

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41715; SR-GSCC-99-03]

### Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to the Acceptance of Letters of Credit as Clearing Fund Collateral

August 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 3, 1999, Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") and on May 24, 1999, amended the proposed rule change [File No. SR-GSCC-99-03] 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 from interested persons on the proposed rule change.

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

The purpose of the proposed rule change is to replace GSCC's current letter of credit form with a letter of credit form developed by the Unified Clearing Group.<sup>2</sup>

#### 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), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

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

GSCC's Rule 4, Section 4, permits GSCC to accept letters of credit (in addition to cash and eligible netting securities) as clearing fund collateral. GSCC's rules define "eligible letter of credit" as a letter of credit that is,

among other things, "in a form, and contains such other terms and conditions, as may be required by the Corporation." GSCC has determined that as of September 1, 1999, a letter of credit delivered to GSCC as clearing fund collateral must be in the form of the uniform letter of credit ("ULC") developed by the Unified Clearing Group ("UCG"). The UCG is an organization comprised of all major securities and futures clearing corporations and depositories in the United States.<sup>4</sup>

The ULC was developed to (i) foster uniformity among the various U.S. securities and futures clearing organizations with respect to letters of credit that are deposited as collateral, (ii) reduce operational burdens for industry participants and their letter of credit issues, and (iii) enhance the legal certainty that letters of credit received by UCG members as collateral will be enforceable. In developing the ULC, the UCG consulted with the National Standby Letter of Credit Commerce of International Financial Services Association (formerly known as the U.S. Council on International Banking) and several letter of credit issuing banks.

The ULC consists of a (i) a cover page with variable terms and (ii) uniform terms. Variable terms include the name of the clearing member, the beneficiary clearing organization, the issuing bank, the amount of the credit, and the expiration date. General instructions drafted by the UCG assist clearing organization members in completing the ULC. In addition, GSCC has provided supplemental instructions to assist members specifically with letters of credit furnished to GSCC.

According to GSCC, the ULC provides that the presentment of a demand for payment can be accomplished at the discretion of the clearing corporation by hand delivery, facsimile transmission, and SWIFT. If the demand is made before 3:00 p.m. Central time, the bank issuing the letter of credit must effect payment within sixty minutes.

The uniform letter of credit also recites certain understandings regarding the issuing bank's obligation to honor a demand. GSCC states that these understandings restate the existing principles governing letters of credit

and were added to reduce the likelihood of dispute. For example, the uniform letter of credit provides that payment will be made regardless of the solvency, existence, or condition (financial or other) of the GSCC member.

The proposed rule change will also amend GSCC's definition of "eligible letter of credit" to conform it with the uniform letter of credit.

It is expected that from time to time modifications will be made to the ULC by the UCG. If and when that occurs, GSCC will require its members to use the revised form.<sup>5</sup> Other UCG members that accept letters of credit as margin also will use the ULC beginning sometime during calendar year 1999.<sup>6</sup>

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because, among other things, it will promote the prompt and accurate clearance and settlement of transactions in securities by facilitating processing and will foster cooperation within the financial community.

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

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

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

No comments on the proposed rule change were solicited or received. GSCC will notify the Commission of any written comments it receives.

#### 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 the self-regulatory organization consents, the Commission will:

(a) by order approve the proposed rule change, or

<sup>5</sup> GSCC will file proposed rule changes with the Commission prior to requiring members to comply with substantive changes made to the ULC by the UCG.

<sup>6</sup> See Securities Exchange Act Release No. 41486 (June 7, 1999), 64 FR 31889 (June 14, 1999) [File No. SR-OCC-99-01]. The National Securities Clearing Corporation and MBS Clearing Corporation have also filed proposed rule changes with the Commission [File Nos. SR-NSSC-99-05 and SR-MBSCC-99-05].

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

<sup>2</sup> GSCC attached a copy of the uniform letter of credit as Exhibit A to the filing.

