders and by Goldman, Sachs & Co. to its partners, and the determination of general firm-wide compensation of officers and employees, will be unaffected by this undertaking.

(d) Personnel assigned to the Money Market Trading Desk will be exclusively devoted to the business and affairs of one or more of the Advisers, except for consultations with Goldman Sachs, PCS, and other dealers as discussed in the application. Personnel assigned to the Dealer will not participate in or otherwise seek to influence the Money Market Trading Desk other than in the normal course of sales and dealer activities of the same nature as are simultaneously being carried out with respect to nonaffiliated institutional clients. Each Adviser, on the one hand, and the Dealer, on the other hand, may nonetheless maintain affiliations other than with respect to the Funds, and in addition with respect to the Funds as follows:

(i) GSAM has organized and any other Adviser may organize an Investment Policy Committee the members of which include Money Market Group Trading

Desk personnel, other GSAM personnel and representatives from the Investment Research Department of the Dealer. The non-GSAM member's input on the Investment Policy Committee will be limited solely to expressions of his or her opinion on interest rate and similar economic matters, and will be included in the Investment Policy Committee only to the extent of considering and ratifying the portfolio managers' average maturity recommendations. The Investment Policy Committee will develop recommendations only on average maturity ranges and will not develop recommendations on specific securities or on types of Securities.

(ii) Money Market Trading Desk personnel may rely on research, including credit analysis and reports prepared by the Goldman, Sachs & Co. Credit Department, which is responsible firmwide for credit analysis and counterparty credit risk evaluations and recommendations.

(iii) Members of the Management Committee of Goldman, Sachs & Co. and GS Group, and certain other senior executives with responsibility for overseeing operations of various division, subsidiaries and affiliates of Goldman, Sachs & Co. are not precluded from exercising those functions over the Advisers because they oversee the Dealers as well, provided that such persons shall not have any involvement with respect to proposed transactions pursuant to the exemption and will not in any way attempt to influence or control the placing by the Funds or any Adviser of orders in respect of Municipal Instruments with Goldman Sachs.

7. The Funds and the Advisers will maintain such records with respect to those transactions conducted pursuant to the exemptions as may be necessary to confirm compliance with the conditions to the requested relief. To this end, each Fund shall maintain the following:

(a) An itemized daily record of all purchases and sales of securities pursuant to the exemption, showing for each transaction the following: (i) The name and quantity of securities; (ii) the unit purchase or sale price; and (iii) the time and date of the transaction. For each transaction (other than variable rate demand notes), these records shall documents two quotations received from other dealers for securities falling within the same category of instrument, quality and maturity; including the following: (i) The names of the dealers; (ii) the names of the securities; (iii) the prices quoted; and (iv) the times and dates the quotations were received. In

the case of variable rate demand notes, the same records shall be maintained except that the rates of quoted will be substituted for the prices quoted.

(b) Records sufficient to verify compliance with the volume limitations contained on condition (4) above. The Dealer will provide the Funds with all records and information necessary to implement this requirement. The records required by this condition (7) will be maintained and preserved in the same manner as records required under rule 31a-1(b)(1) under the Act.

8. The legal and compliance department of Goldman Sachs and the Advisers will prepare and administer guidelines for personnel of Goldman Sachs and the Advisers to make certain that transactions conducted pursuant to the order comply with the conditions set forth in the order and that the parties generally maintain arm's-length relationships. In the training of Goldman Sachs' personnel, particular emphasis will be placed upon the fact that the Funds are to receive rates as favorable as other institutional purchasers buying the same quantities. The legal and compliance departments will periodically monitor the activities of Goldman Sachs and the Advisers to make certain that the conditions set forth in the order are adhered to.

9. The non-interested Trustees of the Funds will approve, periodically review, and update as necessary, guidelines for the Funds and the Advisers that are reasonably designed to make certain that the transactions conducted pursuant to the exemption comply with the conditions set forth therein and that the above procedures are followed in all respects. The respective non-interested Trustees will periodically monitor the activities of the Funds and the Advisers in this regard to ensure that these goals are being accomplished.

