

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. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-97-57 and should be submitted by December 5, 1997.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39307; File No. SR-CHX-97-21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated, Regarding Suitability of Customer Recommendations

November 6, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4,² notice is hereby given that on September 18, 1997, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") file with the Securities and Exchange Commission ("Commission" or "SEC") 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 Change

The Exchange proposes to add Article VIII, Rule 25 to the Exchange's Rules relating to market-at-the-close orders. The text of the proposed rule change is as follows: new text is italicized.

Article VIII

Business Conduct

Rule 25. (a) In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

(b) Prior to the execution of a transaction recommended to a customer, other than transactions with customers where investments are limited to money market mutual funds, a member shall make reasonable efforts to obtain information concerning:

(i) the customer's financial status;

(ii) the customer's tax status;

(iii) the customer's investment objectives;

(iv) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

Interpretations and Policies

.01 The following is a non-exclusive list of practices that the Exchange deems to violate a member's duty to recommend to a customer only securities suitable for that customer.

(a) Recommending speculative low-priced securities to customers without knowledge of or an attempt to obtain information concerning the customers' other securities holdings, their financial situation and other necessary data.

(b) Excessive activity in a customer's account, often referred to as "churning" or "overtrading." There are no specific standards to measure excessiveness of trading in customer accounts, because this must be related to the objectives and financial situation of the customer involved.

(c) Trading in mutual fund shares, particularly on a short-term basis. It is clear that normally these securities are not proper trading vehicles and such activity on its face may raise the question of trade violation.

(d) Fraudulent activity, including: establishing fictitious accounts in order to execute transactions which otherwise would be prohibited; executing transactions in discretionary accounts in excess of or without actual authority from customers; causing the execution of transactions which are unauthorized by customers or the sending of confirmations in order to cause customers to accept transactions not actually agreed upon; and unauthorized use or borrowing of customers' funds and securities.

(e) Recommending the purchase of securities or the continuing purchase of securities in amounts that are inconsistent with the reasonable expectation that the customer has the financial ability to meet such a commitment.

.02 Derivatives and Other New Financial Products. As new financial products are introduced into the marketplace, it is important that members make every effort to familiarize themselves with each customer's financial situation, trading experience, and ability to meet the risks involved with such products and to make every effort to make customers aware of the pertinent information regarding new financial products. Moreover, members should be careful to always comply with all Exchange requirements regarding the trading of such products.

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 Purposed Rule Change

1. Purpose

The Exchange currently does not have a rule that expressly addresses suitability, churning and related matters for Exchange members. While the Exchange believes that such conduct may currently fall within existing Exchange rules, such as the Exchange's rule relating to "just and equitable" activity, the Exchange believes that it is desirable at this time to specifically address this type of conduct. As a result, the purpose of the proposed rule change is to add Rule 25 to Article VIII of the Exchange's rules, requiring that, in recommending to a customer the purchase, sale or exchange of any security, a member must have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1).

² 17 CFR 240.19b-4.

his other security holdings and as to his financial situation and needs.

Specifically, prior to the execution of a transaction recommended to a customer, other than transactions with customers where investments are limited to money market mutual funds, a member would be required to make reasonable efforts to obtain information concerning the customer's financial status, the customer's tax status, the customer's investment objectives, and such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

The rule change would contain a non-exclusive list of practices that the Exchange deems to violate a member's duty to recommend to a customer only securities suitable for that customer. These would be: (1) Recommending speculative low-priced securities to customers without knowledge of or an attempt to obtain information concerning the customers' other securities holdings, their financial situation and other necessary data; (2) excessive activity in a customer's account, often referred to as "churning" or "overtrading"; (3) trading in mutual fund shares, particularly on a short-term basis; (4) fraudulent activity (including establishing fictitious accounts in order to execute transactions which otherwise would be prohibited, executing transactions in discretionary accounts in excess of or without actual authority from customers, causing the execution of transactions which are unauthorized by customers or the sending of confirmations in order to cause customers to accept transactions not actually agreed upon, and unauthorized use or borrowing of customers' funds and securities); and (5) recommending the purchase of securities or the continuing purchase of securities in amounts that are inconsistent with the reasonable expectation that the customer has the financial ability to meet such a commitment.

In addition, with regard to derivative financial products, the rule change would require that members made every effort to familiarize themselves with each customer's financial situation, trading experience, and ability to meet the risks involved with such products and to make every effort to make customers aware of the pertinent information regarding new financial products.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just

and equitable principles of trade, to foster cooperation and coordination with persons regulating securities transactions, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Within 35 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 90 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 the self-regulatory organization 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 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 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions

should refer to File No. SR-CHX-97-21 and should be submitted by December 5, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39309; File No. SR-GSCC-97-06]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding Funds-Only Settlement Payment Procedures

November 7, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 16, 1997, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") and on September 19, 1997 and on November 4, 1997, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments from interested persons and to grant accelerated approval of the proposal.

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

The proposed rule change will amend GSCC's rules to provide netting members with the option of making funds-only settlement payments to GSCC by authorizing banks to accept payment directions directly from GSCC.

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 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. GSCC has prepared summaries, set forth in sections (A), (B),

³ 17 CFR 300.30(a)(12).

¹ 15 U.S.C. 78s(b)(1).