

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

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45334; File No. SR-Amex-2001-111]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Regarding Off-Exchange Trading in Exchange Listed Options

January 25, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4² thereunder, notice is hereby given that on December 26, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") 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 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 Exchange proposes to amend Exchange Rule 959 to reinstate text inadvertently deleted that allows certain trading in Exchange listed options contracts to occur off the Exchange.

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

Rule 959. Accommodation Transactions

(a) No Change.

(b) *Any member, member organization or other person who is a non-member broker or dealer and who directly or indirectly controls, is controlled by, or is under common control with, a member, member organization (any such other person referred to as an affiliated person) may effect any transaction as principal in the over-the-counter market in any class of option contracts listed on the Exchange for a premium not in excess of \$1.00 per contract.*

Commentary.....

For each transaction executed by a member organization or affiliated person pursuant to paragraph (b), a record of such transaction shall be maintained by the member or member organization and shall be available for inspection by the Exchange for a period of three years. Such record shall include the circumstances under which the transaction was executed in conformity with this rule.

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 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. The Exchange 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

On February 1, 2000, the Exchange filed with the Commission pursuant to Rule 19b-4 of the Act,³ a proposed rule change to rescind its off-board trading rules (Exchange Rules 5 and 6) and to make conforming changes to Rules 25, 317, 900 and 959.⁴ The Commission subsequently approved the proposed rule change on June 1, 2000.⁵ According to the Exchange, rather than simply deleting the reference to Exchange Rule 5 in paragraph (b) of Rule 959, paragraph (b) was inadvertently deleted in its entirety. Exchange Rule 959(b) concerned the ability of Exchange members to effect transactions in the over-the-counter market in options. The provision required that options premiums not exceed \$1.00 per contract for any class of options listed on the Exchange.

Rule 19c-3(a) of the Act⁶ prohibits a national securities exchange from imposing off-board trading restrictions on equity securities listed after April 26, 1979. In 2000, the New York Stock Exchange Inc. proposed the elimination

³ 17 CFR 240.19b-4.

⁴ See Securities Exchange Act Release No. 42460 (February 25, 2000), 65 FR 11618 (March 3, 2000).

⁵ Securities Exchange Act Release No. 42888 (June 1, 2000), 65 FR 36855 (June 12, 2000).

⁶ 17 CFR 240.19c(3)(a).

of its off-board equity trading restrictions by filing with the Commission to rescind NYSE Rule 390. Amex and the other national securities exchanges then filed proposed rule changes with the Commission to eliminate off-board trading restrictions by their members. The Commission approved these proposals to eliminate off-board trading restrictions. However, as indicated in Rule 19c-3(a) of the Act, off-board trading restrictions by members of the national securities exchanges may still apply to options contracts issued by the Options Clearing Corporation ("OCC"). Therefore, because listed options issued and cleared by OCC are required to be transacted on an Exchange,⁷ the elimination of Exchange Rule 959(b) to allow limited over-the-counter transaction in the market by members was not proper. Exchange Rule 959(b) will allow members to effect transactions in options contracts as principals in the over-the-counter market for a premium not in excess of \$1.00 per contract. The Commentary to Exchange Rule 959 will require that for each over-the-counter transaction, the member, member organization, or affiliated person, maintain a record of such transaction and keep such records available for Exchange inspection for three years.

Other options exchanges, such as the Chicago Board Options Exchange, Inc. ("CBOE"), the Pacific Stock Exchange, Inc. ("PCX") and the Philadelphia Stock Exchange, Inc. ("Phlx") permit transactions in the over-the-counter market under the same restrictions.⁸ At the time when off-board trading restrictions for equity securities were lifted in June 2000, the other options exchanges did not similarly revise their rules to delete reference to over-the-counter transactions.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act⁹ in general and furthers the objectives of Section 6(b)(5)¹⁰ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market

⁷ See OCC By-Laws Article VI Section 1.

⁸ See CBOE Rule 6.49, PCX Rule 6.78, and Phlx Rule 1059.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

and a national market system, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

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

The Exchange believes that 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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act¹¹ and Rule 19b-4(f)(3)¹² thereunder because the Exchange has designated it as concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such 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.

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, N.W., 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 No. SR-Amex-2001-111 and should be submitted by February 21, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45335; File No. SR-GSCC-2001-03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to Establishment of a Cross-Margining Agreement With the Board of Trade Clearing Corporation

January 25, 2002.

I. Introduction

On April 4, 2001, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-GSCC-2001-03 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 11, 2001.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description³

On August 19, 1999, the Commission approved GSCC's proposed rule filing to establish a cross-margining program with other clearing organizations and to begin its program with the New York Clearing Corporation ("NYCC").⁴ More recently, the Commission approved GSCC's proposed rule filing to establish a similar cross-margining program with the Chicago Mercantile Exchange ("CME").⁵ GSCC is now establishing a

similar cross-margining arrangement with the Board of Trade Clearing Corporation.⁶

This development is significant because the Chicago Board of Trade, for which BOTCC clears, is by far the largest Treasury futures exchange market, and certain of its products, such as the 10-Year Note futures contract, which will be cross-margined with GSCC products, continue to experience growth in volume. Thus, establishing the cross-margining program between GSCC and BOTCC has the potential to provide significant collateral savings to the industry in general and to GSCC's and BOTCC's common members in particular. From each clearing organization's perspective, the cross-margining program will provide important risk management benefits. These benefits include such things as providing the clearing organizations with more information concerning members' intermarket positions to enable the clearing organizations to make more accurate decisions regarding the true risk of the positions to the clearing organizations and encouraging coordinated liquidation processes for a joint participant, or a participant and its affiliate, in the event of an insolvency.⁷

A. GSCC's Cross-Margining Program

GSCC believes that the most efficient and appropriate approach for establishing cross-margining programs for fixed-income and other interest rate products is to do so on a multilateral basis with GSCC as the "hub." Each clearing organization that participates in a cross-margining program with GSCC, such as NYCC, CME, and now BOTCC, (hereinafter "Participating CO") enters into a separate cross-margining agreement between itself and GSCC. Each of the agreements will have similar terms and no preference will be given by GSCC to one Participating CO over another.

Cross-margining is available to any GSCC netting member (with the exception of inter-dealer broker netting

GSCC-00-13]. In addition to approving GSCC's cross-margining program with the CME, the order granted approval to change GSCC Rule 22, Section 4, to clarify that before GSCC credits an insolvent member for any profit realized on the liquidation of the member's final net settlement positions, GSCC will fulfill its obligations with respect to that member under cross-margining agreements.

⁶ BOTCC is a Delaware corporation that acts as the clearing organization for certain futures contracts and options on futures contracts that are traded on the Chicago Board of Trade and that are regulated by the Commodity Futures Trading Commission.

⁷ The GSCC-BOTCC cross-margining agreement requires ownership of 50 percent or more of the common stock of an entity to indicate control of the entity for purposes of the definition of "affiliate."

¹³ 17 CFR 200.30-3(a)(12).

¹¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 44766 (September 5, 2001), 66 FR 47251.

³ The description of GSCC's cross-margining program is drawn largely from representations made by GSCC.

⁴ Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR-GSCC-98-04]. The requisite rule changes necessary for GSCC to engage in cross-margining programs with other clearing organizations were made in the NYCC cross-margining rule filing.

⁵ Securities Exchange Act Release No. 44301 (May 11, 2001), 66 FR 28207 (May 22, 2001) [File No. SR-

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19-4(f)(3).