

a majority of the trustees or directors who are not "interested persons," as defined in section 2(a)(19), will find that advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Asset Director® Fund.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets of each Asset Director® Fund and each underlying Portfolio; monthly purchases and redemptions (other than by exchange) for each Asset Director® Fund and each Underlying Portfolio; monthly exchanges into and out of each Asset Director® Fund and each Underlying Portfolio; month-end allocations of each Asset Director® Fund's assets among the Underlying Portfolios; annual expense ratios for each Asset Director® Fund and each Underlying Portfolio; and a description of any vote taken by the shareholders of any Underlying Portfolio, including a statement of the percentage of votes cast for and against the proposal by each Asset Director® Fund and by the other shareholders of the Underlying Portfolio. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Asset Director Fund® (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-2462 Filed 2-5-96; 8:45 am]

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Release Nos. 33-7262; 34-36792

[File No. 265-20]

Advisory Committee on the Capital Formation and Regulatory Processes; Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting.

SUMMARY: This is to give notice that the Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes

will meet on February 22, 1996 in room 1C30 at the Commission's main offices, 450 Fifth Street, NW., Washington, DC, beginning at 10:00 a.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265-20. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: David A. Sirignano, Committee Staff Director, at 202-942-2870; Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the Committee will meet on February 22, 1996 in room 1C30 at the Commission's main offices, 450 Fifth Street, NW., Washington, DC, beginning at 10:00 a.m. The meeting will be open to the public.

The Committee was formed in February 1995, and its responsibilities include advising the Commission regarding the informational needs of investors and the regulatory costs imposed on the U.S. securities markets. The purpose of this meeting will be to discuss the progress of the Committee's work and to discuss, and possibly vote on, the Committee's report.

Dated: January 31, 1996.

Jonathan G. Katz,

Secretary.

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[Release No. 34-36788; International Series Release No. 924 File No. SR-GSCC-95-05]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Permitting Entities Established or Organized in a Foreign Country To Become Members of GSCC's Netting System

January 30, 1996.

On October 6, 1995, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-GSCC-95-05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ On October 30, 1995, GSCC filed an amendment to the

proposed rule change.² Notice of the proposal was published in the Federal Register on December 11, 1995.³ No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

Currently, under GSCC's rules an entity that is organized or established under the laws of a country other than the United States ("foreign entity") is eligible to apply to become a member of GSCC's comparison system if it has demonstrated to GSCC that its business and capabilities are such that it could reasonably expect material benefit from direct access to GSCC's services. Prior to this rule change, a foreign entity was not eligible for any of GSCC's eleven enumerated categories of netting system membership.⁴ The proposed rule change permits foreign entities that are regulated in a manner comparable to domestic entities eligible for GSCC membership to become members of GSCC's netting system. The rule change also establishes application and continuing membership requirements for foreign entities for both the comparison and netting systems.

1. Legal Considerations

To address the particular jurisdictional concerns raised by the admission of foreign entities to netting system membership, GSCC will require foreign netting system applicants to enter into a special netting member agreement ("Agreement") and to submit an opinion of foreign counsel ("Opinion"). The Agreement requires the foreign netting system applicant to adhere to GSCC's rules and provides that the Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Opinion must provide that the execution by the foreign entity of the

² Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (October 26, 1995).

³ Securities Exchange Act Release No. 36544 (December 1, 1995), 60 FR 63555.

⁴ Foreign entities have been among the more significant participants in the government securities marketplace and trade actively with many current netting members. GSCC has maintained a list of "grandfathered" entities which are non-netting system members that historically have done business with GSCC's interdealer netting members. Business done by the interdealer broker netting members with grandfathered entities is treated by GSCC as business done with an actual netting member. Six of the seven firms on GSCC's list of grandfathered entities (Daiwa Europe Ltd.; Nikko Europe PLC; The Nikko Securities Co., Ltd. Tokyo; Nomura International PLC, London; Nomura International Inc., Tokyo; and Nomura Securities Co., Ltd. (Tokyo) are foreign entities.

¹ 15 U.S.C. § 78s(b)(1) (1988).

Agreement, the foreign entity's performance under the Agreement, and the exercise by GSCC of its rights and remedies under the Agreement will not conflict with or be impeded by the laws or regulations of the foreign entity's home country and will be respected by the foreign entity's primary foreign regulator. In addition, the Opinion must state that the Agreement's provision for governance by and construction in accordance with the laws of the State of New York will be recognized and given effect by the courts of the foreign entity's home country.

