Securities and Exchange Commission will hold the following meeting during the week of March 11, 1996.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matter may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, March 13, 1996, at 3:00 p.m., will be:

Institution and settlement of administrative proceedings of an enforcement nature.

Institution of injunctive action.

Commissioner Johnson, as duty officer, required that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: March 12, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–6318 Filed 3–12–96; 3:42 pm]

BILLING CODE 8010–01–M

[Release No. 34–36947; International Series Release No. 949; File No. SR–AMEX–95–43]

Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to Proposed Rule Change by the American Stock Exchange, Inc. Relating to Index Fund Shares

March 8, 1996.

I. Introduction and Background

On October 26, 1995, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade Index Fund Shares. On November 14, 1995, the Amex filed Amendment No. 1 to its proposal.[3] Notice of the proposal appeared in the Federal Register on December 6, 1995.[4] On March 6, 1996, the Amex filed Amendment No. 2 to its proposal.[5] On March 7, 1996, the Amex filed Amendment No. 3 to its proposal.[6] No comments were received on the proposed rule change set forth in the Notice. This order approves the Exchange's proposal

II. Description of the Proposal

A. Index Fund Shares

The Amex proposes to list and trade under Rules 1000A *et seq.* securities issued by an open-end management investment company (''Fund'') that seeks to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index (''Index Fund Shares'' or ''Fund Shares''). Index Fund Shares will be issued by an entity registered with the Commission as an open-end management investment company, and which may be organized as a series fund providing for the creation of separate series of securities, each with a portfolio consisting of some or all of the component securities of a specified securities index. A Fund may establish tracking tolerances which will be disclosed in the prospectus for a particular Fund or series thereof, as discussed in greater detail below.

Issuances of Index Fund Shares by a Fund will be made only in minimum size aggregations or multiplies thereof (''Creation Units''). The size of the applicable Creation Unit size aggregation will be set forth in the Fund's prospectus, and will vary from one series of Index Fund Shares to another, but generally will be of substantial size (*e.g.*, value in excess of $450,000 per Creation Unit). It is expected that a Fund will issue and sell Index Fund Shares through a principal underwriter (''Distributor'') on a continuous basis at the net asset value per share next determined after an order to purchase Index Fund Shares in Creation Unit size aggregations is received in proper form. Following issuance, Index Fund Shares would be traded on the Exchange like other equity securities, and Amex equity trading rules would apply to the trading of Index Fund Shares.

The Exchange expects that Creation Unit size aggregations of Index Fund Shares generally will be issued in exchange for the ''in kind'' deposit of a specified portfolio of securities (''Deposit Securities''), together with a cash payment representing, in part, the amount of dividends accrued up to the time of issuance. The Exchange anticipates that such deposits will be made primarily by institutional investors, arbitragers, and the Exchange specialist. Redemption of Index Fund Shares generally will be made ''in kind,'' with a portfolio of securities and cash exchanged for Index Fund Shares that have been tendered for redemption. Issuances or redemptions also could occur for cash under specified circumstances (*e.g.*, if it is not possible to effect delivery of securities underlying the specific series in a particular foreign country) and at other times in the discretion of the Fund.

The Amex expects that a Fund will make available on a daily basis a list of the names and the required number of shares of each of the securities to be deposited in connection with issuance of Index Fund Shares of a particular series in Creation Unit size aggregations, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends.

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] In Amendment No. 1, the Amex states that any broker-dealer handling transactions for customers in ''World Equity Benchmark Securities'' (or ''WEBS'') will have an obligation to deliver to such customers a prospectus regarding WEBS pursuant to the requirements of the Securities Act of 1933. Amendment No. 1 also states that prior to listing series of Index Fund Shares for indices other than those described in the present rule filing, it will make an appropriate filing pursuant to Rule 19b–4 under the Act. Letter from James F. Duffy, Executive Vice President and General Counsel, Legal and Regulatory Policy, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision (''OMS''), Division of Market Regulation (''Division''), Commission, dated November 14, 1995 (''Amendment No. 1'').

[4] Securities Exchange Act Release No. 36527, (November 29, 1995), 60 FR 62513.

[5] Amendment No. 2 provides additional information regarding the structure of Index Fund Shares, and revises the minimum number of such shares that must be outstanding prior to the commencement of trading. Amendment No.2 also includes criteria fro initial listing, a description of the dissemination of portfolio information, a provision for original and annual listing fees, a modification affecting stop and stop limit orders, a modification of minimum fractional changes, an Amendment to Amex Rule 190 (Specialist's Transactions with Public Customers), and effects a technical change to proposed Amex Rule 1000A. Letter from James F. Duffy, Executive Vice President and General Counsel, Legal & Regulatory Policy, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated March 6, 1996 (''Amendment No. 2'').

[6] Amendment No. 3 clarifies that WEBS will trade until 4:00 p.m., not 4:15 p.m. as originally proposed; revises the proposal with respect to trading halts; and provides information regarding the dissemination of net asset values (''NAVs''). Letter from James F. Duffy, Executive Vice President and General Counsel, Legal & Regulatory Policy, Amex, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated March 7, 1996 (''Amendment No. 3'').

A Fund may make periodic distributions of dividends from net investment income, including net foreign currency gains, if any, in an amount approximately equal to accumulated dividends on securities held by the Fund during the applicable period, net a expenses and liabilities for such period.

Index Fund Shares will be registered in book entry form through The Depository Trust Company. Trading in Index Fund Shares on the Exchange may be effected until 4:15 p.m. (New York time) each business day.

