

[Release No. 34-37870; File No. SR-GSCC-96-08]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Repurchase Agreement Netting Service

October 25, 1996.

On August 1, 1996, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-GSCC-96-08) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ On August 9, 1996, GSCC filed an amendment to the proposed rule change.² Notice of the proposal was published in the Federal Register on September 12, 1996.³ No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The proposed rule change permits GSCC to reimburse interdealer broker netting members ("IDBs") for two costs related to their participation in GSCC's netting system for repurchase and reverse repurchase transactions ("repo") involving government securities as the underlying instruments.⁴ Currently, IDB and non-IDB netting members may submit data on brokered repos to GSCC for clearance and settlement. GSCC compares, nets, and settles repo close legs and repo start legs submitted prior to start date (*i.e.*, non-same-day-settling start legs).

Because GSCC currently does not settle intraday start legs, the parties to brokered repos assume the responsibility for the settlement of such legs outside of GSCC. As a result, IDBs will incur clearance charges for the settlement of intraday start legs of brokered repos.⁵ Under the proposed rule change, GSCC will absorb IDBs'

clearance charges related to the settlement of intraday repo start legs, up to a dollar amount deemed reasonable by it.

In addition, IDBs may incur overnight financing costs resulting from securities delivered too late in the day to redeliver before the close of Fedwire.⁶ In such instances, GSCC will reimburse this cost to the IDB if the cost was incurred unavoidably and without fault by the IDB. GSCC will only absorb such charges up to a dollar amount deemed reasonable by it.

In certain circumstances, these cost reimbursements also will be available to a division or separate operating unit within a dealer netting member. To be eligible, such division or unit must operate in an overall manner as a broker and must abide by the requirements imposed on IDBs that participate in the repo netting process.

II. Discussion

Section 17A(b)(3)(F)⁷ of the Act requires that the rules of a clearing agency be designed to remove impediments to and to perfect the mechanism of a national clearance and settlement system. Although GSCC provided for participation by IDBs in its repo netting system earlier this year, IDBs, like all other GSCC repo netting members, must assume the responsibility for the settlement of intraday start legs outside of GSCC. By providing a method whereby IDBs can use in an economic fashion the facilities of GSCC to settle their brokered repos, the proposal should encourage IDBs to submit their repo transactions to GSCC. As a result, more repos should be settled through the facilities of a registered securities clearing agency (*i.e.*, GSCC) which should, consistent with the requirements of Section 17A(b)(3)(F), further the establishment of a national clearance and settlement system.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-96-08) be and hereby is approved.

⁶Overnight financing costs are costs charged by clearing agent banks to their broker-dealer customers related to the financing by banks of securities held from one business day until the next business day in customers' clearing accounts.

⁷ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

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

Margaret H. MacFarland,

Deputy Secretary.

[FR Doc. 96-28000 Filed 10-31-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37868; File No. SR-GSCC-96-09]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to the Establishment of a Mechanism for Returning Certain Excess Clearing Fund Collateral to Members on a Daily Basis

October 25, 1996.

On August 11, 1996, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-GSCC-96-09) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the Federal Register on September 19, 1996.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The proposed rule change establishes a mechanism for returning certain excess clearing fund collateral to members on a daily basis rather than on the current monthly basis. GSCC's clearing fund is designed to protect GSCC from the exposure presented by fluctuations in the value of a defaulting member's net settlement position from the most recent marking-to-market until liquidation of that position.³ The daily mark-to-market mechanism, which is applicable to forward net settlement positions, is designed to bring net settlement positions from contract value to current market value.

Members' clearing fund deposit requirements are calculated daily based on the level of members' historical and

⁸ 17 CFR 200.30-3(a)(12) (1996).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Securities Exchange Act Release No. 37678 (September 13, 1996), 61 FR 49367.

³ The clearing fund collateral pool also allows GSCC to have on deposit from each netting member assets to satisfy losses resulting from a member's default; permits GSCC to maintain a total asset 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; and provides GSCC with liquidity to meet its payment and delivery obligations.

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Christine Sibille, Senior Counsel, Division of Market Regulation, Commission (August 6, 1996).

³ Securities Exchange Act Release No. 37647 (September 5, 1996), 61 FR 48189.

⁴ Earlier this year, the Commission approved a proposed rule change filed by GSCC which provided for participation by IDBs in GSCC's repo netting system. Securities Exchange Act Release No. 37482 (July 25, 1996), 61 FR 40275.

⁵ Clearance charges are costs charged by clearing agent banks to their broker-dealer customers related to the settlement of securities movements obligations. Clearance charges may include both fixed charges and pass through charges such as the costs of Fedwire.

current day's net activity. However, 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. The proposed rule change allows members to 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 not less than the greater of (a) ten 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.

II. Discussion

Section 17A(b)(3)(F)⁴ of the Act requires that the rules of a clearing agency be designed to safeguard securities and funds in its custody or control. While the proposal will permit members with large amounts of excess clearing fund to have daily access to such funds, which should increase such members' liquidity and thus assist them in fulfilling their settlement obligations, the proposal will only allow the return of excess clearing fund under certain conditions, including that GSCC retains a cushion of excess clearing fund. Such conditions should help to ensure that GSCC has sufficient clearing fund on hand to meet its settlement obligations. Thus, the proposal is consistent with GSCC's obligation to safeguard securities and funds in its possession.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-96-09) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-28005 Filed 10-31-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37862; File No. SR-MBSCC-96-05]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Charges

October 24, 1996.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on September 25, 1996, the MBS Clearing Corporation ("MBSCC") 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 MBSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

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

The text of the proposed rule change consists of modifications to the Electronic Pool Notification ("EPN") schedule of charges, which is attached as Exhibit 1.

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

In its filing with the Commission, MBSCC 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. MBSCC 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 Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to modify the access fees and to make technical changes to the schedule of charges for the EPN service. MBSCC currently accommodates connectivity to the EPN service by leased lines and charges an access fee

depending on the type of connection used by a participant. The proposed rule change establishes an access fee to accommodate the use of dial-up lines in conjunction with or as an alternative to leased lines for connection to the EPN service.³ Dial-up access to the EPN service is intended to reduce a participant's monthly telephone company communication charges. Therefore, the proposed rule change modifies the EPN schedule of charges to add an access fee for CTCI TCP/IP via dial-up of \$30.00/month. The proposed rule change also makes a technical modification to the EPN schedule of charges to identify the access fees to accommodate connectivity by leased line or dial-up, leased line, and dial-up.⁴ MBSCC will implement these changes effective immediately.

MBSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act⁵ and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among MBSCC's participants.

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

MBSCC does not believe that the proposed rule change will impact or impose a burden on competition.

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

No written comments have been solicited or received. MBSCC will notify the Commission of any written comments received by MBSCC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)⁶ of the Act and pursuant to Rule 19b-4(e)(2)⁷ promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by MBSCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or

³ Leased lines are billed on a flat rate regardless of usage whereas dial-up access is billed based on usage plus a small maintenance fee.

⁴ One type of connection (*i.e.*, CTCI SNA LU6.2) accommodates leased or dial-up access to the EPN service.

⁵ 15 U.S.C. § 78q-1 (1988).

⁶ 15 U.S.C. § 78s(b)(3)(A)(ii) (1988).

⁷ 17 CFR 240.19b-4(e)(2) (1996).

⁴ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

⁵ 17 CFR 200.30-3(a)(12) (1996).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² The Commission has modified the text of the summaries prepared by MBSCC.