10. The Trustees of the Trust, including a majority of the non-interested Trustees, will have approved the Fund's participation in transaction conducted pursuant to the exemption and determined that such participation by the Fund is the best interests of the Funds and its shareholders. The minutes of the meeting of the Board of Trustees at which this approval was given must reflect in detail the reasons for the Trustee's determination. The Trustees will review no less frequently than annually the Fund's participation in transactions conducted pursuant to the exemption during the prior year and determine whether the Fund's participation in such transaction continues to be in the best interests of the Fund and its shareholders. Such

review will include (but not be limited) (a) a comparison of the volume of transactions in each type of security conducted pursuant to the exemption to the market presence of the Dealer in the Market for that type of security, which market data may be based on good faith estimates to the extent that current formal data is not reasonably available, and (b) a determination that the Funds are maintaining appropriate trading relationships with other sources for each type of security, to ensure that there are appropriate sources for the quotations required by condition 3. The minutes of the meetings of the Trustees of the Trust at which these determinations are made will reflect in detail the reasons for the Trustees' determinations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 01-2503 Filed 1-29-01; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43867; File No. SR-CBOE-01-01]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to a Four Month Extension to the Pilot Program to Eliminate Position and Exercise Limits for SPX, OEX, and DJX Options, and FLEX Options Overlying These Indexes

January 22, 2001.

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> notice is hereby given that on January 18, 2001, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the CBOE as a "non-controversial" rule change under Rule 19b-4(f)(6)<sup>3</sup> under the Act. 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 CBOE seeks a four month extension of the pilot program that provides for the elimination of position and exercise limits for the S&P 500 Index ("SPX"), S&P 100 Index ("OEX"), and Dow Jones Industrial Average ("DJX") index options as well as for FLEX options overlying these indexes. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

#### 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 Exchange 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. The Exchange 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

###### 1. Purpose

On January 22, 1999, the Commission approved a two-year pilot program ("Pilot Program") that allowed for the elimination of position and exercise limits for options on the OEX, SPX, DJX as well as for FLEX options overlying these indexes.<sup>4</sup> The purpose of this proposed rule change is to request a fourth-month extension of the Pilot Program.<sup>5</sup>

The Approval Order required the Exchange to submit a report to the Commission on the status of the Pilot Program so that the Commission could use this information to evaluate any consequences of the program and to determine whether to approve the elimination of position and exercise limits for these products on a permanent basis.<sup>6</sup> The CBOE submitted the

<sup>4</sup> See Securities Exchange Act Release No. 40969 (January 22, 1999), 4 FR 49111 (February 1, 1999) (approving SR-CBOE-99-23). ("Approval Order")

<sup>5</sup> By separate filing, CBOE requests permanent approval of the Pilot Program.

<sup>6</sup> In the Approval Order, the Commission stated: "CBOE will provide the Commission with a report detailing the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. In addition, the report will note whether any problems resulted due to the no limit approach and any other

required report to the Commission on December 21, 2000.<sup>7</sup> The report indicates that during the review period, CBOE did not discover any instances where an account maintained an unusually large unhedged position. The data from the report found that only 12 accounts established positions in excess of 10% of the standard limit applicable to each index at the time the Pilot Program was approved. These positions were all in SPX and most were established by firms and market makers. All of the accounts were hedged, although to different degrees. Most important, CBOE's analysis did not discover any aberrations caused by large unhedged positions during the life of the Pilot Program. For this reason, the Exchange believes that its experience with the Pilot Program has been positive. Accordingly, CBOE requests that the effectiveness of the Pilot Program be extended four months.

###### 2. Statutory Basis

The proposed rule change is consistent with Section 6(b)<sup>8</sup> of the Act in general and furthers the objectives of Section 6(b)(5)<sup>9</sup> in particular in that it is designed to promote just and equitable principles of trade as well as to protect investors and the public interest, by allowing for the extension of a Pilot Program that has enable more business to be transacted on the exchanges that might otherwise have been transacted in the over the counter ("OTC") market without the benefit of Exchange transparency and the guarantee of The Options Clearing Corporation. The Exchange also believes that the proposed rule change is consistent with section 11A of the Act<sup>10</sup> in that it will enhance competition by allowing the Exchange to compete better with the OTC market in options and with entities not subject to position limit rules.

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

The Exchange represents that the proposed rule change will impose no burden on competition that is not

information that may be useful in evaluating the effectiveness of the pilot program. The Commission expects the CBOE will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop."

<sup>7</sup> Letter from Patricia L. Cerny, Director, Office of Trading Practices, CBOE, to Elizabeth King, Associate Director, Division of Market Regulation ("Division"), SEC, dated December 21, 2000.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C 78k-1.

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

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

<sup>3</sup> 17 CFR 240.19b-4(f)(6).