The Exchange's proposal seeks specifically to list Index Fund Shares that will be series of World Equity Benchmark Shares (''WEBS'') issued by Foreign Fund, Inc., and based on the following seventeen Morgan Stanley Capital International (''MSCI'') Indices (each individually an ''MSCI Index'' or ''Index'' and collectively ''MSCI Indices'' or ''Indices''): MSCI Australia Index; MSCI Austria Index; MSCI Belgium Index; MSCI Canada Index; MSCI France Index; MSCI Germany Index; MSCI Hong Kong Index; MSCI Italy Index; MSCI Japan Index; MSCI Malaysia Index; MSCI Mexico Index; MSCI Netherlands Index; MSCI Singapore (Free) Index; MSCI Spain Index; MSCI Sweden Index; MSCI Switzerland Index; and MSCI United Kingdom Index (Each a ''WEBS series'' or ''Index Series'').[7]

Foreign Fund, Inc. will issue and redeem WEBS of each Index Series only in aggregations of shares specified for each Index Series. The following table sets forth the number of shares of an Index Series that it is anticipated will constitute a Creation Unit for such Index Series:

Index series	Shares per creation unit
Australia Index Series	200,000
Austria Index Series	100,000
Belgium Index Series	40,000
Canada Index Series	100,000
France Index Series	200,000
Germany Index Series	300,000
Hong Kong Index Series	75,000
Italy Index Series	150,000
Japan Index Series	600,000
Malaysia Index Series	75,000
Mexico Index Series	100,000
Netherlands Index Series	50,000
Singapore (Free) Index Series	100,000
Spain Index Series	75,000
Sweden Index Series	75,000
Switzerland Index Series	125,000
United Kingdom Index Series	200,000

The Exchange anticipates that the value of a Creation Unit at the start of trading will range from $450,000 to $10,000,000, and the NAV of an individual WEBS will range from $10 to $20.[8]

As noted in the Foreign Fund, Inc. preliminary prospectus,[9] the investment objective of each WEBS series is to seek to provide investment results that correspond generally to the price and yield performance of public securities traded in the aggregate in particular markets, as represented by specific MSCI Indices. Each WEBS series will use a ''passive'' or indexing investment approach which attempts to approximate the investment performance of its benchmark index through quantitative analytical procedures.[10]

A WEBS series normally will invest at least 95% of its total assets in stocks that are represented in the relevant MSCI Index and will at all times invest at least 90% of its total assets in such stocks. A WEBS series will not hold all of the issues that comprise the subject MSCI Index, but will attempt to hold a representative sample of the securities in the Index in a technique known as ''portfolio sampling.''[11] Nevertheless, each WEBS series currently is expected to have an approximate weighted capitalization relative to the capitalization of its benchmark MSCI Index, ranging from 82.6% for the Mexico (Free) series, to 98.5% for the Sweden series.[12]

It is expected that, over time, the ''expected tracking error'' of a WEBS series relative to the performance of the relevant MSCI Index will be less than 5%. An expected tracking error of 5% means that there is a 68% probability that the net asset value for the WEBS series will be between 95% and 105% of the subject MSCI Index after one year without rebalancing the portfolio composition, While no particular level of tracking error is assured, the Fund advisor, BZW Global Fund Advisors, will monitor the tracking error of each WEBS series on an ongoing basis and will seek to minimize tracking error to the maximum extent possible. Semi-annual and annual reports of the Fund will disclose tracking error over the previous six month periods, and in the event that tracking error exceeds 5%, the Fund board of directors will consider what action might be appropriate.[13]

B. The MSCI Indices[14]

1. General

MSCI generally seeks to have 60% of the capitalization of a country's stock market reflected in the MSCI Index for such country. Thus, the MSCI Indices seek to balance the inclusiveness of an ''all share'' index against the replicability of a ''blue chip'' index. MSCI applies the same criteria and calculation methodology across all markets for all indices, developed and emerging.

2. Weighting

All single-country MSCI Indices are market capitalization weighted, *i.e.*, companies are included in the indices at their full market value (total number of shares issued and paid up, multiplied by price). For countries that restrict foreign ownership, MSCI calculates two Indices. The additional Indices are called ''free'' Indices, and they exclude companies and share classes not purchasable by foreigners. Free Indices currently are calculated for Singapore, Mexico, the Philippines, and Venezuela, and for those regional and international indices which include such markets. The Mexico and Singapore WEBS series will be based on the free Indices for those countries. There are no WEBS series corresponding to the Philippines and Venezuela MSCI Indices.[15]

3. Selection Criteria

The constituents of a country index are selected from the full range of securities available in the market, excluding issues which are either small or highly illiquid. Non-domiciled companies and investment trusts are also excluded from consideration. After the index constituents are chosen, they are reclassified using MSCI's schema of

[7] The Exchange has stated that it will make an appropriate filing pursuant of Rule 19b–4 under the Act prior to listing series of Index Fund Shares for indices other than those described in the present proposal. Amendment No. 1, *supra* note 3.

[8] *See* Amendment No. 2, *supra* note 5. The Commission notes that if in the future the number of shares per Creation Unit of a WEBS series were to be changed, or the value of a Creation Unit were to fall significantly, such a change could require the filing of a proposed rule change by the Exchange pursuant to Section 19(b) of the Act.

[9] *See* Form N–1A Registration Statement submitted under the Securities Act of 1933 and the Investment Company Act of 1940, Registration Nos. 33–97598; 811–9102.

[10] Amendment No. 2, *supra* note 5.

[11] *Id.*

[12] Letter from Donald R. Crawshaw, Sullivan & Cromwell, on behalf of Foreign Fund, Inc., to Nancy J. Sanow, Assistant Director, Office of Trading Practices, Automation & International Markets, Commission, dated March 1, 1996 (data as of February 26, 1996).

[13] Amendment No. 2, *supra* note 5.

[14] Information regarding the MSCI Indices was furnished by Foreign Fund, Inc.

[15] *See* Form N–1A, *supra* note 9.

38 industries and eight economic sectors to facilitate cross-country comparisons.

The process of choosing index constituents from the universe of available securities is consistent among indices. Determining the constituents of an index is an optimization process which involves maximizing float and liquidity, reflecting accurately the market's size and industry profiles, and minimizing cross-ownership.

To reflect accurately country-wide performance, MSCI aims to capture 60% of total market capitalization at both the country and industry level. To reflect local market performance, an index should contain a percentage of the market's overall capitalization sufficient to achieve a high level of tracking. The greater the coverage, however, the greater the risk of including securities which are illiquid or have restricted float. MSCI's 60% coverage target seeks to balance these considerations.

