

listing standard would provide a better and transparent measure of an issuer's financial performance in evaluating its listing eligibility.

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

The Exchange believes that the proposed rule change will impose no 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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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. Copies of the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR-Amex-2002-39 and should be submitted by July 17, 2002.

IV. Commission Findings and Order Granting Accelerated Approval to Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ In particular, the Commission believes the proposed rule change is consistent with the Section 6(b)(5) of the Act⁷ requirement that the rules of an exchange be designed to facilitate transactions in securities,

promote just and equitable principles of trade, 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that by addressing the effects of discontinued operations, extraordinary items, and the cumulative effect of changes in accounting principles not incurred in the ordinary course of business, the proposal should permit the Amex to better evaluate a listing applicant's financial situation and performance. The Commission notes that the scope of the proposed rule change is limited by the requirement that compliance with the proposed changes be determinable in a manner consistent with Generally Accepted Accounting Principles. Further, the Commission notes that another self-regulatory organization recently changed its rules to establish a substantially similar standard⁸ and no comments were received on that proposal. Therefore, the Commission believes that the proposed rule change raises no new significant regulatory issues for consideration.

The Amex has requested that the Commission expedite review of, and grant accelerated approval to, this proposal, pursuant to Section 19(b)(2) of the Act.⁹ The Commission finds good cause, consistent with Section 19(b)(2) of the Act,¹⁰ to approve the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. As discussed above, the proposal is substantially similar to another self-regulatory organization's rule and, thus, raises no new significant regulatory issues. Further, accelerated approval of this proposal should permit the Amex to apply the revised listing standard to new issuers without delay. Accordingly, the Commission finds that there is good cause, consistent with Section 19(b)(2) of the Act,¹¹ to approve the proposal on an accelerated basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-Amex-2002-39) be, and hereby is, approved on an accelerated basis.

⁶ See Securities Exchange Act Release Nos. 45431 (February 11, 2002), 67 FR 7436 (February 19, 2002) (SR-NASD-2002-16).

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ *Id.*

¹¹ *Id.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46093; File No. SR-GSCC-2002-02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Changes To Alter Trade Data Submission Requirements for Netting and Comparison-Only Members

June 20, 2002.

I. Introduction

On February 11, 2002, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-GSCC-2002-02 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 March 19, 2002.² For the reasons discussed below, the Commission is approving the proposed rule changes.

II. Description

GSCC has proposed to amend its rules to alter trade data submission requirements for both Netting³ Members and Comparison-Only⁴ Members. Based on an analysis conducted by GSCC to discover the cause of lower-than-desired buy/sell comparison rates, GSCC has determined that changes to its trade submission requirements would boost GSCC's trade

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 45548 (March 12, 2002), 67 FR 12630.

³ A Netting member is a Member of GSCC that is a member of both the Comparison System and the Netting System. The Comparison System performs trade comparison which consists of the reporting, validating, and in some cases, matching by GSCC of the long and short sides of a securities trade, including a repo transaction, to ensure that the details of such trade are in agreement between the parties. Trade detail comparison is the first step in the clearance and settlement process for securities transactions. The Netting System is a system for aggregating and matching offsetting obligations resulting from trades, including repo transactions, submitted by or on behalf of netting members.

⁴ A Comparison-Only Member is a member of GSCC that is a member only of the Comparison System.

⁶ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(5).

comparison rates⁵ and thereby should decrease risks associated with uncompared trades not settling.

In the course of its analysis, GSCC discovered that while comparison rates for repo transactions approached 97 percent, comparison rates for buy/sell transactions were consistently lower at 95 percent. GSCC determined that there were four main reasons for this trend. First, many trades submitted to GSCC are not submitted as originally executed between members. Many trades are either "bunched" or "broken down" resulting in some trades not being compared.⁶ While GSCC employs certain tolerances for required data fields in order to aid comparison, some bunched or broken down trade scenarios fall outside of GSCC's par summarization tolerances.⁷

The second reason for uncompared trades is when GSCC members fail to notify GSCC of their intent to submit trades for Executing Firms.⁸ GSCC keeps over 400 Executing Firms and their corresponding symbols on a master list which is available to all members. GSCC should be notified in advance of a member's intent to submit trade data on behalf of an Executing Firm so that the master list can be updated. However, member firms often fail to so notify GSCC, they submit trade data without the proper Executing Firm symbol, or they fail to submit Executing Firm data completely. These trades may show up in GSCC's systems as uncompared.

