

allocation and performance evaluation procedures with respect to securities admitted to trading pursuant to UTP ("Pilots").<sup>6</sup> Amex Rule 28, "Allocation of Securities Admitted to Dealings on an Unlisted Trading Privileges ("UTP") Basis," details the Exchange's specialist allocation rules for UTP trading and Amex Rule 29, "Market Quality Committee" details the Exchange's specialist performance evaluation rules for UTP trading. The proposed rule change does not alter the operation of either of the Pilots in any way.<sup>7</sup>

The Exchange's filing contained a detailed description of the Pilots. That description has not been included in this notice because it is duplicative of the descriptions contained in the original approval orders for the Pilots.<sup>8</sup> This filing extends the effective dates of both Amex Rule 28 and Amex Rule 29 until April 5, 2004.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>10</sup> in particular in that the Exchange's proposed rules are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of free and open market and a national market system and, in general, to protect investors and the public interest. More specifically, the Exchange believes that trading securities on an unlisted basis will provide investors with increased flexibility in satisfying their investment needs by providing additional choice and increased competition in markets to effect transactions in the securities subject to unlisted trading.

### 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. The Exchange believes that in fact, the proposed rule change will tend to enhance competition by providing

investors with additional choice and increased competition in markets to effect transactions in securities.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not solicit nor did it receive any written comments on 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>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

Although Rule 19b-4(f)(6) requires that an Exchange submit a notice of its intent to file at least five business days prior to the filing date, the Commission waived this requirement at the Amex's request in view of the fact that the proposed rule change seeks to continue existing pilot programs. 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.

The Amex has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the Exchange's allocation and performance evaluation procedures to continue on an uninterrupted basis. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>13</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-2003-87 and should be submitted by November 14, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48649; File No. SR-GSCC-2002-03]

### Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Revision of the Comparison-Only Membership Application Approval Process

October 16, 2003.

#### I. Introduction

On May 22, 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-2002-03 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>2</sup> On June 25, 2002,

<sup>14</sup> 17 CFR 200.30-3(a)(12).

<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>6</sup> See Securities Exchange Act Release Nos. 45698 (April 5, 2002), 67 FR 18051 (April 12, 2002) (File No. SR-Amex 2001-107); and 46750 (October 30, 2002), 67 FR 67880 (November 7, 2002) (File No. SR-Amex 2002-19).

<sup>7</sup> Telephone conference between Bill Floyd-Jones, Associate General Counsel, Amex, and Marisol Rubecindo, Law Clerk, Division of Market Regulation, Commission (October 7, 2003).

<sup>8</sup> Telephone conference between Bill Floyd-Jones, Associate General Counsel, Amex, Marc F. McKayle, Special Counsel, and Marisol Rubecindo, Law Clerk, Division of Market Regulation, Commission (October 15, 2003). See also note 6, *supra*.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).



GSCC filed an amendment to the proposed rule change. Notice of the proposed rule change was published in the **Federal Register** on July 30, 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

In the beginning of 2002, GSCC implemented various rule changes that effectuated GSCC's new governance structure resulting from the integration of GSCC with The Depository Trust & Clearing Corporation.<sup>4</sup> As part of the new structure, the newly formed GSCC/MBSCC Membership and Risk Management Committee ("Committee") was given the authority to approve or reject applications for netting membership and for comparison-only membership.<sup>5</sup> Upon further review, GSCC has determined that it would be more appropriate for GSCC management to approve or reject applications for comparison-only membership.<sup>6</sup>

The proposed rule change will permit GSCC to effectively balance the interests involved in the membership approval process, including the need for a prudent review of membership applicants as well as the need to admit members on a timely basis. This goal is most appropriately met by having management approve GSCC comparison-only membership applicants.<sup>7</sup> GSCC believes that, given the difference in the level of risk posed by the two types of GSCC membership applicants, only applications to become members of GSCC's netting service should require the Committee's review and approval.<sup>8</sup>

GSCC will activate comparison-only membership for qualified applicants

upon completion of the requisite financial and/or other operational reviews and upon receipt of all membership documentation as is required by GSCC's rules. In addition, management will provide the Committee with a list of comparison-only firms being considered for approval by management prior to activating any firm's comparison-only membership.

Consistent with these changes and in order to clarify relevant terms for members, GSCC is also expanding the current definition of "Corporation" in its Rule 1. Going forward, "Corporation" will also mean "Management" unless otherwise indicated, and these terms will be used interchangeably. This is not a substantive change and is not a delegation of duties currently reserved for the Board.

## 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>9</sup> Because the comparison-only service provides only for the comparison of submitted trades, does not provide for any transfer between members of securities and funds, and does not provide guarantee of settlements, comparison-only members bring basically no risk to GSCC. As such, management's determination that all requisite financial and operational reviews have been completed with satisfactory results and that all requisite membership documentation have been filed is sufficient for activation of an applicant's comparison-only membership. Accordingly, the proposed rule change should not negatively affect GSCC's ability to safeguard securities and funds which are in its custody or control or for which it is responsible, and therefore, is consistent with GSCC's obligations under section 17A of the Act.

## IV. 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 with the requirements of Section 17A 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-

GSCC-2002-03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48660; File No. SR-OC-2003-08]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by OneChicago, LLC Relating to Maintenance Standards for a Security Futures Product Based on a Single Security

October 20, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-7 under the Act,<sup>2</sup> notice is hereby given that on October 14, 2003, OneChicago, LLC ("OneChicago" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule changes described in Items I, II, and III below, which Items have been prepared by OneChicago. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

OneChicago also has filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC"). OneChicago filed a written certification with the CFTC under section 5c(c) of the Commodity Exchange Act<sup>3</sup> on October 13, 2003.

#### I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago proposes to amend the maintenance standards requirement ("Maintenance Standards") for a security futures product based on a single security ("Single Stock Future") relating to the market price of the underlying security. The text of the proposed rule change appears below. New text is in *italics*.

#### Eligibility And Maintenance Criteria For Security Futures Products

##### I. No Change.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.

<sup>3</sup> 7 U.S.C. 7a-2(c).

<sup>3</sup> Securities Exchange Act Release No. 48220 (July 23, 2003), 68 FR 44825.

<sup>4</sup> Securities Exchange Act Release No. 45378 (January 31, 2002), 67 FR 6064 [File No. SR-GSCC-2001-13].

<sup>5</sup> The term "comparison-only member" means a member that is a member only of the comparison system.

<sup>6</sup> The Committee voted to delegate the authority to approve comparison-only membership applicants to management during its March 7, 2002 meeting. The purpose of this rule filing is to allow GSCC to implement this change.

<sup>7</sup> This is consistent with the process currently employed by the National Securities Clearing Corporation ("NSCC"). The President of NSCC or a Managing Director of NSCC Risk Management may authorize a Vice President of NSCC Risk Management to approve non-guaranteed service applicants that meet membership requirements. The NSCC Membership and Risk Management Committee receives a list showing the name of each approved non-guaranteed service member.

<sup>8</sup> GSCC's netting service provides for GSCC's guarantee of settlement. GSCC's comparison-only service does not do so.

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).