MSCI attempts to meet its 60% coverage target by including a representative sample of large, medium and small capitalization stocks, to capture the sometimes disparate performance of these sectors. In the emerging markets, the liquidity of smaller issues can be a constraint. At the same time, properly representing the lower capitalization end of the market risks overwhelming the index with components. Within these constraints, MSCI strives to include smaller capitalization stocks, provided they exhibit sufficient liquidity.

4. Calculation Methodology

All MSCI Indices are calculated daily using Laspeyres' concept of a weighted arithmetic average together with the concept of ''chain-linking,'' a classical method of calculating stock market indices. The Laspeyres method weights stocks in an index by their beginning-of-period market capitalization. Share prices are ''swept clean'' daily and adjusted for any rights issues, stock dividends or splits. The MSCI Indices currently are calculated in local currency and in U.S. dollars, without dividends and with gross dividends reinvested (*e.g.,* before withholding taxes).

5. Price and Exchange Rates

Prices used to calculate the MSCI Indices are the official exchange closing prices. All prices are taken from the dominant exchange in each market. In countries where there are foreign ownership limits, MSCI uses the price quoted on the official exchange, regardless of whether the limit has been reached.

To calculate the applicable foreign currency exchange rate, MSCI uses WM/Reuters Closing Spot Rates for all developed and emerging markets except those in Latin America. The WM/Reuters Closing Spot Rates were established by a committee of investment managers and data providers, including MSCI, whose object was to standardize foreign currency exchange rates used by the investment community. Exchange rates are taken daily at 4 p.m. London time by the WM Company and are sourced whenever possible from multi-contributor quotes on Reuters. Representative rates are selected for each currency based on a number of ''snapshots'' of the latest contributed quotations taken from the Reuters service at short intervals around 4 p.m. WM/Reuters provides closing bid and offer rates. MSCI uses these to calculate the mid-point to 5 decimal places. Because of the high volatility of currencies in some Latin American countries, MSCI continues to use its own timing and source for these markets. MSCI continues to monitor exchange rates independently and may, under exceptional circumstances, elect to use an alternative exchange rate if the WM/Reuters rate is believed not to be representative for a given currency on a particular day.

6. Changes to the Indices

In changing the constituents of the Indices, MSCI attempts to balance representativeness versus undue turnover. An Index must represent the current state of an evolving marketplace, yet minimize turnover, which is costly as well as inconvenient for managers.

There are two broad categories of changes to the MSCI Indices. The first consists of market-driven changes such as mergers, acquisitions, and bankruptcies. These are announced and implemented as they occur. The second category consists of structural changes to reflect the evolution of a market, including changes in industry composition or regulations. Structural changes may occur only on four dates during the year: the first business days of March, June, September and December. They are preannounced at least two weeks in advance.

Restructuring an Index involves a balancing of additions and deletions. To maintain continuity and minimize turnover, MSCI is reluctant to delete Index constituents, and its approach to additions is correspondingly stringent. As markets grow because of privatizations, investor interest, or the relaxation of regulations, Index additions (with or without corresponding deletions) may be needed to bring industry representations up to the 60% target. Companies are considered not only with respect to their broad industry, but also with respect to their subsector, so as to reflect if possible a broader range of economic activity. Beyond industry representativeness, new constituents are selected based on the criteria discussed above, i.e. float, liquidity, cross-ownership, etc.

In general, new issues are not eligible for immediate inclusion in the MSCI Indices because their liquidity remains unproven. Usually, new issues undergo a ''seasoning'' period of one year to 18 months between index restructurings until a trading pattern and volume are established. After that time, they are eligible for inclusion, subject to the criteria discussed above.

Companies may be deleted because they have diversified away from their industry classification, because the industry has evolved in a different direction from the company's thrust, or because a better industry representative exists (either a new issue or an existing company). In addition, in order not to exceed the 60% target coverage of industries and countries, adding new Index companies may entail corresponding deletions. Usually such deletions take place within the same industry, but there are occasional exceptions.

7. Dissemination

Each MSCI Index on which a WEBS series is based is calculated by MSCI for each trading day in the applicable foreign exchange market based on official closing prices in such exchange market. For each trading day, MSCI publicly disseminates each Index value for the previous day's close. MSCI Indices are reported periodically in major financial publications and also are available through vendors of financial information.[16]

Foreign Fund, Inc. also will cause to be made available daily the names and required number of shares of each of the securities to be deposited in connection with the issuance of WEBS in Creation Unit size aggregations for each WEBS series, as well as information relating to the required cash payment representing, in part, the amount of accrued dividends applicable to such WEBS series. This information will be made available by the Fund Advisor to any National Securities Clearing Corporation (''NSCC'') participant requesting such information. In addition, other investors can request such information directly

[16] Amendment No. 2, *supra* note 5.

from the Fund distributor, Funds Distributor, Inc. The NAV for each WEBS series will be calculated daily by the Fund administrator, PFPC Inc.[17]

To provide current WEBS pricing information for use by investors, professionals, and persons wishing to create or redeem WEBS, the Exchange anticipates it will disseminate through the facilities of the Consolidated Tape Association an updated ''indicative optimized portfolio value'' (''Value'') for each WEBS series as calculated by Bloomberg, L.P. (''Bloomberg''). The Value will be disseminated on a per WEBS basis every 15 seconds during regular Amex trading hours of 9:30 a.m. and 4:00 p.m. New York time. The equity securities value that will be included in the Value will be the values of the Deposit Securities constituting an optimized representation of the benchmark MSCI Index for each WEBS series, which is the same as the portfolio that generally will be used in connection with creations and redemptions of WEBS in Creation Unit size aggregations on that day. The equity securities included in the Value will reflect the same market capitalization weighting as the Deposit Securities in the optimized portfolio for the particular WEBS series. In addition to the value of the Deposit Securities for each WEBS series, the Value will include a cash component consisting of estimated accrued dividend and other income, less expenses. The Value also will reflect changes in currency exchange rates between the U.S. dollar and the applicable home foreign currency.[18]