Under the Agreement, the foreign entity: (i) Irrevocably waives all immunity from attachment of its assets in the U.S., (ii) irrevocably submits to the jurisdiction of a court in the U.S. with respect to any action or proceeding brought against it relating in any way to the Agreement, (iii) irrevocably waives any objection to the laying of venue in a court in the U.S., (iv) expressly states that any judgment obtained against it by GSCC may be enforced in the courts of any jurisdiction where it or any of its property may be found and irrevocably submits to the jurisdiction of each such court, and (v) agrees that payment of any judgment obtained by GSCC shall be in U.S. dollars.

The Opinion must state that: (i) The waiver by the foreign entity of all immunity from attachment of its assets in the U.S. is valid and will be recognized and given effect by the courts of the foreign entity's home country, (ii) the foreign entity has the power to irrevocably submit to the jurisdiction of a court in the U.S. and to waive all objections to venue, (iii) any judgment obtained against the foreign entity by GSCC may be enforced in the courts of any jurisdiction where the foreign entity or any of its property may be found and its submission to the jurisdiction of each such court is valid and will be recognized and given effect by the courts of the foreign entity's home country, (iv) GSCC can institute in the foreign entity's home country an action for breach of the Agreement without first having to obtain a judgment against the entity in the U.S., and (v) GSCC can institute in the U.S. an action for breach of the Agreement without first having to obtain a judgment against the entity in the entity's home country.

Under the Agreement, the foreign member must provide GSCC with information on its financial condition and/or trading activity that GSCC deems pertinent and agrees that any such information may be provided by GSCC to the Commission. The Opinion must state that the foreign entity has the

power to provide GSCC with information on its financial condition and/or trading activity that GSCC deems pertinent and that neither the foreign entity's compliance with such a request nor the sharing by GSCC of such information with the Commission will conflict with or be impeded by the laws or regulations of the foreign entity's home country and will be respected by the foreign entity's primary foreign regulator.

In addition to the Agreement and the Opinion, any foreign netting system applicant must submit a designation specifying an appropriate person or persons located in the State of New York as its agent to receive service of process or other legal summons.

While there is no special agreement applicable to a foreign entity that applies for membership in GSCC's comparison system, such entity must provide to GSCC an opinion of foreign counsel. That opinion must state that the execution by the foreign entity of the comparison-only member agreement ("Comparison Agreement") with GSCC, its performance under that agreement, and the exercise by GSCC of its rights and remedies under that agreement will not conflict with or be impeded by the laws or regulations of the foreign entity's home country and will be respected by the foreign entity's primary foreign regulator. The opinion also must state that the language in the Comparison Agreement providing that the agreement shall be governed by and construed in accordance with the laws of the State of New York will be recognized and given effect by the courts of the foreign entity's home country.

2. Minimum Financial Standards and Clearing Fund Requirements

The proposed rule change also provides that the minimum financial standards and clearing fund requirements for a foreign netting system applicant will be the requirements applicable to the domestic netting system membership category that GSCC in its sole discretion determines is most comparable in type to the foreign applicant. In making this determination, GSCC will take into account, among other things, whether the entity's trading activity is done primarily for itself or for others. If a foreign netting system member falls out of compliance with its minimum financial requirements, the consequences of such noncompliance will be based on the subsection of GSCC Rule 3, Section 5 that is applicable to the netting system membership category

upon which a foreign entity's minimum financial standards are based.

3. Home Country Standards

In order to be eligible for netting system membership, a foreign entity must be in compliance with the financial reporting and responsibility standards of its home country. A foreign entity applying for netting system membership also must be regulated in its home country in ways and pursuant to provisions comparable to those imposed on domestic GSCC netting members.

4. Information Sharing/Regulatory and Financial Reporting

To insure appropriate information sharing, the home country regulator of a foreign entity applying for netting system membership must have entered into a memorandum of understanding with the Commission regarding the sharing or exchange of information. In its application for membership, either comparison-only or netting system, a foreign entity must agree to provide GSCC with all material regulatory filings made with its primary home country regulator over the prior year, audited financial statements for the prior three years, and any other financial information GSCC deems to be necessary in order to protect GSCC and its members. After acceptance to comparison-only or netting system membership, a foreign member must provide GSCC with all material regulatory filings made with its primary home country regulator promptly following its filing with such regulator, all audited financial statements, and any other financial information GSCC deems to be necessary in order to protect GSCC and its members.

