

**ACTION:** Notice of request for extension of OMB approval of revised collection of information.

**SUMMARY:** The Pension Benefit Guaranty Corporation ("PBGC") is requesting that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of the collection of information under its regulation on Payment of Premiums (29 CFR part 4007) (OMB control number 1212-0009; expires January 31, 2005). The collection of information also includes a certification of compliance with requirements to provide certain notices to participants under the PBGC's regulation on Disclosure to Participants (29 CFR part 4011). The PBGC is revising the collection of information to provide for electronic filing of premium information and payments. The PBGC intends to create an electronic facility, "My Plan Administration Account" ("MyPAA"), on its Web site at <http://www.pbgc.gov>, through which plan administrators and other plan professionals will be able to prepare and submit premium filings. This notice informs the public of the request for OMB approval and solicits public comment on the collection of information.

**DATES:** Comments should be submitted by November 21, 2003.

**ADDRESSES:** Comments should be mailed to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, Washington, DC 20503.

Copies of the request for extension (including the collection of information) may be obtained by writing to the Communications and Public Affairs Department, suite 240, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or by visiting that office or calling (202) 326-4040 during normal business hours. TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to (202) 326-4040. The premium payment and participant notice regulations and the premium forms and instructions for 2003 and prior years can be accessed on the PBGC's Web site at <http://www.pbgc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Deborah C. Murphy, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, (202) 326-4024. TTY and TDD users may call the Federal relay service

toll-free at 1-800-877-8339 and ask to be connected to (202) 326-4024.

**SUPPLEMENTARY INFORMATION:** Section 4007 of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") requires the Pension Benefit Guaranty Corporation ("PBGC") to collect premiums from pension plans covered under Title IV pension insurance programs. Pursuant to ERISA section 4007, the PBGC has issued its regulation on Payment of Premiums (29 CFR part 4007). Section 4007.3 of the premium payment regulation requires plans, in connection with the payment of premiums, to file forms prescribed by the PBGC, and § 4007.10 requires plans to retain and make available to the PBGC records supporting or validating the computation of premiums paid.

The PBGC has prescribed a series of premium forms: Form 1-ES, Form 1-EZ, and Form 1 and (for single-employer plans only) Schedule A to Form 1. Form 1-ES is issued, with instructions, in the PBGC's Estimated Premium Payment Package. Form 1-EZ, Form 1, and Schedule A are issued, with instructions, in the PBGC's Annual Premium Payment Package.

Premium forms are needed to report the computation, determine the amount, and record the payment of PBGC premiums. The submission of forms and retention and submission of records are needed to enable the PBGC to perform premium audits. The plan administrator of each pension plan covered by Title IV of ERISA is required to file one or more premium forms each year. The PBGC uses the information on the premium forms to identify the plans paying premiums; to verify whether plans are paying the correct amounts; and to help the PBGC determine the magnitude of its exposure in the event of plan termination. That information and the retained records are used for audit purposes.

In addition, section 4011 of ERISA and the PBGC's regulation on Disclosure to Participants (29 CFR part 4011) require plan administrators of certain underfunded single-employer pension plans to provide an annual notice to plan participants and beneficiaries of the plans' funding status and the limits on the Pension Benefit Guaranty Corporation's guarantee of plan benefits. In general, the participant notice requirement applies (subject to certain exemptions) to plans that must pay a variable-rate premium. In order to monitor compliance with part 4011, single-employer plan administrators must indicate on their premium filings whether the participant notice requirements have been complied with.

The collection of information under the regulation on Payment of Premiums, including Form 1-ES, Form 1-EZ, Form 1, and Schedule A to Form 1, and related instructions has been approved by OMB under control number 1212-0009. The collection of information also includes the certification of compliance with the participant notice requirements (but not the participant notices themselves).

The PBGC is revising the collection of information to provide for electronic filing of premium information and payments. As part of the PBGC's ongoing implementation of the Government Paperwork Elimination Act (GPEA), the PBGC is creating an application, "My Plan Administration Account" ("MyPAA") on its Web site at <http://www.pbgc.gov>, through which plan administrators and other plan professionals will be able to prepare and submit premium filings.

The PBGC intends to request that OMB extend its approval of this collection of information, as revised, for three years from the date of approval. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The PBGC estimates that it will receive responses annually from about 26,122 plan administrators and that the total annual burden of the collection of information will be about 3,055 hours and \$15,965,675. (These estimates include paper and electronic filings.)

Issued in Washington, DC, this 17th day of October, 2003.

**Stuart A. Sirkin,**

*Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48644; File No. SR-BSE-2003-13]

### Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Relating to the Initial Allocation Plan for the Proposed Boston Options Exchange Facility

October 16, 2003.