The Value likely will not reflect the value of all securities included in the applicable benchmark MSCI Index. In addition, the Value will not necessarily reflect the precise composition of the current portfolio of securities held by the Fund for each WEBS series at a particular moment. Therefore, the Value on a per WEBS basis disseminated during Amex trading hours should not be viewed as a real time update of the net asset value of the Fund, which is calculated only once a day. While the Value disseminated by the Amex at 9:30 a.m. is expected to be very close to the most recently calculated Fund net asset value on a per WEBS basis,[19] it is possible that the value of the portfolio of securities held by the Fund for a particular WEBS series may diverge from the Deposit Securities values during any trading day. In such case, the Value will not precisely reflect the value of the Fund portfolio. Following calculation of NAV by the Fund administrator as of 4:00 p.m. New York time, it is expected that the Value on a per WEBS basis would be the same as the NAV of the Fund on a per WEBS basis. It is expected, however, that during the trading day, the Value will closely approximate the value per WEBS share of the portfolio of securities for each WEBS series except under unusual circumstances (*e.g.*, in the case of extensive rebalancing of multiple securities in a WEBS series at the same time by the Fund advisor).[20]

The Exchange believes that dissemination of the Value based on the Deposit Securities will provide additional information regarding each WEBS series that is not otherwise available to the public and that will be useful to professionals and investors in connection with WEBS trading on the Exchange or the creation or redemption of WEBS.[21]

For Australia, Japan, Malaysia, Hong Kong, and Singapore (Free) WEBS series, there is no overlap in trading hours between the foreign markets and the Amex. Therefore, for each of these WEBS series, the disseminated Value will be based upon closing prices, denominated in the applicable foreign currency price, in the principal foreign market for securities in the WEBS portfolio, and converted to U.S. dollars. This value will be updated every 15 seconds during Amex trading hours to reflect changes in currency exchange rates between the U.S. dollar and the applicable foreign currency. The estimated portfolio value also will include the applicable estimated cash component for each WEBS series.[22]

For the Europe, Canada, and Mexico WEBS series where there is an overlap in the trading hours between the foreign market and the Amex, the disseminated Value will be updated every 15 seconds and will reflect price changes in the principal foreign market, converted into U.S. dollars based on the current currency exchange rate. When the foreign market is closed but the Amex is open, the Value will be updated every 15 seconds to reflect changes in currency exchange rates after the foreign market closes. The estimated portfolio value also will include the applicable estimated cash component.[23]

C. Criteria for Initial and Continued Listing

In connection with initial listing, the Exchange will establish a minimum number of Index Fund Shares required to be outstanding at the time of commencement of Exchange trading. For the Japan series, a minimum of the equivalent of one Creation Unit will be required to be outstanding at the start of trading. For each of the other series of Index Fund shares, the Exchange anticipates that a minimum of two Creation Units in Fund Shares would be required to be outstanding before trading could begin.[24]

Each series of Index Fund Shares will be subject to the initial and continued listing criteria of proposed Amex Rule 1002A(b) which provides that following the initial twelve month period following commencement of Exchange trading of a series of Index Fund Shares, the Exchange will consider suspension of trading in, or removal from listing of, such series under any of the following circumstances:

(a) if there are fewer than 50 beneficial holders of the series of Index Fund Shares for 30 or more consecutive trading days; or

(b) if the value of the index or portfolio of securities on which the series of Index Fund Shares is based is no longer calculated or available; or

(c) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.[25]

The Exchange will require that Index Fund Shares be removed from listing upon termination of the Fund that issued such shares.

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[17] *Id.* NAVs will be made available to the public from the Fund distributor by means of a toll-free number, and also will be available to NSCC participants through data made available from NSCC. Amendment No. 3, *supra* note 6.

[18] Amendment No. 2, *supra* note. 5.

[19] A slight difference between the Value disseminated at 9:30 and the most recently calculated Fund NAV can be expected because the Value will include an estimated cash amount consisting principally of any dividend accruals for the Deposit Securities going ''ex-dividend'' on that day.

[20] Amendment No. 2, *supra* note 5.

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *Cf., supra* note 8.

[25] The Commission notes that the preliminary prospectus states that each WEBS series will at all times invest at least 90% of its total assets in securities that are represented in the relevant MSCI Index, and normally will invest 95% of its total assets in such securities. In addition, each WEBS series has a policy to concentrate its investments in an industry or industries if, and to the extent that, its corresponding MSCI Index concentrates in such industry or industries, except where the concentration is the result of a single security. *See* Form N–1A, *supra* note 9. While the Commission believes these requirements should help to reduce concerns that the WEBS could become a surrogate for trading in a single or a few unregistered stocks, in the event that a series of WEBS were to become such a surrogate, the Commission would expect the Amex to take action immediately to delist the securities to ensure compliance with the Act.

D. Specialists

Amex Rule 190(a) provides that a specialist may not directly or indirectly effect any business transaction with a company or any officer, director or 10% stockholder of a company in which stock the specialist is registered. To clarify its interpretation of Rule 190(a) with respect to specialist creation and redemption activity in such listed securities as Index Fund Shares, as well as Portfolio Depositary Receipts listed under Amex Rule 1000, the Exchange proposes to add Commentary .04 to Rule 190. Proposed Commentary .04 would provide that nothing under the provisions Amex Rule 190(a) will be deemed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market in the subject security. In addition, the specialist, will be able to engage in creations and redemptions of WEBS only according to the same terms and conditions as every other investor at net asset value, in accordance with the terms of the Fund prospectus and statement of additional information. The Amex believes that this will minimize the potential for abuse.[26]

E. Disclosure

With respect to investor disclosure, the Exchange notes that, pursuant to the requirements of the Securities Act of 1933, as amended (''1933 Act''), all investors in Index Fund Shares, including WEBS, will receive a prospectus. Because the Units will be in continuous distribution, the prospectus delivery requirements of the 1933 Act will apply to all investors in Index Fund Shares, including secondary market purchases on the Amex in WEBS. The prospectus and all marketing material will refer to WEBS by using the term ''investment company.'' The term ''mutual fund'' will not be used at any time. The term ''open-end investment company'' will be used in the prospectus only to the extent required by Item 4 of Investment Company Act Form N–1A. In addition, the cover page of the prospectus will include a distinct paragraph stating that WEBS will not be individually redeemable.[27]

Prior to commencement of trading of a series of Index Fund Shares, the Exchange will distribute to Exchange members and member organizations an Information Circular calling attention to characteristics of the specific series and to applicable Exchange rules. That circular will inform member organizations of their responsibilities under Exchange Rule 411 (''know your customer rule'') with respect to transactions in such Index Fund Shares. The circular will inform member organizations of their responsibility to deliver a prospectus to all investors purchasing WEBS. The Amex has stated that any broker-dealer handling transactions for customers in WEBS will have an obligation to delivery to such customers a prospectus regarding WEBS pursuant to the requirements of the Securities Act of 1933.[28] The circular also will note that WEBS are not individually redeemable; they may be redeemed in Creation Unit size aggregations only.