GSCC ordinarily will accept for financial monitoring purposes audited financial statements prepared in accordance with the home country's generally accepted accounting principles. If GSCC believes that those statements are not satisfactory, it will assess whether the foreign entity can provide information equivalent to that information provided by financial statements prepared in accordance with U.S. generally accepted accounting principles. All required financial and other reports must be submitted to GSCC in English. All required financial reports must be submitted to GSCC in dollar equivalents indicating the conversion rate and date used.

As noted above, pursuant to the Agreement a foreign netting system member must agree to provide GSCC with information on its financial condition and/or trading activity

deemed pertinent by GSCC and must acknowledge that GSCC may share this information with the Commission. In addition, GSCC will expect a foreign entity to prepare and provide to GSCC information to the form of unaudited financials sufficient for GSCC to monitor and assess the entity's financial condition on no less than a quarterly basis.

5. Physical Presence

With respect to a foreign netting member's physical presence in the U.S., GSCC will require every foreign entity to maintain an office in the U.S. either directly or through a suitable agent that (i) has available individuals fluent in English who are knowledgeable about the entity's business and can assist GSCC representatives as necessary and (ii) ensures that the foreign member can meet its data submission and settlement obligations to GSCC.

II. Discussion

Section 17A(b)(3)(F)⁵ of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes GSCC's proposed rule change is consistent with the requirements of section 17A(b)(3)(F) because by permitting foreign entities, which are significant participants in the government securities marketplace and which actively trade with many current netting members, to become members of GSCC's netting system, the proposal will enable GSCC to extend the benefits of its netting and risk management processes to a broader segment of government securities market participants and will enable GSCC to extend those benefits to current members in their trades with foreign entity counterparties. Thus, a greater percentage of transactions in government securities should be settled through the national clearance and settlement system, which should help facilitate prompt and accurate clearance and settlement of government securities transactions.

Section 17A(b)(3)(f) also requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that GSCC's rules adequately take into account the unique risks raised by the admission of foreign entities. Specifically, by requiring a foreign netting member to execute the Agreement and submit an Opinion,

GSCC's proposal should help ensure that a foreign netting member can adhere to GSCC's rules and that jurisdictional issues will not impede the exercise of GSCC's rights and remedies, including, among other things, GSCC's ability to serve process on a foreign netting member, against a foreign netting member.

The proposed rule change also takes into account GSCC's need to obtain information about the foreign member in order to adequately assess risk and to ensure compliance with GSCC's rules. The Agreement and Opinion facilitate GSCC's ability to obtain from foreign members financial and/or trading activity information which GSCC deems pertinent. Foreign applicants to and members of either the comparison-only or netting systems must provide GSCC with all material regulatory filings submitted to their home country regulator and with audited financial statements. The requirement that a foreign netting applicant's home country regulator must have entered into a memorandum of understanding with the Commission regarding exchange of information should help to ensure that the Commission has the ability to obtain appropriate information on foreign netting members. To further reduce potential risk arising from the absence of domestic regulatory oversight of foreign applicants, the proposed rule change requires that a foreign entity must be in compliance with the financial and reporting standards of its home country and that it must be regulated in its home country in a manner that is comparable to the regulation of domestic netting members.

To further guard against the potential risks posed by foreign netting members, the proposed rule change requires that every foreign netting member maintain an office in the U.S. that will ensure that the foreign member can meet its data submission and settlement obligations to GSCC. Such an office must have employees who are fluent in English and knowledgeable about the entity's business. Thus, GSCC will have an appropriate contact person readily available in event of an emergency situation.

The Commission believes that the foregoing conditions should help GSCC ensure that foreign netting members are subject to appropriate legal, financial, and information sharing requirements, that they are regulated in a manner comparable to other GSCC members, and that they maintain a physical presence in the United States. As a result, the proposed rule change should help GSCC to assure the safeguarding of securities and funds which are in its

custody or control or for which it is responsible with the expansion of its services to foreign netting members.

III. 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-95-05) be and hereby is approved.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36786; File No. SR-CBOE-96-04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to the Listing and Trading of Options on the CBOE Internet Index

January 29, 1996.

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 19, 1996, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to list and trade options on the CBOE Internet Index ("Internet Index" or "Index"). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

⁶ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁵ 15 U.S.C. § 78q-1(b)(3)(F) (1988).