#### I. Introduction

On July 30, 2003, the Boston Stock Exchange, Inc. ("BSE" or "Exchange")

filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change that would establish an allocation plan for market maker appointments and accompanying deposit requirements related to the Exchange's proposed options trading facility, Boston Options Exchange ("BOX").<sup>3</sup> On August 7, 2003, the Exchange's rule proposal was published for comment in the **Federal Register**.<sup>4</sup> No comment letters were received on the proposal. On October 2, 2003, BSE submitted Amendment No. 1 to the proposed rule change.<sup>5</sup> This order approves the proposal, publishes notice of Amendment No. 1, and approves Amendment No.1 on an accelerated basis.

## II. Description of Proposal

The BSE proposes that it would ultimately not restrict the number of market makers assigned per class in its proposed BOX market model. Nevertheless, BSE proposes a six-month plan to allocate assignments to a limited number of firms to make markets in the initial 250 classes traded on BOX.<sup>6</sup> Specifically, BOX would phase in trading for the top 250 classes by limiting the number of market maker assignments to 1,911, during the first three months of trading. All remaining assignments requested prior to the commencement of trading on BOX would be assigned by BSE to prospective market making firms on a class-by-class basis during the following three months. In this regard, the Exchange proposes to add to its rules new Chapter XXXVII, which sets forth the initial allocation process for BOX

market maker appointments and accompanying deposit requirements.

Under the proposal, BSE would request that prospective market maker firms declare their interest for the initial market making assignments, and provide information regarding their prior experience as a market maker on an automated market and their capital commitment to options activities. In addition, prospective market maker firms would deposit funds with BSE based on their requested assignments.

To begin the initial allocation, BSE would allocate 889 assignments to experienced firms.<sup>7</sup> BSE would assign firms to a class based on the firms' requests unless the number of requests for a particular class exceeds the number of assignments available. In that case, the BSE would use a random lottery whereby names would be drawn from a pool of all experienced firms requesting a class until the assignments available in that class are allocated. BSE represents that the random lottery would be externally audited to verify its integrity, neutrality, and fairness.

Following the allocation to experienced firms, BSE would allocate 1,022 assignments to all other prospective market making firms, including any experienced firms that did not receive assignments for all of their requested classes in the lottery. BSE would also allocate these 1,022 assignments by request unless the demand for a particular class exceeds the number of assignments available, in which case BSE would allocate assignments using a random lottery. Any prospective market making firms that do not receive a requested allocation in the 1911 assignments allocated for the first three months of trading would be placed on a waiting list and would be allocated their requested assignments within six months of the launch of the BOX market.<sup>8</sup>

All assignments to prospective market making firms would be subject to such an applicant's approval as an Options Participant<sup>9</sup> and a market maker on BOX. In addition, any applicant denied any privilege under the allocation process, including denial of acceptance

as an "experienced" market maker, could appeal such decision according to the procedures set forth in BSE Chapter XXX, Disciplining of Members, Denial of Membership.

At the time a market maker's assignments become available to trade on BOX, deposits for those assignments would be released to BOX and would be nonrefundable, and considered as pre-paid fees credited against such market maker's BOX account to offset trading, technology and other related fees and charges.<sup>10</sup> Before any class becomes available for trading for a particular market maker, if the applicant notifies BSE that it wishes to drop certain allocated classes, BSE would refund fifty percent of the related deposit.

The proposed allocation plan would apply on a pilot basis set to expire no later than six months beyond the initial launch date of the BOX market. Following the pilot period, the BSE would no longer limit the number of market makers assigned per class.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 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 filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-BSE-2003-13 and should be submitted by November 12, 2003.

## IV. Discussion

After careful review, 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<sup>11</sup> and, in particular, the requirements of Section 6 of the Act.

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

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

<sup>3</sup> See Securities Exchange Act Release Nos. 47186 (January 14, 2003), 68 FR 3062 (January 22, 2003) and 48355 (August 15, 2003), 68 FR 50813 (August 22, 2003) (SR-BSE-2002-15).

<sup>4</sup> See Securities Exchange Act Release No. 48271 (August 1, 2003), 68 FR 47113.

<sup>5</sup> See letter from George W. Mann, Jr., Executive Vice President and General Counsel, BSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated October 1, 2003 ("Amendment No. 1"). In Amendment No. 1, the Exchange clarified that it would use Options Clearing Corporation volume statistics from January 2003 through June 2003 for the initial allocation. The Exchange made several technical modifications to the rule text to reflect this clarification. In addition, the Exchange amended the proposal to clarify that all applicants would receive their requested assignments within six months of the launch of the BOX market.

<sup>6</sup> The top 250 classes would be determined based on Options Clearing Corporation volume statistics from January 2003 through June 2003. See Amendment No. 1, *supra* note 5.

<sup>7</sup> A prospective market making firm would qualify as experienced if it has been a market maker or specialist on an organized fully automated market for a minimum of fifty classes for at least six months and has sufficient capital committed to its options activities to effectively support an automated market in BOX, as determined by the BSE. See proposed BSE Chapter XXXVII, Section 1(b).