F. Trading Halts

Prior to commencement of trading in Index Fund Shares, the Exchange will issue a circular to members informing them of Exchange policies regarding trading halts in such securities. The circular will make clear that, in addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Rule 918C(b) in exercising its discretion to halt or suspend trading. These factors would include: (1) whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[29]

G. Listing Fees

The Amex proposes an original listing fee for WEBS of $5,000 per series (*i.e.*, $85,000 for the seventeen WEBS series herein described). In addition, the annual listing fee applicable to WEBS series under Section 141f the Amex *Company Guide* will be based upon the year-end aggregate number of outstanding WEBS in all series, except that no annual listing fee will be assessed for calendar year 1996.[30]

H. Stop and Stop Limit Orders

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may, with the prior approval of a Floor Official, be elected by a quotation, as set forth in Rule 154, Commentary .04(c)(i–iv). The Exchange proposes to designate Index Fund Shares, including WEBS, as eligible for this treatment.[31]

I. Minimum Fractional Change

Under Amex Rule 127, the minimum fractional change for securities traded on the Amex is 1⁄16 of $1.00 for securities selling at $10.00 and over. The Exchange proposes to add Commentary .02 to Rule 127 to provide that, for Index Fund Shares that would be listed under proposed Rule 1000A *et seq.*, including WEBS, the minimum fractional change will be 1⁄16 of $1.00. Thus, proposed Commentary .02 would accommodate trading in sixteenths for shares of WEBS series selling at $10.00 and over, as well as under $10.00. The Intermarket Trading System (''ITS'') accommodates trading in sixteenths only for Amex securities priced below $10.00. In the event another ITS participant market seeks to initiate WEBS trading through ITS, the Exchange would discuss with the ITS Operating Committee appropriate modifications to ITS to permit trading of Index Fund Shares, including WEBS, in sixteenths for shares priced above $10.00, and would make reasonable efforts to address issues raised by such prospective trading.[32]

III. Discussion

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 and, in particular, the requirements of Section 6(b)(5) of the Act.[33] The Commission believes that the Exchange's proposal to list and trade Index Fund Shares, and specifically WEBS, will provide investors with a convenient way of participating in foreign securities markets. The Exchange's proposal should help to provide investors with increased flexibility in satisfying their investment needs by allowing them to purchase and sell securities at negotiated prices throughout the business day that

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[26] Amendment No. 2, *supra* note 5.

[27] *See* Form N–1A, *supra* note 9.

[28] Amendment No. 1, *supra* note 3. The Exchange states that it may, in the future, seek to obtain an exemption from the prospectus delivery requirement, either with respect to WEBS or other series of Index Fund Shares listed on the Exchange. *Id.* In the event it obtains such an exemption, the Exchange will discuss with Commission staff the appropriate level of disclosure that should be required with respect to the Index Fund Shares being listed, and will file any necessary rule change to provide for such disclosure.

[29] Amendment No. 3, *supra* note 6.

[30] Amendment No. 2, *supra* note 5.

[31] *Id.*

[32] *Id.*

[33] 15 U.S.C. 78f(b)(5) (1988).

replicate the performance of several portfolios of stocks.[34] Accordingly, the Commission finds that the Exchange's proposal will facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[35]

The estimated cost of an individual WEBS, approximately $10 to $20, should make it attractive to individual retail investors who wish to hold a security replicating the performance of a portfolio of foreign stocks. Moreover, the Commission believes that WEBS will provide investors with several advantages over standard open-end investment companies specializing in such stocks. In particular, investors will be able to trade WEBS continuously throughout the business day in secondary market transactions at negotiated prices.[36] In contrast, Investment Company Rule 22c–1 [37] limits holders and prospective holders of open-end investment company shares to purchasing or redeeming securities of the fund based on the net asset value of the securities held by the fund as designated by the board of directors. Accordingly, WEBS should allow investors to: (1) Respond quickly to market changes through intra-day trading opportunities; (2) engage in hedging strategies not currently available to retail investors; and (3) reduce transaction costs for trading a portfolio of securities.

Although the value of WEBS will be based on the value of the securities and cash held in the Fund, WEBS are not leveraged instruments.[38] In essence, WEBS are equity securities that represent an interest in a portfolio of stocks designed to reflect substantially the applicable MSCI Index. Accordingly, it is appropriate to regulate WEBS in a manner similar to other equity securities. Nevertheless, the Commission believes that the unique nature of WEBS raise certain product design, disclosure, trading, and other issues that must be addressed.

A. WEBS Generally

The Commission believes that the proposed WEBS are reasonably designed to provide investors with an investment vehicle that substantially reflects in value the index it is based upon, and, in turn, the performance of the specified foreign equities market. In this regard, the Commission notes that MSCI imposes specific criteria in the selection of Index components. MSCI generally seeks to have 60% of a market's capitalization reflected in that market's corresponding Index. In selecting components for a given Index, MSCI excludes issues that are either small or highly illiquid. Index constituents are selected on the basis of seeking to maximize float and liquidity, reflecting a market's size and industry profiles, and minimizing cross-ownership.

The aim of this component selection process is to make Index components highly representative of the over-all economic sector make-up and market capitalization of a given market. At the same time, securities that are illiquid or that have a restricted float are avoided. The Commission believes that these criteria should serve to ensure that the underlying securities of these Indices are well capitalized and actively traded.