<sup>3</sup> The Commission has modified the text of the summaries prepared by GSCC.

<sup>4</sup> The members of the UCG include the Boston Stock Exchange Clearing Corporation, The Depository Trust Company, GSCC, MBS Clearing Corporation, National Securities Clearing Corporation, The Options Clearing Corporation, Board of Trade Clearing Corporation, Chicago Mercantile Exchange, Clearing Corporation of New York, Kansas City Board of Trade, Minneapolis Grain Exchange, New York Mercantile Exchange, Emerging Markets Clearing Corporation, and Clearing Corporation for Options and Securities.

(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, 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 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-99-03 and should be submitted by September 3, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41717; SR-MBSCC-99-05]

#### Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing of Proposed Rule Change Relating To Acceptance of Letters of Credit

August 6, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 25, 1999, MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by MBSCC. The Commission is publishing this notice to

solicit comments from interested persons on the proposed rule change.

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

The purpose of the proposed rule change is to modify MBSCC's rule regarding letters of credit accepted for clearing fund purposes to facilities implementation of the uniform letter of credit developed by the Uniform Clearing Group.<sup>2</sup>

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

In its filing with the Commission, MBSCC 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. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

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

Article IV, Rule 2, Section 9 of MBSCC's rules governs deposits of letters of credit by participants to the participants' fund for margin purposes. Currently, the rule requires participants to amend letters of credit expiring on September 1 by extending the expiration date to March 1 of the following year, and to deposit new letters of credit on March 1 of the following year. The proposed rule change will reverse these dates and require participants to annually provide new letters of credit by September 1 and to amend letters of credit by March 1. The proposed rule change will also require that letters of credit delivered to MBSCC on or after September 1, 1999, be in the form of the uniform letter of credit ("ULC") developed by the United Clearing Group ("UCG").

The UCG is an organization comprised of all of the major securities and futures clearing organizations and depositories in the U.S.<sup>4</sup> The ULC was

<sup>2</sup> MBSCC attached a copy of the uniform letter of credit as Exhibit B to the filing.

<sup>3</sup> The Commission has modified the text of the summaries prepared by MBSCC.

<sup>4</sup> The members of the UCG include the Boston Stock Exchange Clearing Corporation, The Depository Trust Company, Government Securities Clearing Corporation, MBSCC, National Securities Clearing Corporation, Options Clearing Corporation, Board of Trade Clearing Corporation, Chicago Mercantile Exchange, Clearing Corporation of New

developed to foster uniformity among the various U.S. securities and futures clearing organizations with respect to the acceptable terms of letters of credit that are deposited as margin and to reduce operational burdens for industry participants and their letters of credit issuers. In developing the ULC, the UCG consulted with the National Standby Letter of Credit Committee of the International Financial Services Association (formerly known as the U.S. Council on International Banking) and several letters of credit issuing banks.

The ULC consists of a cover page with variable terms plus preprinted uniform terms. Variable terms include the name of the participant, the beneficiary clearing organization, the issuing bank, the amount of the credit, and the expiration date. To assist letter of credit issues and participants in completing the ULC, the UCG has drafted general instructions. In addition, MBSCC has provided supplemental instructions relating specifically to letters of credit furnished by MBSCC.

MBSCC expects that in the future modifications may be made to the ULC. If and when that occurs, MBSCC will require its members to use the revised form.<sup>5</sup>

MBSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because, among other things, it is designed to assure the safeguarding of securities and funds which are in the custody or control of MBSCC or for which it is responsible and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

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

MBSCC 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

No comments on the proposed rule change were solicited or received. MBSCC will notify the Commission of any written comments it receives.

York, Kansas City Board of Trade, Minneapolis Grain Exchange, New York Mercantile Exchange, Emerging Markets Clearing Corporation, and Clearing Corporation for Options and Securities.

<sup>5</sup> MBSCC will file proposed rule changes with the Commission prior to requiring members to comply with substantive changes made to the ULC by the UCG.

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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