

and to protect investors and the public interest.<sup>4</sup>

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

CBOE 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 written comments were solicited or received with respect to the proposed rule change.

### III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act. 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, in that the proposal is consistent with Section 6(b) of the Act, in general and, Section 6(b)(5),<sup>5</sup> in particular, as it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

Specifically, the Commission believes that, since the CBOE does not and cannot have a surveillance sharing agreement with the Milan Exchange, the CBOE's adoption of the proposed policy will enable the Exchange to carry out its market surveillance and enforcement functions for derivative products containing Italian component securities by seeking the necessary information about activity on the Italian securities markets from the SEC per the latter's MOU with the CONSOB. The Commission believes that the Exchange's proposed policy adequately details the circumstances and conditions under which the Exchange may obtain access to such information from the SEC.

The Commission believes that, under the Exchange's proposed policy, the Exchange will advise the SEC of information it needs regarding activity on the Italian securities markets for market surveillance and enforcement purposes. The Commission, in turn, may request the CONSOB's assistance, pursuant to the MOU, in gaining access

to such information. The Commission notes that the Exchange will use such information it may receive from the SEC only for the purposes of conducting market surveillance and enforcement proceedings. The Commission also notes that the Exchange will limit distribution of such information to officers and directors of the Exchange and other employees directly responsible for conducting market surveillance and enforcement proceedings relating to the matter in connection with which the SEC provided the information to the CBOE. In view of the importance of maintaining the confidentiality of this information, the SEC believes that the officers and/or directors overseeing the exchange employees conducting the relevant market surveillance and enforcement proceedings would be responsible for ensuring the confidentiality of the information provided by the SEC pursuant to the MOU with the CONSOB and should take reasonable measures to ensure that the information does not become available to unauthorized persons. Thus, the Commission believes that the Exchange will undertake to maintain the confidentiality of such information and to take appropriate disciplinary action in the event it learns of a breach of such confidentiality, including referral to the SEC for any action the SEC deems necessary or appropriate.

The Commission believes that the CBOE, by adopting a policy that provides access to information on the underlying securities for market surveillance and enforcement purposes, will be in a position to list options and other derivative products containing Italian component securities, provided that all other applicable product listing standards are met. Therefore, the Exchange's proposed rule change could potentially provide investors with the opportunity to invest in such products and hedge their exposure to the Italian securities market. Accordingly, the Commission believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

The Commission notes that a substantially identical proposal was published by the American Stock Exchange ("AMEX") for the full 21 day comment period without any comments being received by the Commission. The Commission therefore believes that approving the CBOE policy on an accelerated basis will allow the Exchange to pursue trading in options

and other derivative products containing Italian component securities without further delay. Accordingly, the Commission finds that, consistent with Section 6(b)(5) of the Act, good cause exists to approve CBOE's proposed rule change on an accelerated basis prior to the thirtieth day after the date of publication thereof in the Federal Register.

### 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 available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-96-77 and should be submitted by March 18, 1997.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>6</sup> that the proposed rule change (SR-CBOE-96-77) is hereby approved on an accelerated basis.

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

Margaret H. McFarland,  
Deputy Secretary.  
[FR Doc. 97-4605 Filed 2-24-97; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 34-38302; File No. SR-GSCC-96-14]

### **Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Eliminate Grandfather Privileges**

February 18, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

<sup>4</sup> In approving the rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78f(b) and 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78s(b)(2).

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

("Act"),<sup>1</sup> notice is hereby given that on December 19, 1996, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No SR-GSCC-96-14) 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 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 purpose of the proposed rule change is to eliminate the ability of GSCC's interdealer broker netting members ("IDB") to trade with certain nonmembers identified on GSCC's grandfather list.

#### 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>2</sup>

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

In May 1993, GSCC established limitations on the trading activity of IDBs with firms that are not members of GSCC's netting system.<sup>3</sup> GSCC restricted category 1 IDBs to trading only with GSCC netting members and limited the trading activity of category 2 IDBs with nonmember firms to ten percent. At that time, GSCC decided to allow IDBs to continue to trade with certain nonmember firms ("grandfather nonmembers") that historically have had access to the IDB's screens and that GSCC has identified on its grandfather list.<sup>4</sup> GSCC believed that it was unfair to

penalize IDBs for continuing to trade with firms that GSCC was not yet successful in bringing into its netting system membership. Accordingly, category 1 IDBs can continue to trade with the grandfathered nonmember dealers and trading between category 2 IDBs and grandfathered firms does not count toward category 2 IDBs' ten percent limit.

Since 1993, GSCC has made numerous attempts to encourage each of the grandfathered firms either to join GSCC's netting system or to have their eligible trades submitted to the net by an affiliated netting member.<sup>5</sup> GSCC also has established a category of netting system membership for foreign entities. Thus, all entities on the grandfather list are now eligible for direct netting membership in GSCC.

GSCC believes that trades between an IDB and a grandfathered firm expose GSCC to greater risks than trades between an IDB and a netting member because trades with a grandfathered firm are not eligible for netting by GSCC. As a result, when an IDB has offsetting trades with a netting member and a grandfathered firm, only the trade with the netting member will be netted thereby leaving the IDB instead of a grandfathered firm with a position.<sup>6</sup>

Therefore, GSCC is proposing to eliminate the grandfather list, effective June 30, 1997. GSCC believes that the effective date provides grandfathered firms with sufficient time to join GSCC's netting system or to adjust to nongrandfathered status. Once the grandfather list has been eliminated, category 2 IDBs, which do virtually all of the brokered transactions with the current grandfathered firms, will have to trade with the formerly grandfathered firms that do not join GSCC's netting system under the category 2 IDB's authority to engage in ten percent of its trading activity with nonmember firms. Category 1 IDBs will be prohibited from doing any netting eligible activity with a formerly grandfathered firm that does not join GSCC's netting system.