The Commission also notes that the WEBS' investment policies require that at all times at least 90% of a given series total assets must be invested in stocks that are represented in the relevant MSCI Index. Moreover, a WEBS series normally will invest at least 95% of its total assets in such stocks. In addition, stocks are selected for inclusion in a WEBS series in order to have aggregated investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the subject MSCI Index taken in its entirety. Hence, the Fund Advisor will seek to construct the portfolio of each WEBS series so that, in the aggregate, its capitalization, industry, and fundamental investment characteristics perform like those of the subject MSCI Index.[39]

As noted above, to comply with these investment policies, a WEBS series will not hold all of the securities that comprise the subject MSCI Index, but will attempt to hold a representative selection of such securities by means of ''portfolio sampling.'' Nevertheless, each WEBS series currently is expected to have an approximate weighted capitalization relative to the capitalization of its benchmark MSCI Index, ranging from 82.6% for the Mexico (Free) series, to 98.5% for the Sweden series.[40] Moreover, no WEBS series currently is expected to have fewer than seventeen of the component securities of the corresponding MSCI Index.[41] The Commission believes that taken together, the foregoing are adequate to characterize WEBS as *bona fide* index funds. The Commission would be concerned, however, if the capitalization percentages or minimum number of WEBS component securities were to fall to a level such that the WEBS portfolios no longer would substantially reflect their corresponding WEBS Indices.[42]

B. Disclosure

The Commission believes that the Exchange's proposal should ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risks of trading Index Fund Shares, including

[34] The Commission notes that unlike typical open-end investment companies, where investors have the right to redeem their fund shares on a daily basis, investors in Index Fund Shares, including WEBS, could redeem them in Creation Unit size aggregations only.

[35] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment, hedging or other economic functions, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[36] Because of potential arbitrage opportunities, the Commission believes that WEBS will not trade at a material discount or premium in relation to their net asset value. The mere potential for arbitrage should keep the market price of WEBS comparable to their net asset values; therefore, arbitrage activity likely will not be significant. In addition, the Fund will redeem in-kind, thereby enabling the Fund to invest virtually all of its assets in securities comprising the MSCI Indices.

[37] 17 CFR 270.22c–1 (1994). Investment Company Act Rule 22c–1 generally provides that a registered investment company issuing a redeemable security, its principal underwriter, and dealers in that security may sell, redeem, or repurchase the security only at a price based on the net asset value next computed after receipt of an investor's request to purchase, redeem, or resell. The net asset value of an open-end investment company generally is computed once daily Monday through Friday as designated by the investment company's board of directors. The Commission granted WEBS an exemption from this provision to allow them to trade in the secondary market at negotiated prices. *See* Investment Company Act Release No. 21803; International Series Release No. 944, March 5, 1996.

[38] In contrast, proposals to list exchange-traded derivative products that contain a built-in leverage feature or component raise additional regulatory issues, including heightened concerns regarding manipulation, market impact, and customer suitability. *See e.g.,* Securities Exchange Act Release No. 36165 (August 29, 1995), 60 FR 46653 (relating to the establishment of uniform listing and trading guidelines for stock index, currency, and currency index warrants).

[39] *See* Form N–1A, *supra* note 9.

[40] Letter from Donald R. Crawshaw, *supra* note 12.

[41] *Id.*

[42] Among other issues that may arise under the federal securities laws, such an occurrence could raise the issue of whether WEBS trading would remain consistent with Amex listing standards for Index Fund Shares, as well as the surrogate trading issue noted above. *See supra* note 25.

WEBS.[43] As noted above, all Fund Share investors will receive a prospectus regarding the product. Because Index Fund Shares, including WEBS, will be in continuous distribution, the prospectus delivery requirements of the Securities Act of 1933 will apply both to initial investors, and to all investors purchasing such securities in secondary market transactions on the Amex. The prospectus will address the special characteristics of a particular Index Fund Share series, including a statement regarding its redeemability and method of creation. With respect to WEBS, the prospectus will state specifically that WEBS individually are not redeemable.

The Commission also notes that upon the initial listing of any class of Index Fund Shares, including WEBS, the Exchange will issue a circular to its members explaining the unique characteristics and risks of this type of security. The circular also will note Exchange members' responsibilities under Exchange Rule 411 (''know your customer rule'') regarding transactions in such Index Fund Shares. Exchange Rule 411 generally requires that members use due diligence to learn the essential facts relative to every customer, every order or account accepted.[44] The circular also will address members' responsibility to deliver a prospectus to all investors as well as highlight the characteristics of purchases in Index Fund Shares, including WEBS, including that they only are redeemable in Creation Unit size aggregations.

C. Trading of WEBS

The Commission finds that adequate rules and procedures exist to govern the trading of Index Fund Shares, including WEBS. Index Fund Shares will be deemed equity securities subject to Amex rules governing the trading of equity securities.[45] These rules include: General and Floor Rules, such as priority, parity, and precedence of orders, market volatility related trading halt provisions pursuant to Rule 117, members dealing for their own accounts, specialists, odd-lot brokers, and registered traders, and handling of orders and reports;[46] Office Rules, such as conduct of accounts, margin rules, and advertising;[47] and Contracts in Securities, such as duty to report transactions, comparisons of transactions, marking to the market, delivery of securities, dividends and interest, closing of contracts, and money and security loans.[48] The Amex also will consider halting trading in any series of Index Funds Shares under certain other circumstances including those set forth in Amex Rule 918C(b)(4) regarding the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.[49]

The Commission is satisfied with the Amex's development of specific listing and delisting criteria for Index Fund Shares. These criteria should help to ensure that a minimum level of liquidity will exist in each series of Index Fund Shares to allow for the maintenance of fair and orderly markets. The delisting criteria also allows the Exchange to consider the suspension of trading and the delisting of a series of Index Fund Shares, including WEBS, if an event were to occur that made further dealings in such securities inadvisable. This will give the Exchange flexibility to delist Index Fund Shares, including WEBS, if circumstances warrant such action. For example, as noted above, in the event that WEBS became a surrogate for trading a single or few unregistered securities, such an event could raise issues that would require delisting of WEBS so as to ensure compliance with the Act.[50] Accordingly, the Commission believes that the rules governing the trading of Index Fund Shares provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest.

