

[Release No. 34-37870; File No. SR-GSCC-96-08]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Repurchase Agreement Netting Service

October 25, 1996.

On August 1, 1996, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-GSCC-96-08) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ On August 9, 1996, GSCC filed an amendment to the proposed rule change.² Notice of the proposal was published in the Federal Register on September 12, 1996.³ No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The proposed rule change permits GSCC to reimburse interdealer broker netting members ("IDBs") for two costs related to their participation in GSCC's netting system for repurchase and reverse repurchase transactions ("repo") involving government securities as the underlying instruments.⁴ Currently, IDB and non-IDB netting members may submit data on brokered repos to GSCC for clearance and settlement. GSCC compares, nets, and settles repo close legs and repo start legs submitted prior to start date (*i.e.*, non-same-day-settling start legs).

Because GSCC currently does not settle intraday start legs, the parties to brokered repos assume the responsibility for the settlement of such legs outside of GSCC. As a result, IDBs will incur clearance charges for the settlement of intraday start legs of brokered repos.⁵ Under the proposed rule change, GSCC will absorb IDBs'

clearance charges related to the settlement of intraday repo start legs, up to a dollar amount deemed reasonable by it.

In addition, IDBs may incur overnight financing costs resulting from securities delivered too late in the day to redeliver before the close of Fedwire.⁶ In such instances, GSCC will reimburse this cost to the IDB if the cost was incurred unavoidably and without fault by the IDB. GSCC will only absorb such charges up to a dollar amount deemed reasonable by it.

In certain circumstances, these cost reimbursements also will be available to a division or separate operating unit within a dealer netting member. To be eligible, such division or unit must operate in an overall manner as a broker and must abide by the requirements imposed on IDBs that participate in the repo netting process.

II. Discussion

Section 17A(b)(3)(F)⁷ of the Act requires that the rules of a clearing agency be designed to remove impediments to and to perfect the mechanism of a national clearance and settlement system. Although GSCC provided for participation by IDBs in its repo netting system earlier this year, IDBs, like all other GSCC repo netting members, must assume the responsibility for the settlement of intraday start legs outside of GSCC. By providing a method whereby IDBs can use in an economic fashion the facilities of GSCC to settle their brokered repos, the proposal should encourage IDBs to submit their repo transactions to GSCC. As a result, more repos should be settled through the facilities of a registered securities clearing agency (*i.e.*, GSCC) which should, consistent with the requirements of Section 17A(b)(3)(F), further the establishment of a national clearance and settlement system.

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-96-08) be and hereby is approved.

⁶Overnight financing costs are costs charged by clearing agent banks to their broker-dealer customers related to the financing by banks of securities held from one business day until the next business day in customers' clearing accounts.

⁷15 U.S.C. § 78q-1(b)(3)(F) (1988).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. MacFarland,
Deputy Secretary.

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[Release No. 34-37868; File No. SR-GSCC-96-09]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to the Establishment of a Mechanism for Returning Certain Excess Clearing Fund Collateral to Members on a Daily Basis

October 25, 1996.

On August 11, 1996, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-GSCC-96-09) 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 September 19, 1996.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The proposed rule change establishes a mechanism for returning certain excess clearing fund collateral to members on a daily basis rather than on the current monthly basis. GSCC's clearing fund is designed to protect GSCC from the exposure presented by fluctuations in the value of a defaulting member's net settlement position from the most recent marking-to-market until liquidation of that position.³ The daily mark-to-market mechanism, which is applicable to forward net settlement positions, is designed to bring net settlement positions from contract value to current market value.

Members' clearing fund deposit requirements are calculated daily based on the level of members' historical and

⁸ 17 CFR 200.30-3(a)(12) (1996).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Securities Exchange Act Release No. 37678 (September 13, 1996), 61 FR 49367.

³ The clearing fund collateral pool also allows GSCC to have on deposit from each netting member assets to satisfy losses resulting from a member's default; permits GSCC to maintain a total asset amount sufficient to satisfy potential losses to it and its members resulting from the default of more than one member or the failure of a defaulting member's counterparties to pay their pro rata allocation of loss; and provides GSCC with liquidity to meet its payment and delivery obligations.

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Christine Sibille, Senior Counsel, Division of Market Regulation, Commission (August 6, 1996).

³ Securities Exchange Act Release No. 37647 (September 5, 1996), 61 FR 48189.

⁴ Earlier this year, the Commission approved a proposed rule change filed by GSCC which provided for participation by IDBs in GSCC's repo netting system. Securities Exchange Act Release No. 37482 (July 25, 1996), 61 FR 40275.

⁵ Clearance charges are costs charged by clearing agent banks to their broker-dealer customers related to the settlement of securities movements obligations. Clearance charges may include both fixed charges and pass through charges such as the costs of Fedwire.