A third reason for uncompared trades is that GSCC does not currently require its members to submit to it all types of trade data. As a result, some firms do not submit to GSCC for comparison

trades that are executed and settled on the same day (cash trades). The fourth reason for uncompared trades occurs because Comparison-Only Members, who do not settle their trades through GSCC, do not submit their trade data to GSCC on a consistent basis.

The proposed rule changes would increase comparison rates by effectively eliminating the situations described above. Specific proposed rule changes would apply to both buy/sell and repo transactions as follows:

(i) Each Comparison-Only Member would be required to submit data to GSCC on all buy/sell or repo trades executed by such member with any other Comparison-Only Member or Netting Member of GSCC.

(ii) Each Netting Member would be required to submit data to GSCC on all buy/sell or repo trades executed by such member with any other Comparison-Only Member.⁹

(iii) Each GSCC member would be required to submit data to GSCC on all trades with other GSCC members executed and settled on the same day.

(iv) Each GSCC member would be required to submit trade data exactly as executed up to a \$50 million dollar cap. Trades for over \$50 million could be submitted in \$50 million pieces with a "tail" for any remainder.¹⁰

(v) Each GSCC member would be required to inform GSCC of all Executing Firms on whose behalf they submit trade data for placement on GSCC's master list and to submit to GSCC all trades executed on behalf of an Executing Firm on GSCC's master list with the appropriate symbol. In addition, each GSCC member would be required to inform GSCC of those Executing Firms that should be deleted from the master list.

In the event that a member does not comply with the new trade submission rules, GSCC has certain rights to enforce compliance. In addition to automatically placing a Netting Member or a Comparison-Only Member on surveillance status, GSCC would have the right to increase the required Clearing Fund deposit of a Netting Member pursuant to GSCC Rule 4, Section 3 and at GSCC's discretion notify the Netting Member or Comparison-Only Member's appropriate regulatory authority of its non-compliance with GSCC's rules. GSCC expects to submit a rule filing at a later date giving GSCC the authority to assess

fees to members who do not comply with the trade data submission requirements outlined in these rules.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.¹¹ The Commission finds that GSCC's proposed rule change is consistent with this Section because by boosting GSCC's trade comparison rates it will promote the prompt and accurate clearance and settlement of securities transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-2002-02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46092; File No. SR-NYSE-2002-01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Removing Separate Exchange Requirements Regarding the Use of Consent Solicitations

June 19, 2002.

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 January 3, 2002, the New York Stock Exchange, Inc. ("NYSE" 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 substantially prepared by the NYSE. The NYSE submitted

⁵ Comparison rates are derived by dividing the total number of buy/sell trades compared by the total number of buy/sell trades submitted.

⁶ For example, Firm A submits one trade for \$30 million, and Firm B "breaks down" the trade into three \$10 million pieces. Alternatively, Firm A and Firm B may execute five separate trades each worth \$10 million. Firm A submits each trade separately while Firm B "bunches" the five trades into one \$50 million piece. In both of these examples, the trades will not be compared.

⁷ In the event of a mismatch of final money, GSCC has established trade tolerances which allow for differences in trade values (or par summarization) submitted by members on each side of one transaction. For a trade to be compared, par summarization must be on a 2:1 or 2:2 ratio. For example, where Firm A submits a trade in one piece of \$50 million and Firm B submits two pieces of \$25 million each, this transaction would fall within the 2:1 par summarization tolerance. If Firm A were to submit two pieces of \$25 million each and Firm B submitted two pieces of \$20 million and \$30 million, this would fall within GSCC's 2:2 par summarization tolerance. Assuming that the final money matches, both of these trades will be compared by GSCC.

⁸ An Executing Firm is a firm that is not a member of GSCC whose trade data is submitted to GSCC by a GSCC member.

⁹ GSCC Rule 11 already requires Netting Members to submit all trade data for transactions with other Netting Members.

¹⁰ GSCC does not accept trade data for transactions over \$50 million except for GCF Repo transactions.

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.