

rely on at least one of the exemptive rules annually.<sup>8</sup> We further assume that the independent directors of approximately one-third (1,336) of those funds would need to make the required determination in order for their counsel to meet the definition of independent legal counsel.<sup>9</sup> We estimate that each of these 1,336 funds would be required to spend, on average, 0.75 hours annually to comply with the proposed recordkeeping requirement concerning this determination, for a total annual burden of approximately 1,002 hours. Based on this estimate, the total annual cost for all funds of this proposed definition would be approximately \$22,712. To calculate this total annual cost, the Commission staff assumed that two-thirds of the total annual hour burden (668 hours) would be incurred by professionals with an average hourly wage rate of \$27 per hour, and one-third of that annual hour burden (334 hours) would be incurred by clerical staff with an average hourly wage rate of \$14<sup>10</sup> per hour.<sup>11</sup>

These burden hour estimates are based upon the Commission staff's experience and discussions with the fund industry. The estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collection of information on respondents, including through the use of automated collection techniques or

<sup>8</sup> Based on statistics compiled by Commission staff, we estimate that there are approximately 4,500 funds that could rely on one or more of the exemptive rules. Of those funds, we assume that approximately 90 percent (4,050) actually rely on at least one exemptive rule annually.

<sup>9</sup> We assume that the independent directors of the remaining two-thirds of those funds will choose not to have counsel (but instead rely in some circumstances on counsel who does not represent them), so that no determination by the independent directors would be necessary.

<sup>10</sup> The Commission's estimates concerning the wage rate for professional time and for clerical time are based on salary information for the securities industry compiled by the Securities Industry Association. See Securities Industry Association, *Report on Management and Professional Earnings in the Securities Industry* (September 2001).

<sup>11</sup>  $(668 \times \$27/\text{hour}) + (334 \times \$14/\text{hour}) = \$22,712.$

other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: September 6, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-23353 Filed 9-12-02; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [67 FR 57255, September 9, 2002].

**STATUS:** Closed Meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:** Tuesday, September 10, 2002, at 10 a.m.

**CHANGE IN THE MEETING:** Additional Item.

The following item was added to the Closed Meeting scheduled for Tuesday, September 10, 2002 at 10 a.m.

Formal Order of Investigation.

Commissioner Goldschmid, as duty officer, determined that Commission business required the above change and 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: September 10, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-23436 Filed 9-11-02; 9:36 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [67 FR 57255, September 9, 2002].

**STATUS:** Closed Meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:** Tuesday, September 10, 2002, at 10 a.m.

**CHANGE IN THE MEETING:** Additional Meeting.

The Securities and Exchange Commission will hold an additional meeting during the week of September 9, 2002: An additional Closed Meeting will be held on Thursday, September 12, 2002, at 4 p.m.

Commissioner Goldschmid, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

The subject matter of the Closed Meeting to be held on Thursday, September 12, 2002, will be: Amicus consideration.

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: September 10, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-23437 Filed 9-11-02; 9:36 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46467]

### Self-Regulatory Organizations; Approval of Chicago Board Options Exchange, Inc. Fingerprinting Plan

September 6, 2002.

On July 12, 2002, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC") an amended fingerprinting plan ("Amended Plan") pursuant to Rule 17f-2(c)<sup>1</sup> under the Securities Exchange Act of 1934 ("Act").<sup>2</sup> The Amended Plan<sup>3</sup> supersedes and replaces the Exchange's current fingerprinting plan.<sup>4</sup> The Exchange believes that the Amended Plan will be a significant improvement over the current CBOE fingerprinting plan. It establishes procedures for the electronic capture and submission of fingerprints.

<sup>1</sup> 17 CFR 240.17f-2(c).

<sup>2</sup> 15 U.S.C. 78a et seq.

<sup>3</sup> Attached hereto as Exhibit A.

<sup>4</sup> The Exchange's current fingerprinting plan was approved by the Commission on January 27, 1984. See Securities Exchange Act Release No. 20607 (January 27, 1984), 49 FR 4298 (February 3, 1984).

Under the Exchange's current fingerprinting plan, members submit manually rolled fingerprint cards to the CBOE, which then forwards the cards to the Federal Bureau of Investigation ("FBI") (the fingerprint processing arm of the Office of the Attorney General of the United States). The FBI identifies submitted fingerprints, retrieves relevant criminal history information, and returns fingerprint reports (including the original fingerprint cards) to the CBOE. The Exchange has noted that two to three months generally elapses between the time when the CBOE submits fingerprint cards and when the CBOE receives fingerprint reports.