<sup>8</sup> See Amendment No. 1, *supra* note 5.

<sup>9</sup> See proposed BOX Rules, Chapter I, General Provisions, Section 1(a)(39) (definition of "Options Participant").

<sup>10</sup> See Amendment No. 1, *supra* note 5.

<sup>11</sup> The Commission has considered the proposed rules' impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>12</sup> Specifically, the Commission finds that the proposal to allocate options classes to prospective market makers on the proposed BOX market is consistent with Section 6(b)(5) of the Act,<sup>13</sup> because it will help the Exchange manage the initial launch of trading on the proposed BOX market. In this regard, the Commission notes that all allocations under this proposal are contingent on a prospective firm obtaining approval as a BOX market maker and Options Participant, and Commission approval of the BOX market. Further, the Commission notes that the proposal provides an appeal process for an applicant in the event that any such applicant is denied any privilege in connection with the allocation process.

The Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>14</sup> to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that in Amendment No. 1 the BSE proposes no substantive changes to its filing and, instead, merely clarifies the proposed allocation procedure.

In approving this allocation plan, the Commission is not prejudging the BOX proposal. If the Commission were not to approve BOX, all deposits would be refunded to applicant firms. Approving the allocation plan does, however, afford the BSE an opportunity to prepare for the possibility that the Commission will approve BOX and reduces the time between any such approval and the commencement of trading on the BOX market.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>15</sup> that Amendment No. 1 is approved on an accelerated basis, and that the proposed rule change (File No. SR-BSE-2003-13) is hereby approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-26643 Filed 10-21-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48636; File No. SR-GSCC-2002-07]

### Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Elimination of the Comparison-Only Requirement for New GSCC Netting Members

October 15, 2003.

#### I. Introduction

On September 5, 2002, the Government Securities Clearing Corporation ("GSCC")<sup>1</sup> filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-GSCC-2002-07) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>2</sup> Notice of the proposed rule change was published in the **Federal Register** on June 20, 2003.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

#### II. Description

GSCC's rules currently provide that an entity is eligible to become a netting member if, among other things, it has been a comparison-only member for at least six months unless the requirement is waived by GSCC's Membership and Risk Management Committee ("Committee"). The comparison-only membership requirement was included in GSCC's rules when GSCC first began operations. The purpose of this provision was to give GSCC staff the opportunity to ensure that a firm was operationally sound and had the ability to properly communicate with GSCC before being permitted to participate in the netting system. Over the years, GSCC netting membership has become more critical for active market participants, and it has become increasingly common for management to seek and receive approval to waive the six month comparison-only membership requirement. Unlike other netting membership requirements, such as minimum financial standards and

regulation by an established regulatory entity, the comparison-only membership requirement has not been necessary to ensure the integrity of the admission and membership processes. GSCC staff has gained significant experience in making determinations about a firm's operational capability without having any comparison-only membership history. The granting of netting membership based on reviews without any comparison-only membership history has not presented GSCC with any operationally-deficient netting members.

For these reasons, GSCC is amending its rules to (1) eliminate the six month comparison-only membership requirement as a routine matter and (2) permit GSCC to require an applicant to be a comparison-only member for a time period GSCC deems necessary if GSCC believes such action, in order to protect itself and its members, is necessary to assess the operational capability of the applicant. GSCC's determination to impose a comparison-only membership requirement shall be based on the presence of one or more of the following conditions: (a) The applicant is a newly-formed entity with little or no functional history; (b) its operational staff lacks significant experience; (c) if one of the above conditions is present, it has not engaged a service bureau or correspondent clearing member with which GSCC has had a relationship; or (d) any other factor that management believes might suggest insufficient operational ability.

#### III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.<sup>4</sup> GSCC believes that in most cases it can adequately and without compromising its ability to safeguard its members securities and funds make the determination about an applicant's operational capability and can grant netting membership without requiring the applicant to be a comparison-only member for at least six months. In those situations where GSCC believes it would be prudent to require an applicant to be a comparison-only member for some period of time, GSCC has retained the ability to do so. Accordingly, the proposed rule change should not negatively affect GSCC's ability to safeguard securities and funds

<sup>1</sup> On January 1, 2003, MBS Clearing Corporation ("MBSCC") was merged into the Government Securities Clearing Corporation ("GSCC") and GSCC was renamed the Fixed Income Clearing Corporation ("FICC"). Securities Exchange Act Release No. 47015 (December 17, 2002), 67 FR 78531 (December 24, 2002) [File Nos. SR-GSCC-2002-09 and SR-MBSCC-2002-01].

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> Securities Exchange Act Release No. 48010 (June 10, 2003), 68 FR 37035.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

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

<sup>16</sup> 17 CFR 200.30-3(a)(12).