

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).

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

The main purpose of the proposed rule change is to amend GSCC's rules concerning netting members' funds-only settlement payments to GSCC. Under the proposed rule change, netting members will have the option of satisfying their funds-only settlement obligations with GSCC by way of an automatic debit ("auto debit") arrangement. GSCC has informed the Commission that other clearing agencies, such as The Options Clearing Corporation, use such agreements to facilitate their funds-only settlement process.

Under GSCC's current rules, a netting member with an obligation to pay a funds-only settlement amount to GSCC on a particular business day instructs a depository institution acceptable to GSCC, currently The Bank of New York, to make such payment to GSCC on its behalf. These payment procedures oblige GSCC each day to monitor continuously its account at the depository institution to determine whether every netting member with a funds-only settlement obligation to GSCC has made its payment in a timely manner.

The proposed auto debit arrangement will supplement the current approach to payment processing. Under the proposed rule change, netting members will have the option to satisfy funds-only settlement obligations pursuant to payment instructions given directly by GSCC to their banks. Each netting member choosing this option will enter into an agreement with GSCC and a bank acceptable to both the member and GSCC.³ The bank will be required to meet the financial, operational capability, and other requirements set forth in GSCC's rules for eligibility to issue letters of credit on behalf of members for clearing fund purposes. GSCC believes that because the bank will maintain accounts on behalf of both the member and GSCC, it will be able to make and to collect funds-only settlement payments efficiently by posting debit and credit entries to the applicable accounts on its own books.

Pursuant to the auto debit agreement, the bank generally will make payment

to GSCC's account by 9:00 a.m.⁴ on behalf of netting members owing funds to GSCC. If the bank does not intend to make any payments on behalf of members, it will so inform GSCC by 8:00 a.m. Therefore, GSCC effectively will be guaranteed payment by 8:00 a.m. unless it receives a notice of dishonor from the bank. GSCC believes that the use of the auto debit arrangement will promote the timely receipt of funds payments by GSCC and will reduce the operational duties GSCC encounters in monitoring its current funds-only settlement payment process.

In connection with the auto debit arrangement, GSCC has proposed changes to certain of its other procedures. First, GSCC will begin requiring all netting members to make funds-only settlement payments to GSCC by 9:00 a.m. and will enforce this deadline with the assistance of its new fine schedule described in File No. SR-GSCC-97-04 as of January 2, 1998. In December of this year, the earlier opening of the cash FedWire at 12:30 a.m. is scheduled to take effect. GSCC previously received authorization from the Commission to require netting members to make funds-only settlement payments to GSCC by 9:00 a.m.⁵ However, because of its concern that members would not be able to meet this deadline on a consistent basis, GSCC has kept the deadline at 10:00 a.m.

Second, the proposed rule change will eliminate the extra hour for the payment to GSCC of funds-only settlement amounts currently in effect for netting members whose offices are located outside of the New York City time zone. GSCC believes that this extra hour is no longer necessary because of members' increased ability to make efficient and timely payments due to the earlier opening of the cash FedWire and the availability of the auto debit arrangement.

Finally, under the proposed rule change, GSCC will move the deadline for it to pay a netting member any funds-only settlement payment it owes from 11:00 a.m. to 10:00 a.m. GSCC believes that it is equitable for netting members also to benefit from the availability of the earlier opening of the cash FedWire and the efficiencies of the auto debit arrangement.

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act⁶ because it will increase

settlement efficiency and reduce payment related risks to GSCC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have any 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 Others

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing 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

Section 17A(b)(3)(F) of the Act⁷ requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in its custody or control or for which it is responsible. The Commission believes that the proposed rule change is consistent with this obligation because the auto debit arrangement will allow GSCC to increase its control over the payment of funds-only settlement payments. As a result, the amount of time and energy GSCC currently spends monitoring netting members' payments of their funds-only settlement obligations should be reduced and the risk of nonpayment or late payment of such obligations should be reduced.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of filing. Approving prior to the thirtieth day after publication of notice will allow GSCC to immediately begin implementing the auto debit arrangement which should result in increased efficiency in the clearance and settlement process for GSCC's netting members that use the arrangement. The Commission also notes that use of the auto debit arrangement will not be mandated by GSCC.

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

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

³ GSCC submitted a draft form of the agreement as Exhibit A to its filing, which is available for review and copying at the Commission's Public Reference Room and through GSCC.

⁴ All times cited herein are New York time.

⁵ Securities Exchange Act Release No. 33237 (November 22, 1993), 58 FR 63414 [File No. SR-GSCC-91-04].

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 15 U.S.C. 78q-1(b)(3)(F).

Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR-GSCC-97-06 and should be submitted by December 5, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-GSCC-97-06) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-29930 Filed 11-13-97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39311; File No. SR-PCX-97-40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to a Fee Change for ASAP Members

November 7, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 30, 1997, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed 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 Rule Change

The Exchange is proposing to modify its Schedule of Rates for Exchange Services by changing its annual fee for Automatic System Access Privilege ("ASAP") Members.³ The text of the proposed rule is available at the Office of the Secretary, the PCX, 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 self-regulatory organization 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 self-regulatory organization 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

Under the Exchange's current Schedule of Rates, an ASAP Member is required to pay the Exchange an annual fee equal to 20% of the average price of Exchange membership sales in the three months immediately preceding the Member's activation or renewal of membership.⁴ The minimum ASAP fee is \$4,000 (and it is non-refundable).

The Exchange is now proposing to modify this fee, making it \$4,000 per year (non-refundable).

The Exchange is reducing its fee for ASAP memberships in order to make its rates applicable to electronic trading more competitive. The proposal is also intended to reduce the significant increase in fees for ASAP memberships that has accompanied the recent rise in Exchange seat prices.⁵

³ ASAP Memberships are governed by PCX Rule 1.14.

⁴ See Exchange Act Release No. 37913 (November 1, 1996) 61 FR 57936 (November 8, 1996) (PCX-96-33). In that filing, the Exchange had changed its fee from \$4,000 a year to the current schedule as described in the text.

⁵ A PCX seat was sold for \$380,000 recently; about the same time last year, a seat was sold for \$145,000. Telephone conversation between Michael D. Pierson, Senior Attorney, PCX, and Vicky Berberi-Doumar, Special Counsel, Division of

2. Statutory Basis

The proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(4),⁶ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments on the proposed rule change were neither solicited nor received.

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) ⁷ of the Act and Rule 19b-4(e) under the Act.⁸ At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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, N.W., Washington, D.C. 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

Market Regulation, Commission, on November 4, 1997.

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(e).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.