amount sufficient to satisfy potential losses to it and its members resulting from the default of more than one member or the failure of a defaulting member's counterparties to pay their pro rata allocation of loss. It also allows GSCC to ensure that it has sufficient liquidity at all times to meet its payment and delivery obligations. Thus, the maintenance of an appropriate overall level of clearing fund collateral is vital to GSCC's risk-management mechanism.

As GSCC cannot know with any certainty what liquidation exposure it might incur or what its overall liquidity requirements might be, the calculation of clearing fund deposit requirements involves an estimate of such exposure that is based on historical price volatility and on member's historical activity. In fact, on any particular business day, a member's trading activity and the general market price volatility related to the member's activity may be significantly higher than normal. Given this uncertainty and the importance of the purposes served by the clearing fund, members are encouraged to maintain excess clearing fund collateral. GSCC takes significant comfort from the cushion represented by member's excess clearing fund collateral.

Member's clearing fun deposit requirements are calculated daily based on the level of members' historical and current day's net activity. However, the maintenance of an appropriate level of overall clearing fund collateral is not designed to be a daily collection and return process. In part, this is due to the administrative burden and cost that this would entail. The process for collection of clearing fund deposit involves not just cash but also securities and letters of credit making it more complex than GSCC's daily morning funds-only collection process. More significantly, the disfavor of daily collection and return of clearing fund collateral recognizes the above stated desirability of maintaining a cushion of excess clearing fund collateral.

Because of these concerns, GSCC's rules currently provide for the return of excess clearing fund collateral to members only once a calendar month on the second business day of each month. This methodology applies regardless of the level of a member's excess clearing fund collateral. Upon review of this process, it is GSCC's view that the importance of maintaining a level of excess collateral adequate to protect GSCC and its members and of avoiding a cumbersome clearing fund deposit collection process should be balanced against the cost and drain on liquidity posed to members that build up an unusually large amount of excess clearing fund collateral over the course of a month. GSCC therefore proposes as a means of balancing these interests that members may request the return of excess collateral on any business day under the following circumstances: (1) The amount of the member's excess clearing fund collateral is at least $5 million; (2) the member is not on class 2 or class 3 surveillance status; and (3) the collateral will be returned only to the extent that GSCC retains a cushion of excess collateral of no less than the greater of (a) 110 percent of the member's clearing fund deposit requirement (*i.e.,* GSCC must retain 110% of the member's clearing fund deposit requirement) or (b) $1 million more than the amount of collateral needed to cover the member's current clearing fund deposit requirement.

GSCC believes the proposed rule changes are consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it promotes efficiencies in the prompt and accurate clearance and settlement of securities transactions.[3] Members will experience less liquidity pressure from not having to maintain large amounts of excess clearing fund collateral with GSCC and will be better able to manage their cash management needs. However, at the same time GSCC will maintain sufficient excess clearing fund collateral to protect itself and its members in an instance of member default.

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

GSCC perceives no impact on competition by reason of the proposed rule change.

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

GSCC has not solicited or received comment on the proposed rule change.

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 GSCC 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the file number (SR–GSCC–96–9) and should be submitted by October 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–24058 Filed 9–18–96; 8:45 am]

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[3] 15 U.S.C. § 78q-1 (1988).

[4] 17 CFR 200.30–3(a)(12) (1996).

[Release No. 34–37675; File No. SR–MSRB–96–7]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Political Contributions and Prohibitions on Municipal Securities Business

September 12, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 6, 1996,[1] the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'')

[1] On September 9, 1996, the MSRB filed Amendment No. 1 with the Commission. Amendment No. 1 amends proposed language to rule G–37(g) (vii). *See* Letter from Ronald W. Smith, Legal Associate, MSRB, to Katherine England, Assistant Director, Division of Market Regulation, SEC (September 9, 1996).

the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Board. 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

Board proposes a rule change to amend rule G–37, on political contributions and prohibitions on municipal securities business, and rule G–8, on books and records.

The text of the proposed rule change is available at the offices of the MSRB.

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

In its filing with the Commission, the Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

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

The Board is filing the proposed rule change to: (i) Amend the definition of ''municipal finance professional;'' (ii) amend the definition of ''executive officer;'' (iii) clarify the definition of ''official of an issuer;'' (iv) clarify the definition of ''municipal securities business;'' and (v) require the retention of Forms G–37/G–38 and of records itemizing mailing of the same.

