

the proposed rule change at least five business days prior to the date of filing of the proposed rule change,<sup>12</sup> it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</sup>

CBOE has requested that the Commission waive the usual 30-day pre-operative waiting period. The Commission notes that this proposal is substantially similar to existing Pacific Exchange, Inc. ("PCX") Rule 6.37(b)(5) and Interpretation .05 to PCX Rule 6.37 approved by the Commission.<sup>15</sup> As a result, the Commission believes that it is consistent with the protection of investors and the public interest to accelerate the operative date because the proposal raises no new regulatory issues. Therefore, the Commission designates that the proposal become operative immediately.<sup>16</sup>

At any time within 60 days of the filing of this 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, 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 Section. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-2003-28 and should be submitted by September 23, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48411; File No. SR-GSCC-2002-04]

#### Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Institute Informal Hearing Procedures for Fine Disputes

August 26, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 28, 2002, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") and on August 19, 2003, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

GSCC's current rules provide procedures whereby a member can dispute any fine through a formal hearing process. GSCC's rules also permit GSCC to establish procedures for a hearing not otherwise provided for in its rules. The proposed rule change would allow GSCC to institute informal hearing procedures for disputed fines.

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

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

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

Since 1998, GSCC has had the authority to impose fines in order to promote greater compliance with its funds settlement debit and clearing fund deposit deficiency call deadlines.<sup>3</sup> GSCC Rule 37 contains procedures whereby a member can dispute any fine assessment through a formal hearing process. Rule 37 also permits GSCC to establish procedures for a hearing not otherwise provided for in the rules.<sup>4</sup> With this proposed rule filing, GSCC seeks authority to specifically incorporate into its rules informal hearing procedures with respect to disputed fines.

Pursuant to GSCC's new procedures, when a formal hearing is requested to dispute a fine, an informal hearing will automatically take place prior to a formal hearing occurring. Thus, if a member disputes a fine and asks for a formal hearing in the manner already specified in the rules, GSCC's management will automatically conduct a review of the disputed fine. Based on the documentation already required in the rules and/or a meeting arranged with the member, management may determine to waive the fine. If management determines to waive the fine, it must inform the Membership and Risk Management Committee of the waiver and management's reasons for granting the waiver. The Committee has the ability to accept or reject management's determination. If the Committee accepts management's determination, the fine will be waived. However, if the Committee chooses not to accept management's determination or if management initially determined not to waive the fine after conducting its review, the member has the right to the formal hearing already provided for in Rule 37.

GSCC also seeks to change its rules to reflect that if a fine is assessed, the member must pay the fine within 30 calendar days after it receives the fine

<sup>12</sup> On July 3, 2003, CBOE provided the Commission with written notice of its intent to file the proposed rule change. See letter from Steve Youhn, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, dated July 2, 2003.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> See Securities Exchange Act Release No. 47211 (January 17, 2003), 68 FR 3924 (January 27, 2003) (approving File No. SR-PCX-2002-55).

<sup>16</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).

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

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>3</sup> Securities Exchange Act Release No. 39746 (March 12, 1998), 63 FR 13439 (March 19, 1998) [File No. SR-GSCC-97-04].

<sup>4</sup> Government Securities Clearing Corporation Rule 37, Section 7.

imposition letter unless the member has requested a hearing to dispute the fine. Currently, GSCC's rules require that fines be paid within 90 days. If a hearing has been requested, the fine is waived until the dispute is resolved.

GSCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act<sup>5</sup> and the rules and regulations thereunder applicable to GSCC because it will promote the prompt and accurate clearance and settlement of securities transactions by clearly setting forth in GSCC's rules its procedures for conducting a review with respect to disputed fines, which procedures afford members a fair and less burdensome method for resolving fine disputes than is currently set forth in the rules.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

GSCC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

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

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing, and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

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

Within thirty-five 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 ninety 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 self-regulatory organization 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-GSCC-2002-04. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC.

All submissions should refer to File No. SR-GSCC-2002-04 and should be submitted by September 23, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48405; File No. SR-ISE-2003-05]

**Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 by the International Securities Exchange, Inc. Relating to the Establishment of Trading Rules for Index Options and Generic Listing and Maintenance Standards for Narrow-Based Index Options**

August 25, 2003.

**I. Introduction**

On February 24, 2003, the International Securities Exchange, Inc. ("ISE" or "Exchange") submitted to 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 to enable the ISE to trade index options on the Exchange. The ISE filed Amendment No. 1 to the proposed rule change on April 17, 2003.<sup>3</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on May 2, 2003.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

**II. Description of the Proposal**

*A. Introduction*

The ISE proposes to establish trading rules to enable Members to trade index options on the Exchange. In addition, the ISE proposes to establish generic listing standards and maintenance standards for "narrow-based" index options pursuant to Rule 19b-4(e) under the Act.<sup>5</sup> The ISE represents that all of the proposed new Exchange Rules and changes to existing Exchange Rules are based on the existing rules of the other four options exchanges.<sup>6</sup> Many of the new trading rules and generic listing standards will comprise the new Chapter 20 in the ISE Rules.

*B. Index Options Trading Rules*

The proposed rules, among other things, establish general rules that will govern the trading sessions for index options, including the days and hours of business, the rules governing trading rotations at the opening, and the rules related to the trading halts or suspensions.<sup>7</sup> The proposed rules further provide for the procedures Members must follow with respect to the exercise of American-style, cash settled index options.<sup>8</sup> The proposed rules also provide for position limit and

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

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

<sup>3</sup> See letter from Katherine Simmons, Vice President and Associate General Counsel, ISE to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, dated April 16, 2003. In Amendment No. 1, the ISE submitted a new Form 19b-4, which replaced the original filing in its entirety.

<sup>4</sup> See Securities Exchange Act Release No. 47749 (April 25, 2003), 68 FR 13348.

<sup>5</sup> 17 CFR 240.19b-4(e). The term "narrow-based index" is defined as an index designed to be representative of a particular industry or a group of related industries. See Proposed ISE Rule 2001(i). Narrow-based indices listed and traded on the ISE pursuant to generic listing and maintenance standards, among other characteristics, must consist of ten or more component securities. See Proposed ISE Rule 2002(b)(2).

<sup>6</sup> See, e.g., CBOE Rules 4.11, 4.16, 6.2, 6.7, 8.7, 11.1, 15.10, and 24.1 through 24.20, PCX Rules 7.11 and 13.2, Amex Rule 905C, and Phlx Rule 1033A.

<sup>7</sup> See Proposed ISE Rule 2008.

<sup>8</sup> See Proposed ISE Rule 418(a)(3) and 1100(h).

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 17 CFR 200.30-3(a)(12).