D. Dissemination of WEBS Portfolio Information

The Commission believes that the Values the Exchange proposes to have disseminated for the seventeen WEBS series will provide investors with timely and useful information concerning the value of WEBS on a per WEBS basis. The Exchange represents that the information will be disseminated through the facilities of the CTA and will reflect currently-available information concerning the value of the assets comprising the Deposit Securities. This information will be disseminated every 15 seconds during regular Amex trading hours of 9:30 a.m. to 4:00 p.m., New York time. In addition, since it is expected that the Value will closely track the applicable WEBS series, the Commission believes that the Values will provide investors with adequate information to determine the intra-day value of a given WEBS series.[51] The Commission expects that the Amex will monitor the disseminated Value, and if the Amex were to determine that the Value does not closely track applicable WEBS series, it would arrange to disseminate an adequate alternative value.

E. Specialists

The Commission finds that it is consistent with the Act to allow a specialist registered in a security issued by an Investment Company to purchase or redeem the listed security from the issuer as appropriate to facilitate the maintenance of a fair and orderly market in that security. The Commission believes that such market activities should enhance liquidity in such securities and facilitate a specialist's market-making responsibilities. In addition, because the specialist only will be able to purchase and redeem Units on the same terms and conditions as any other investor at NAV in accordance with the terms of the Fund prospectus and statement of additional information, the Commission believes that concerns regarding potential abuse are minimized. The Exchange's existing surveillance procedures also should ensure that such purchases are only for the purpose of maintaining fair and orderly markets, and not for any other improper or speculative purposes. Finally, the Commission notes that its approval of this aspect of the Exchange's rule proposal does not address any other requirements or obligations under the federal securities laws that may be applicable.[52]

[43] The Exchange states that it may, in the future, seek to obtain an exemption from the prospectus delivery requirement, either with respect to WEBS or other Index Fund Shares listed on the Exchange. In the event it obtains such an exemption, the Exchange will discuss with Commission staff the appropriate level of disclosure that should be required with respect to the Index Fund Shares being listed, and will file any necessary rule change to provide for such disclosure.

[44] Amex Rule 411.

[45] Telephone Conversation between Michael Cavalier, Assistant General Counsel, Amex, and Francois Mazur, Attorney, OMS, Division, Commission, on March 4, 1996.

[46] Amex Rules 1–236.

[47] Amex Rules 300–590.

[48] Amex Rules 700–891.

[49] *See supra* note 29, and accompanying text.

[50] *See supra* note 25.

[51] In addition, the statement of additional information to the preliminary prospectus states that each series will calculate its NAV per share at the close of the regular trading session for the New York Stock Exchange, Inc. on each day that the Exchange is open for business. NAV generally will be based on the last quoted sales price on the exchange where the security primarily is traded. Form N–1A, *supra* note 9. *See also* note 17, *supra*, discussing availability of NAV.

[52] Broker dealers and other persons will be cautioned in the prospectus and/or the Fund's statement of additional information that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act of 1933.

F. Surveillance

The Commission believes that the surveillance procedures developed by the Amex for WEBS are adequate to address concerns associated with the listing and trading of such securities, including any concerns associated with purchasing and redeeming Creation Units.

The Commission also notes that certain concerns are raised when a broker-dealer, such as Morgan Stanley & Co. Incorporated (''Morgan Stanley''), is involved in the development and maintenance of a stock index upon which a product such as Index Fund Shares, in this case WEBS, is based. The Indices were created by MSCI, which also is responsible for making substitutions and other adjustments to the Indices. Responsibility for making substitutions and other adjustments to the Indices has been delegated to Capital International S.C. (''CIPSA''), which in turn is a subsidiary of Capital International S.A. (''CISA''), itself a subsidiary of The Capital Group. Morgan Stanley represents that the individuals employed by CIPSA are not involved in sales and trading for Morgan Stanley or in equity research. Information provided by CIPSA concerning the Indices is made available to MSCI and Morgan Stanley at the same time it becomes available to other market participants. Moreover, as discussed above, WEBS series will not hold all the securities underlying a corresponding MSCI Index, holding instead a representative sampling of such securities. In addition, Morgan Stanley, CISA, and CIPSA each have procedures in place to prevent the misuse of material, non-public information regarding changes to component stocks in an MSCI Index.[53] The Commission believes that these provisions should help to address concerns raised by Morgan Stanley's involvement in the management of the Indices.

G. Stop and Stop Limit Orders

The Commission believes that the Amex's proposal to designate Index Fund Shares, including WEBS, as eligible for election by quotation with the prior approval of a Floor Official is consistent with the Act. Amex Rule 154, Commentary .04(c) generally provides that stop and stop limit orders to buy or sell a security or index of securities may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Rule 154, Commentary .04(c)(1–v). Rule 154, Commentary .04(c)(v) states that election by quotation only is available for such derivative securities as are designated by the Exchange as eligible for such treatment. The Exchange's proposal would so designate Index Fund Shares.

The Commission believes that to allow stop and stop limit orders in Index Fund Shares to be elected by quotation, a rule typically used in the options context, is appropriate because, as a result of their derivative nature, Index Fund Shares are in effect equity securities that have a pricing and trading relationship to the underlying securities similar to the relationship between options and their underlying securities.[54]

H. Minimum Fractional Changes

The Commission believes that the Exchange's propsoal to add Commentary .02 to its Rule 127 to provide that Index Fund Shares, including WEBS, are tradeable in minimum fractional changes of 1⁄16 of $1.00 is consistent with the Act. In initially approving the trading of Portfolio Depositary Receipts (''PDRs'') in minimum fractional changes of 1⁄32 of $1.00, the Commission stated that such trading should enhance market liquidity, and should promote more accurate pricing, tighter quotations, and reduced price fluctuations.[55] The Commission also stated that such trading should allow customers to receive the best possible execution of their transactions in PDRs.[56] The Commission believes that this reasoning equally is applicable to Index Fund Shares, including WEBS.

