

exemption from the provisions of section 22(c) and Rule 22c-1 to the extent deemed necessary to permit them to recapture the Credit Enhancement that is or will be made available under the Variable Contracts and Future Variable Contracts.

### Conclusion

Applicants submit that their request for an order for the exemptive relief described above is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and that, therefore, the Commission should grant the requested order.

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

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42732; File No. SR-Amex-00-24]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Rule 2(a) of the Rules of Procedure Applicable to Exchange Disciplinary Proceedings

April 28, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 27, 2000, the American Stock Exchange LLC ("Amex" 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 prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> 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 Exchange proposes to amend Rule 2(a) of the Rules of Procedure Applicable to Exchange Disciplinary Proceedings for purposes of authorizing the Chief Hearing Officer (or the Deputy Chief Hearing Officer) at the National Association of Securities Dealers Regulation, Inc. ("NASDR") Office of Hearing Officers to appoint NASDR hearing officers to act as Chairmen of Amex disciplinary panels. The text of the proposed rule change is below. New language is *italics*.

#### *K. Exchange Disciplinary Proceedings*

##### *Rule*

##### *Rule 02(a). Selection of Hearing Officers*

Whenever the Chairman of the Exchange shall be advised that a charge or charges have been served upon a member, member organization, approved person, or a registered or non-registered employee or prospective employee of a member or member organization, or that a written stipulation of facts and consent to a specified penalty has been entered into between any such person or persons and an officer of the Exchange, or that a member or member organization has been suspended or expelled from any other securities exchange or any national securities association, or has been suspended or barred from being associated with any member of such exchange or association, or has been suspended or barred by any governmental securities agency from dealing in securities or being associated with any broker or dealer in securities and such member or member organization has not consented in writing to similar action by the Exchange, or that an employee or prospective employee of a member or member organization has been suspended or expelled from any other securities exchange or any national securities association, or has been suspended or barred from being associated with any member of such exchange or association, or has been suspended or barred by any governmental securities agency from dealing in securities or being associated with any broker or dealer in securities and such employee or prospective employee has not consented in writing to similar action by the Exchange, the Chairman, *(or such person(s) as the Chairman may designate with Board approval)*, shall select, from among hearing officers appointed to serve on Exchange Disciplinary Panels, one such hearing officer to act as a chairman of a Disciplinary Panel which shall conduct a hearing with respect to such matter and take such action as may be authorized pursuant to the Constitution and rules of the Exchange.

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

In its filing with the Commission, the Exchange included statements

concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

Under Article V, Section 1(b)(2) of the Amex Constitution, the Chairman of the Board, subject to the approval of the Board, designates Exchange Officials and other persons to serve on the Hearing Board. Those who are designated to serve on the Hearing Board make up a pool of persons who can be asked to serve as members of disciplinary panels in Exchange disciplinary proceedings. Under Article V, Section 1(b)(3), the Chairman, again subject to Board approval, designates one or more hearing officers, who have no Exchange duties or functions relating to the investigation or preparation of disciplinary matters, to act as Chairmen of Amex disciplinary panels.

These two pools of people (*i.e.*, the people who serve as members of disciplinary panels, and the people who act as Chairmen of the disciplinary panels) are approved on an annual basis at the Board's organization meeting each January. Rule 2(a) of the Rules of Procedure Applicable to Exchange Disciplinary Proceedings then requires the Amex Chairman, each time an Amex disciplinary proceeding is initiated, to select the specific hearing officer that will chair that particular Amex disciplinary panel.

Last year, the Amex entered into a formal agreement with the National Association of Securities Dealers ("NASD") under which the NASDR's Office of Hearing Officers provides hearing officers to chair all Amex disciplinary panels. The hearing officers are responsible for fulfilling the panel chair's duties as set forth in the Amex Constitution and Rules. The NASD has followed the above described procedure under Rule 2(a) with respect to the selection of a hearing officer to chair each Amex disciplinary panel, obtaining the approval of the Amex Chairman in each instance.