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>7</sup> and the rules and regulations thereunder because it would end the

exposure to GSCC that the trading by the IDBs with grandfathered firms creates.

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

GSCC does not believe that the proposed rule change will have an impact or impose a 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

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 GSCC 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 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, 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 GSCC. All submissions should

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by GSCC.

<sup>3</sup> Securities Exchange Act Release No. 32722 (August 5, 1993), 58 FR 42993 (order approving establishment of new membership categories).

<sup>4</sup> The grandfather list includes the following firms:

Aubrey G. Lanston & Co., Inc.  
The Nikko Securities Co., Ltd. (Tokyo)  
Nikko Europe PLC (London)

Nomura International Inc. (Tokyo)  
Nomura Securities Co., Ltd. (Tokyo)  
Nomura International PLC (London)  
Daiwa Europe Ltd. (London)

<sup>5</sup> The number of grandfathered firms has decreased from twelve to seven.

<sup>6</sup> While the number of trades between IDBs and grandfathered firms is a relatively small percentage of the IDB's trades, they are significant in absolute terms.

<sup>7</sup> 15 U.S.C. 78q-1.

refer to the file number SR-GSCC-96-14 and should be submitted by March 18, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-38309; File No. SR-NASD-96-54]

**Self-Regulatory Organizations;  
National Association of Securities  
Dealers, Inc.; Order Granting Approval  
of a Proposed Rule Change Relating to  
Reconfirmation and Pricing Services**

February 19, 1997.

On December 20, 1996, the NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-NASD-96-54) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the Federal Register on January 9, 1997.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

**I. Description**

Several years ago, the National Securities Clearing Corporation ("NSCC") began operating its Reconfirmation and Pricing Service ("RECAPS") that permits NSCC participants to submit their fail transactions for reconfirmation and repricing on a quarterly basis. Rule 11190 (formerly Section 69) of the Uniform Practice Code ("Code") of the National Association of Securities Dealers, Inc. ("NASD") mandates that a member which is a participant in a registered clearing agency participate in the clearing agency's fail reconfirmation and pricing service.

Even after a transaction is compared, fails can occur for many reasons (*e.g.*, because the securities fail to be received or delivered or payment is not received or delivered). RECAPS provides a means for parties with open fails on their books to send them to NSCC for matching on a quarterly basis. The RECAPS process allows members to reconfirm outstanding fails by establishing a new settlement date and to reprice such fails

by marking the contract to the current market price. It also identifies a submitting member's fails that may have been settled or for which the contraparty has no record.

Prior to this amendment, when one of the parties did not respond to a RECAPS submission, the submitting party could either leave the fail open for three more months and try again for resolution through RECAPS or could buy in or sell out the transaction pursuant to NASD's Code. The submitting member was required by Rule 11810 of NASD's Code to send another notification to the contraparty and wait another two days prior to effecting a buy in. No prior notice is or was required before effecting a sell out pursuant to Rule 11820 of NASD's Code.

As amended, Rule 11190(b)(1) permits a contract that has been submitted to a reconfirmation and repricing service and that has been DK'ed by the contraparty or is otherwise deemed a DK under the rules of the service<sup>3</sup> to be closed out by the submitting party without notice during normal trading hours promptly after the completion of the reconfirmation and pricing cycle for the account and liability of the nonconfirming member.<sup>4</sup> New paragraph (b)(2) of Rule 11190 requires that the submitting member notify the nonresponding member of any execution to close the contract on the day of execution and the action of the member to buy in or sell out in accordance with the provisions of Rules 11810 and 11820, respectively. However, if the submitting member determines not to close out a DK, the fail continues to remain open on the submitting member's books until the next RECAPS cycle.

**II. Discussion**

Section 15A(b)(6) provides that the rules of an association must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.<sup>5</sup> The Commission believes that the proposed rule change is consistent with the NASD's obligations under the Act. The proposals provides an expedited

<sup>3</sup> Recently, NSCC amended its Procedure II(G) to provide that failure to respond to a RECAPS reconfirmation attempt shall result in the transaction being DK'ed. Treating a failure to respond to a RECAPS reconfirmation attempt as a DK under NSCC's rules extinguishes any rights of the nonresponding member with respect to the transaction.

<sup>4</sup> The word "promptly" in paragraph (b)(1) is intended to be interpreted in accordance with the nature and liquidity of the securities.

<sup>5</sup> 15 U.S.C. 78o-3(b)(6).

mechanism to reduce long outstanding fails that have been submitted to RECAPS. When a selling member DKs a transaction or fails to respond to a RECAPS advisory, Rule 11190(b) of the Code allows the buying member to immediately execute a buy in transaction and notify the nonresponding selling member of its liability for the transaction. The proposal provides an incentive to parties to resolve RECAPS transactions submitted against them in a timely fashion. By encouraging and assisting parties to resolve their trade disputes, the proposal helps foster cooperation and coordination with persons engaged in clearing, settling, and facilitating transactions in securities.

**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 15A 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-NASD-96-54) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-38291; File No. SR-NASD-97-10]

**Self-Regulatory Organizations; Notice  
of Filing of Proposed Rule Change by  
National Association of Securities  
Dealers, Inc. Relating to the  
Distribution of Information Concerning  
the Availability of the NASD  
Regulation, Inc. Public Disclosure  
Program**

February 14, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 11, 1997, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>8</sup> 17 CFR 200.30-3(a)(12)

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

<sup>2</sup> Securities Exchange Act Release No. 38115 (January 3, 1997), 62 FR 1351.