

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release 34-45164; File No. 600-23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Order Approving an Extension of Temporary Registration as a Clearing Agency

December 18, 2001.

The Securities and Exchange Commission ("Commission") is publishing this notice and order to solicit comments from interested persons and to extend the Government Securities Clearing Corporation's ("GSCC") temporary registration as a clearing agency through June 30, 2002. On May 24, 1988, pursuant to sections 17A(b) and 19(a) of the Act¹ and rule 17Ab2-1 promulgated thereunder,² the Commission granted GSCC registration as a clearing agency on a temporary basis for a period of three years.³ The Commission subsequently has extended GSCC's registration through December 31, 2001.⁴ On December 13, 2001, GSCC requested that the Commission extend GSCC's temporary registration until such time as the Commission is prepared to grant GSCC permanent registration.⁵

The Commission today is extending GSCC's temporary registration as a clearing agency in order that GSCC may continue to act as a clearing agency while the Commission seeks comment on granting GSCC permanent registration as a clearing agency. The Commission expects to publish notice requesting comments on permanent

registration as a clearing agency during the first quarter of next year.⁶

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with section 19(a)(1) of the Act.⁷ 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 application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549-0102. All submissions should refer to File No. 600-23 and should be submitted by January 17, 2002.

It is therefore ordered that GSCC's temporary registration as a clearing agency (File No. 600-23) be and hereby is extended through June 30, 2002.

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

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45165; File No. SR-Amex-2001-102]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to an Increase in Floor, Membership and Options Trading Fees

December 18, 2001.

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 6, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items

have been prepared by the Exchange. Amendment No. 1 was filed on December 17, 2001.³ 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 has proposed to increase floor, membership and option trading fees under SR-Amex-2001-101,⁴ which was filed for immediate effectiveness pursuant to section 19(b)(3)(A)(ii) of the act.⁵ The Exchange now seeks to impose these increased floor, membership, options trading, and comparison and floor brokerage fees, as set forth in Amex-2001-101 and described below, as of August 1, 2001. In addition, the Exchange proposes to impose the increased license fees and the elimination of the fee cap for options as October 1, 2001.

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 section 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

The Exchange proposes to impose floor fees, member fees and options transactions, comparison and Floor brokerage fees as of August 1, 2001, and certain license fees and elimination of the options fee cap as of October 1, 2001. The Exchange filed these fee changes under SR-Amex-2001-101 and requested that they become immediately

¹⁰ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78q-1(b) and 78s(a).

² 17 CFR 240.17Ab2-1.

³ Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

⁴ Securities Exchange Act Release Nos. 25740 (May 24, 1988), 53 FR 19639; 29236 (May 24, 1991), 56 FR 24852; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; 41104 (February 24, 1999), 64 FR 10510; 41805 (August 27, 1999), 64 FR 48682; 42335 (January 12, 2000), 65 FR 3509; 43089 (July 28, 2000), 65 FR 48032; 43900 (January 29, 2001), 66 FR 8988; and 44553 (July 13, 2001), 66 FR 37714.

⁵ Letter from Jeffrey Ingber, Managing Director, General Counsel, and Secretary, GSCC (December 11, 2001).

⁶ The Commission continues to consider two issues related to GSCC's permanent registration status: (1) GSCC's organizational structure after its integration with The Depository Trust & Clearing Corporation and (2) the appropriate standard of care for GSCC.

⁷ 15 U.S.C. 78s(a)(1).

⁸ 17 CFR 200.30-3(a)(16).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Claire P. McGrath, Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated December 14, 2001 ("Amendment No. 1"). In Amendment No. 1, the Amex provided greater detail as to the basis for the proposed rule change.

⁴ See Securities Exchange Act Release No. 45163 (December 18, 2001) for a description of these increased fees.

⁵ 15 U.S.C. 78s(b)(3)(a)(iii).

effective under section 19(b)(3)(A) of the Act.⁶

According to the Exchange, application of the Floor, member, and options fees as of August 1, 2001, will allow it to recoup a portion of costs it incurred during 2001 in providing enhancements to the Floor, which include major improvements in technology, facilities and services. These enhancements included a major expansion of the Amex trading floor in 2001. The Exchange believes that these fee increases better align its fees with the actual cost of delivering services and reduce Exchange subsidization of such services. The Exchange notes that such subsidies have been longstanding and preceded August 1, 2001. Therefore, the Exchange believes that imposing the fee schedule as of August 1, 2001, which followed approval by the Amex Board of Governors on July 25, 2001, is reasonable and appropriate to fund enhancements that benefit all Floor constituencies, including specialists, Options Principal Members, Limited Trading Permit Holders, Associate Members, and employees of member firms on the Floor.

Furthermore, the Exchange proposes to apply the license fees for NDX, MNX and OEF options as of October 1, 2001 because trading in these options on the Exchange began in October 2001. The Exchange notes that, because these fees are transaction based, they would apply only after trading actually began in October. (NDX and MNX began trading on October 12 and OEF began trading on October 11.) The Exchange proposes to eliminate the options fee cap as October 1, 2001 to further reduce Exchange subsidy of facilities and services on the Floor, as discussed above, and because Exchange billing procedures cannot readily accommodate elimination of the fee cap prior to October 1, 2001.

In conclusion, the Exchange states that the increase in options transactions charges is necessitated by the large and increasing costs incurred by the Exchange in implementing options trading technology. Exchange billing of such fees as of August 1, 2001 (for Floor Fees, Member Fees and Options Fees) and October 1, 2001 (for the License Fee and elimination of options fee cap) will assist in compensating the Exchange for costs incurred by the Exchange in delivering specified services to members and for providing options trading technology.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act⁷ in general and furthers the objectives of section 6(b)(4)⁸ in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

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

The Exchange 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 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 90 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 the Exchange 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, 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, 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 No. SR-Amex-2001-102 and should be submitted by January 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45163; File No. SR-Amex-2001-101]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to an Increase in Floor, Membership and Options Trading Fees

December 18, 2001.

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 November 30, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "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 increase floor, membership and options trading fees as described herein.³

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

Fee Schedule

I. Floor fees

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Under Amex-2001-102, the Exchange seeks to impose the floor, membership, options trading, and comparison and floor brokerage fees, as described in this current proposal, as of August 1, 2001. In addition, the Exchange proposes to impose the License Fees and the elimination of the fee cap for options, as described in this proposal, as of October 1, 2001. See Securities Exchange Act Release No. 45165 (December 18, 2001).

⁶ 15 U.S.C. 78(b)(3)(a).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).