Amex proposes to amend Rule 2(a) to expedite the selection process by authorizing the Amex Chairman, or such person(s) as the Chairman may designate with Board approval, to

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The Exchange provided written notice to the Commission on April 20, 2000, that it intended to file this proposal. See Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

appoint in each instance the specific hearing officer that will chair each Amex disciplinary panel. The Amex Board has approved this amendment and specifically authorized the Chief Hearing Officer (or the Deputy Hearing Officer) at the NASDR's Office of Hearing Officers, as the Amex Chairman's designee, to appoint NASDR hearing officers to chair Amex disciplinary panels. The Exchange is amending Rule 2(a) for the sole purpose of streamlining the process for selecting hearing officers. The Exchange believes the amendment will provide for more efficient administration of Amex disciplinary proceedings.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general and furthers the objectives of Section 6(b)(6)<sup>7</sup> in particular in that it is intended to assure that Exchange members and member firms are appropriately disciplined for rule violations.

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

Amex believes 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*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

or otherwise in furtherance of the purposes of the Act.<sup>10</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR-Amex-00-24 and should be submitted by May 26, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jonathan G. Katz,**  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42729; File No. SR-GSCC-99-05]

### **Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Formation of the European Securities Clearing Corporation**

April 28, 2000.

On November 16, 1999, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-GSCC-99-05) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice

<sup>10</sup> In reviewing this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

of the proposal was published in the **Federal Register** on January 5, 2000.<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

Under the rule change, GSCC seeks Commission approval to become an initial shareholder and to serve on the board of directors of the European Securities Clearing Corporation ("ESCC"). ESCC will be a new entity formed under the laws of the United Kingdom by GSCC, the Euroclear Clearance System Societe Cooperative ("Euroclear"), and the London Clearing House ("LCH"). ESCC will be owned equally by GSCC, Euroclear, and LCH.<sup>3</sup>

ESCC's main role will be to oversee the scope and nature of the netting services being offered through LCH's RepoClear.<sup>4</sup> It is intended that ESCC will be governed by its market participant users, which are expected to be major participants in the European fixed-income marketplace. GSCC's involvement in ESCC will be a governance role that should help ensure, among other things, that RepoClear will draw upon GSCC's experience and knowledge and will have United States-style features such as single-ticket data input, settlement of contracts at current market value, the facilitation of substitutions, and the admission of inter-dealer brokers.

GSCC's role in ESCC will further help to ensure that the RepoClear service will use, to the extent appropriate, GSCC's mark-to-market and margining methodologies to provide comprehensive, uniform risk

<sup>2</sup> Securities Exchange Act Release No. 42279, (December 28, 1999), 65 FR 541.

<sup>3</sup> In 1998, GSCC's board of directors requested that GSCC explore the possibility of providing in Europe the types of comparison, netting, and risk management services that GSCC provides in the United States. GSCC originally planned to provide these services through a joint venture with Euroclear and its operator Morgan Guaranty Trust Company of New York, Brussels Branch. Specifically, GSCC and Euroclear had planned to use J.P. Morgan Benelux, S.A., an existing Morgan subsidiary, as the netting vehicle that would have been renamed the European Securities Clearing Corporation. In a separate development, LCH was also asked by its members to provide these same services in Europe. In response, in April 1999 LCH began offering its RepoClear service through which LCH provides netting services for European sovereign debt repo transactions. To achieve greater efficiency, GSCC, Euroclear, and LCH have agreed that it would be more efficient to provide the services for European sovereign debt purchases and repo transactions through a single netting vehicle, RepoClear.

<sup>4</sup> In accordance with the agreement between GSCC, Euroclear, and LCH, LCH will transfer control of RepoClear to ESCC. For a description of LCH's RepoClear, see note 3.

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

<sup>7</sup> 15 U.S.C. 78f(b)(6).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(6).