Definition of ''Municipal Finance Professional''

Rule G–37(g)(iv) defines the term ''municipal finance professional'' as:

(A) Any associated person primarily engaged in municipal securities representative activities, as defined in rule G–3(a)(i);

(B) Any associated person who solicits municipal securities business, as defined in paragraph (vii);

(C) Any associated person who is both (i) a municipal securities principal or a municipal securities sales principal and (ii) a supervisor of any person described in subparagraphs (A) or (B);

(D) any associated person who is a supervisor of any person described in subparagraph (C) up through and including, in the case of a broker, dealer or municipal securities dealer other than a bank dealer, the Chief Executive Officer or similarly situated official and, in the case of a bank dealer, the officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, as required pursuant to rule G–1(a); or

(E) Any associated person who is a member of the broker, dealer or municipal securities dealer (or in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G–1) executive or management committee or similarly situated officials, if any.

The activities described in subparagraphs (A) and (B) which would cause someone to become a municipal finance professional are directly the result of the individual's actions (*e.g.*, primarily engaged in underwriting, trading or sales of municipal securities, or soliciting municipal securities business). The activities described in subparagraph (C) relate to the supervision of anyone described in subparagraphs (A) and (B), and the activities described in subparagraph (D) relate to the supervision of anyone described in subparagraph (C). Thus, for someone to meet the definition of municipal finance professional pursuant to subparagraphs (A) through (D), individuals would have to be directly involved in municipal securities activities or supervisors of such persons.

Subparagraph (E) states that an associated person who is a member of the dealer executive or management committee or similarly situated official is a municipal finance professional. This provision is the only part of the definition of municipal finance professional that is not dependent upon the municipal securities activities of the person or the supervision of persons engaging in municipal securities activities. This provision was added to the rule because of the belief that issuer officials may seek out dealers' senior executives for contributions if municipal finance professionals ceased making contributions. The Statement of Initiative by Dealers regarding Political Contributions also included executive or management committee members within its voluntary prohibition on political contributions.[2]

The Board understands that there are certain dealers that occasionally engage in municipal securities sales transactions but do not engage in municipal securities business as defined in rule G–37(g)(vii). As a result, the only individuals who meet the definition of municipal finance professional are executive or management committee members. Because such dealers do not engage in municipal securities business, the ban on business based on political contributions is irrelevant to them. However, such dealers also are required to record and report the contributions and payments of these municipal finance professionals. The Board believes that there is no useful purpose served in requiring dealers to record and report the political contributions of executive or management committee members if they are the only individuals in a firm meeting the definition of municipal finance professional. The proposed rule change amends the definition of municipal finance professional in rule G–37(g)(iv)(E) to exempt executive or management committee members from the definition of municipal finance professional (and thus the applicable recording and reporting requirements) if these are the only individuals within a firm who would meet the definition as described in subparagraphs (A) through (E).[3]

Definition of ''Executive Officer''

Rule G–37(g)(v) defines ''executive officer'' as: An associated person in charge of a principal business unit, division or function or any other person who performs similar policy making functions for the broker, dealer or municipal securities dealer (or, in the case of a bank dealer, the separately identifiable department or division of the bank, as defined in rule G–1), but does not include any municipal finance professional, as defined in paragraph (iv) of this section (g).

Contributions and payments by executive officers are subject to the recordkeeping and reporting provisions of rule G–37. Contributions by executive officers do not result in a ban on business; however, paragraph (d) of rule G–37 prohibits dealers from using executive officers (as well as any other person or entity) as conduits for making contributions to officials of issuers. The Board determined to apply the recordkeeping and reporting

[2] In October 1993, at the urging of SEC Chairman Levitt, a number of dealers agreed to a Statement of Initiative to support the principle that political contributions which are intended to influence the awarding of municipal securities business should be prohibited.

[3] Rule G–37(g)(iv) states that each person designated by the dealer as a municipal finance professional is deemed to be a municipal finance professional and that each person so designated will retain this designation for two years after the last activity or position which gave rise to the designation. Upon approval of the proposed rule change by the SEC, dealers may remove individuals subject to the new rule language from their lists of designated municipal finance professionals and do not have to record and report their contributions.

requirements to contributions by executive officers to ensure that these individuals are not being used to circumvent the rule.