Although Index Fund Shares, and specifically WEBS, initially will be listed on the Amex, the Commission notes that it is conceivable that other national securities exchanges or the National Association of Securities Dealers, Inc. could apply for authority to list and trade such products. Currently, however, the Intermarket Trading System (''ITS'') is not capable of accommodating quotes in 1⁄16th of $1.00 for securities priced over $10 (although ITS does accommodate quotes in 1⁄16th of $1.00 for securities priced below $10).[57] The Amex states that in the event another ITS participant market seeks to initiate WEBS trading through ITS, the Exchange will discuss with the ITS Operating Committee appropriate modifications to ITS to permit trading Index Fund Shares in 1⁄16 of $1.00 increments for shares priced at or above $10, and would make reasonable efforts to address issues raised by such prospective trading.[58] The Commission expects the Amex to work with ITS and other market participants in a timely manner to accommodate trading in sixteenths through ITS should other ITS participants seek to initiate WEBS trading.

I. Scope of the Commission's Order

The Commission is approving in general the Exchange's proposed listing standards for Index Fund Shares, and specifically the seventeen series of WEBS described herein. Other similarly structured products, including WEBS based on MSCI Indices not described herein, would require review by the Commission pursuant to Section 19(b) of the Act prior to being traded on the Exchange.

J. Accelerated Approval of Amendment Nos. 2 and 3

The Commission finds good cause for approving Amendment Nos. 2 and 3 prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Amendment No. 2 provides additional information regarding the structure of Index Fund Shares. Amendment No. 2 also includes changes to the criteria for initial listing, a description of the dissemination of portfolio information, a provision for original and annual listing fees, a modification affecting stop and stop limit orders, a modification of minimum fractional changes, an Amendment to Amex Rule 190 (Specialist's Transactions with Public Customers), and effects a technical change to proposed Amex Rule 1000A. Amendment No. 3 clarifies that WEBS will trade until 4:00 p.m., not 4:15 p.m. as originally proposed; revises its proposal with respect to trading halts; and provides information regarding the dissemination of NAVs.

The Commission believes that the information presented by Amendment No. 2 concerning the criteria for initial listing is generally consistent with the Exchange's original proposal. The provision regarding WEBS portfolio compositions and the dissemination of portfolio compositions and the dissemination of portfolio values should strengthen the Exchange's proposal by

[53] Letter from Rachel Ascher, Vice President and Counsel, Morgan Stanley, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated March 6, 1996.

[54] *See generally* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (approving Amex proposal relating to stop and stop limit orders in certain equity securities).

[55] *See* Securities Exchange Act Release No. 31794 (January 29, 1993), 58 FR 7272 (order approving Amex proposal relating to minimum fractions of trading).

[56] *Id.*

[57] Amendment No. 2, *supra* note 5.

[58] *Id.*

providing investors with additional information. The technical change to proposed Amex Rule 1000A does not represent a material change. The Commission believes that the proposed original listing fee is reasonable and notes that no annual listing fees will be assessed for calendar year 1996. Finally, the other aspects of Amendment No. 2 concern issues that have been raised in prior Exchange proposals that have been the subject of a full comment period pursuant to Section 19(b) of the Act. The Commission believes that the trading hour provision of Amendment No. 3 does not represent a material change to the Exchange's original proposal and conforms WEBS trading hours to the Amex's regular trading hours. Amendment No. 3's trading halt provision clarifies the Exchange's proposal and makes it consistent with existing Exchange rules. Finally, the explanation regarding the dissemination of NAV clarifies what information will be made available to the public. For the foregoing reasons, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,[59] to approve Amendment Nos. 2 and 3 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 2 and 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–95–43 and should be submitted by April 14, 1996.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–Amex–95–43), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[60]

Margaret H. McFarland,

Deputy Secretary.

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[59] 15 U.S.C. 78f(b)(5) and 78s(b)(2) (1988).

[60] 17 CFR § 200.30–3(a)(12) (1994).

[Release No. 34–36945; File No. SR–GSCC–96–02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Proposed Rule Change Modifying the Minimum Financial Criteria for Category One Interdealer Broker Netting Membership

March 7, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 13, 1996, the Government Securities Clearing Corporation ("GSCC") 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 primarily by GSCC. 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

GSCC proposes to modify its rules to reflect a new minimum financial criteria for category one interdealer broker membership in GSCC's netting system.

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 such statements.[2]

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

As a part of its continuous process of reviewing its membership criteria and overall risk management mechanism, GSCC seeks to enhance its minimum financial criteria for category one interdealer broker ("IDB") membership in the netting system. Currently, GSCC has two categories of netting system membership for IDBs.

Category one IDBs act exclusively as brokers and trade only with netting members and for a temporary period established by the GSCC Board with certain "grandfathered" non-member firms.[3] Currently, the minimum financial requirement for category one IDBs is $4.2 million in excess net or liquid capital, as applicable.[4]

Category two IDBs have a minimum financial requirement of $25 million in net worth and $10 million in excess net or liquid capital, as applicable.[5] Unlike a category one IDB, a category two IDB is permitted to have up to ten percent of its business with non-netting members other than grandfathered non-members. This determination is based on the category two IDB's dollar volume of next-day and forward settling activity in eligible securities over the prior twenty business days.

GSCC's proposed rule change will modify the minimum financial requirement for category one IDBs to require $10 million in excess net or liquid capital, as applicable. GSCC believes that given the large dollar volume of activity that the IDBs have submitted and continue to submit to GSCC for netting and settlement and their principal nature vis-a-vis GSCC, it is appropriate to require that all IDBs have and maintain a minimum level of excess net or liquid capital of at least $10 million. Category one IDBs will

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by GSCC.

[3] Grandfathered non-members are non-members designated as such by the GSCC Board. GSCC publishes from time to time a list of such firms.

[4] If the applicant is registered with the Commission as a broker-dealer pursuant to Section 15 of the Act and is applying to become a category one IDB netting member, it must have net capital of at least $4.2 million. If the applicant is registered as a government securities broker pursuant to Section 15C of the Act and is applying to become a category one IDB netting member, it must have liquid capital of at least $4.2 million.

[5] If the applicant is registered with the Commission as a broker-dealer pursuant to Section 15 of the Act and is applying to become a category two IDB netting member, it must have net worth of at least $25 million and excess net capital of at least $10 million. If the applicant is registered with the Commission as a government securities broker pursuant to Section 15C of the Act and is applying to become a category two IDB netting member, it must have net worth of at least $25 million and excess liquid capital of at least $10 million.