As in the situation described above involving executive or management committee members, rule G–37 currently requires a dealer to record and report the contributions of executive officers even if that dealer has no one meeting the definition of municipal finance professional. The Board believes that this serves no useful purpose because the dealer currently is not engaging in municipal securities business. The proposed rule change would amend the definition of executive officer in rule G–37(g)(v) to provide that, if no associated person of the dealer meets the definition of municipal finance professional, the dealer shall be deemed to have no executive officers (and thus the recording and reporting requirements for executive officers are not applicable).[4]

In both situations involving municipal finance professionals and executive officers described above, if the dealer later engages in municipal securities business, then the dealer will have to record the contributions and payments made by any municipal finance professionals, as well as executive officers, for the previous two calendar years to determine whether it is banned from any municipal securities business.[5]

Definition of ''Official of an Issuer''

When the Board adopted rule G–37, the term ''official of such issuer'' or ''official of an issuer'' was initially defined as any incumbent, candidate or successful candidate for elective office of the issuer, which office is directly or indirectly responsible for, or can influence the outcome of, the hiring of a dealer for municipal securities business. The definition was intended to include any state or local official or candidate (or successful candidate) who has influence over the awarding of municipal securities business, including certain state-wide executive or legislative officials.

After adoption of the rule, the Board became concerned that, because the definition focused on ''an elective office of the issuer,'' it did not clearly include certain other officials. For example, a state may have certain issuing authorities whose boards of directors are appointed by the governor. Although the governor is an official with influence over the awarding of municipal securities business, the governor, in this illustration, is not an incumbent or candidate for ''elective office of the issuer'' (*i.e.*, the state authority). Thus, a contribution to the governor would not prohibit a dealer from engaging in business with the state authority. The Board intended to include the governor as an official of the issuer in such circumstances and, therefore, determined to amend the definition to clarify its intent.[6]

Accordingly, rule G–37(g)(vi) currently defines the term ''official of such issuer'' or ''official of an issuer'' as:

> any person (including any election committee for such person) who was, at the time of the contribution, an incumbent, candidate or successful candidate: (A) For elective office of the issuer which office is directly or indirectly responsible for, or can influence the outcome of, the hiring of a broker, dealer or municipal securities dealer for municipal securities business by the issuer; or (B) for any elective office of a state or of any political subdivision, which office has authority to appoint any official(s) of an issuer, as defined in subparagraph (A), above. [emphasis added]

Recently, it came to the Board's attention that the revised definition does not clearly address situations in which an elected official may appoint someone to an issuer position. Subparagraph (B) in rule G–37(g)(vi) refers to the definition of official of an issuer as defined in subparagraph (A), but, subparagraph (A) refers only to an elective office and not an appointed office. The proposed rule change amends the definition of ''official of such issuer'' and ''official of an issuer'' to clarify that the definition includes ''any elective office of a state or of any political subdivision, which office has authority to appoint any person who is directly or indirectly responsible for, or can influence the outcome of, the hiring of a broker, dealer or municipal securities dealer for municipal securities business by an issuer.'' Such amendment removes the incorrect reference to an elective office for those who are appointed by an elected official.

Definition of ''Municipal Securities Business''

Rule G–37(g)(vii) defines the term ''municipal securities business'' as:

(A) The purchase of a primary offering (as defined in rule A–13(d)) of municipal securities from the issuer on other than a competitive bid basis (*i.e.*, negotiated underwriting); or

(B) The offer or sale of a primary offering of municipal securities on behalf of any issuer (*i.e.*, private placement); or

(C) The provision of financial advisory or consultant services to or on behalf of an issuer with respect to a primary offering of municipal securities on other than a competitive bid basis; or

(D) The provision of remarketing agent services to or on behalf of an issuer with respect to a primary offering of municipal securities on other than a competitive bid basis.

Under rule G–37, dealers could be subject to a ban on business with an issuer if certain contributions are made to officials of that issuer. The ban on business provision applies to municipal securities business awarded on a negotiated basis; the rule does not prohibit dealers from engaging in business awarded on a competitive basis.

Some dealers have noted that it is not clear in subparagraph (C) of rule G–37(g)(vii) whether, for financial advisory services, the rule is referring to the selection of a financial advisor on other than a competitive bid basis or whether the rule is referring to financial advisory services provided only on negotiated deals. The proposed rule change amends rule G–37(g)(vii)(C) to make clear that the definition of ''municipal securities business'' includes financial advisory services when the dealer is chosen as financial advisor on a negotiated basis. It is irrelevant whether the financial advisory services provided by the dealer are with respect to a negotiated or competitive issue. A similar change has been made to rule G–37(g)(vii)(D) to clarify that the definition of ''municipal securities business'' includes remarketing agent services when the dealer is chosen as remarketing agent on a negotiated basis.

Recordkeeping

Rule G–37(e) requires dealers to submit Forms G–37/G–38 to the Board by certified or registered mail or some other equally prompt means that provides a record of dispatch. While rule G–8(a)(xvi), on books and records, requires dealers to keep records of all of the information reported on Form G–37/G–38, it also requires dealers to keep records of additional information (*e.g.*, a listing of the names, titles, city/county and state of residence of all municipal finance professionals). The Board believes it would be helpful to the

[4] Upon approval of the proposed rule change by the SEC, dealers may remove individuals subject to the new rule language from their lists of executive officers and do not have to record and report their contributions.

[5] Of course, any dealer who has municipal finance professionals, even if the dealer currently is not engaging in municipal securities business, must record and report the contributions and payments of municipal finance professionals and executive officers.

[6] *See* Securities Exchange Act Release No. 34160 (June 3, 1994), 59 FR 30376 (June 13, 1994).

enforcement agencies for rule G–8(a)(xvi) to require dealers to keep copies of the Forms G–37/G–38 submitted to the Board so that these forms can be easily retrieved for review. In reviewing the timely submission of the forms, the Board also believes it would be helpful to the enforcement agencies to require dealers to keep the certified or registered mail record or other records indicating dispatch.[7]

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall:

> Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

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

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor received.

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

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the 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. 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 submissions, 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 the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–96–7 and should be submitted by October 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

[FR Doc. 96–23975 Filed 9–18–96; 8:45 am]

BILLING CODE 8010–01–M

[7] Rule G–9, on preservation of records, requires dealers to retain the G–8(a)(xvi) records concerning political contributions and prohibitions on municipal securities pursuant to rule G–37 for a six year period.

[Release No. 34–37668; File No. SR–NYSE–96–17]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Extension of Pilot Programs for Capital Utilization and Near Neighbor Measures of Specialist Performance

September 11, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 1, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The proposed rule change consists of extending for an additional four months, through January 10, 1997, the pilot programs to use specialist capital utilization and the ''near neighbor'' approach to measure specialist performance.[2]

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

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

The Exchange requests the Commission to find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change, and Amendment No. 1 thereto, prior to the thirtieth day after publication in the Federal Register.[3]

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

1. Purpose

The Exchange currently uses several programs to measure specialist

[1] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Sharon Lawson, Senior Special Counsel, SEC, dated September 10, 1996 (''Amendment No. 1''). The Exchange originally requested that the capital utilization and near neighbor measure pilots be approved for an additional year, until September 10, 1997. In Amendment No. 1, the Exchange amended the filing to request that the pilots only be extended for an additional four months, until January 10, 1997 and requested that the four-month extension be approved on an accelerated basis. The Exchange stated that during this time, it expected to seek permanent approval of the programs from its Board of Directors, and to subsequently file such requests with the Commission.

[2] The SEC notes that these measures currently are only used by the Allocation Committee in making specialist allocation decisions. *See infra* note 4. The SEC initially approved the capital utilization program on a one-year pilot basis in Securities Exchange Act Release No. 33369 (December 22, 1993), 58 FR 69431 (December 30, 1993). The SEC approved a six-month extension of the pilot program in Securities Exchange Act Release No. 35175 (December 29, 1994), 60 FR 2167 (January 6, 1995) (extending pilot through June 30, 1995). The SEC approved a subsequent extension of the pilot so that the Exchange and the SEC could evaluate the capital utilization and near neighbor programs concurrently. *See* Securities Exchange Act Release No. 35926 (June 30, 1995), 60 FR 35760 (July 11, 1995) (extending pilot through September 10, 1996). The SEC approved the near neighbor program on a pilot basis in Securities Exchange Act Release No. 35927 (June 30, 1995), 60 FR 35927 (July 11, 1995) (pilot approved through September 10, 1996).

[3] *See* Amendment No. 1, *supra* note 1.