Under the terms of the Amended Plan, the Exchange will continue to accept manually rolled fingerprint cards, but will also utilize a Live-Scan electronic fingerprinting system.<sup>5</sup> Any Live-Scan system utilized by the Exchange will have been certified by the FBI for compliance with the FBI's Integrated Automated Fingerprint Identification System ("IAFIS")<sup>6</sup> image quality specifications. The Live-Scan system will electronically capture and transmit fingerprints to the FBI for processing and transmit fingerprint reports back to the CBOE. The Live-Scan system will be maintained at the CBOE and operated by a qualified CBOE representative. The Exchange estimates that under the Amended Plan approximately two days will elapse between when the CBOE submits electronic fingerprints and when the FBI returns fingerprint reports to the CBOE.

The Commission has reviewed the procedures detailed in the Amended

<sup>5</sup> Live-Scan refers to the process of capturing fingerprints directly into a digitized format as opposed to traditional ink and paper methods. Using Live-Scan technology, images are captured and transmitted to a central location and/or interface for identification processing. Certified Live-Scan systems produce consistent high quality fingerprint images, thereby reducing rejection rates and lowering turnaround times. Live-Scan systems are used by law enforcement agencies for processing criminal fingerprint records and in government and commercial markets for applicant employment background checks.

<sup>6</sup> The IAFIS, part of which debuted in July 1999, was developed to offer rapid suspect identification to law enforcement agencies and organizations where criminal background histories are a critical factor in consideration for employment. Because fingerprint cards must be physically transported and processed, substantial delays can be experienced in the identification cycle. To improve the speed and accuracy of the fingerprint identification process and eliminate the need for contributing agencies to create and mail paper fingerprint cards to the FBI for processing, the FBI Criminal Justice Information Services Division developed the IAFIS to support the paperless submission of fingerprint records. IAFIS provides Federal, state and local criminal justice agencies the ability to electronically transmit fingerprint information, vastly improving response time.

Plan and believes that the Amended Plan is in the public interest and consistent with the protection of investors. The Amended Plan should significantly improve upon the efficiency of the current CBOE fingerprinting plan by establishing procedures for the electronic capture and submission of fingerprints. Thus, the Commission declares the Amended Plan to be effective.

The Commission notes that securities industry fingerprinting procedures are in a state of flux due to rapidly advancing technology. In the event that an industry-wide standard is adopted or becomes prevalent and in the event that this Amended Plan substantially differs therefrom, the Commission may declare this Amended Plan ineffective. The Commission imposes these terms and conditions on the Amended Plan and deems that they are necessary and appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act pursuant to Rule 17f-2(c).<sup>7</sup>

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

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

#### **Exhibit A**

##### *Chicago Board Options Exchange, Incorporated; Fingerprint Plan*

Chicago Board Options Exchange, Incorporated ("Exchange") submits this Fingerprint Plan ("Plan") pursuant to Rule 17f-2(c) under the Securities Exchange Act of 1934, as amended ("Act"). This Plan supersedes and replaces the Exchange's Fingerprint Plan approved by the Securities and Exchange Commission ("Commission") on January 27, 1984.

The purpose of this Plan is to enable Exchange members and Exchange member applicants to comply with Section 17(f)(2) of the Act and Rule 17f-2 thereunder by providing a facility for the fingerprints of individual partners, directors, officers, and employees of Exchange members and Exchange member applicants to be processed and submitted to the Attorney General of the United States or its designee ("Attorney General").

The Exchange will utilize a Live-Scan electronic system for the taking of fingerprints. Any Live-Scan system utilized by the Exchange will have been certified by the Federal Bureau of Investigation ("FBI") for compliance with the FBI's Integrated Automated

Fingerprint Identification System Image Quality Specifications. The Exchange may also manually take fingerprints and receive manually taken fingerprint cards. The purpose of allowing this flexibility is to permit the Exchange to retain the ability to process and submit fingerprints to the Attorney General in the event the Exchange's Live-Scan system is not able to be used due to, for example, a system problem. Additionally, this flexibility will permit the Exchange to continue to receive manually taken fingerprint cards from those who are located at a distance from the Exchange or who for other reasons find it more expedient to provide manually taken fingerprint cards to the Exchange rather than travel to the Exchange to have fingerprints taken.

Accordingly, under the Plan, the Exchange may receive fingerprints through any of the following methods:

1. The Exchange may utilize a Live-Scan system to take the fingerprints and create an electronic fingerprint record for the fingerprints;
2. The Exchange may manually take the fingerprints on a paper fingerprint card; or
3. The Exchange may receive manually taken paper fingerprint cards.

The fingerprint cards and electronic fingerprint records will identify the individual providing the fingerprints and the Exchange member or Exchange member applicant with whom the individual is associated. The fingerprint cards and electronic fingerprint records will be in a form acceptable to the Attorney General and the Exchange.

In the event that an individual who previously provided fingerprints to the Exchange in accordance with this Plan is required to re-submit fingerprints, the Exchange may permit the individual not to be re-fingerprinted if the following conditions are satisfied:

1. The Exchange is in possession of an electronic record of that individual's fingerprints taken by a Live-Scan system;
2. The existing electronic fingerprint record was previously submitted to, and deemed acceptable by, the Attorney General; and
3. The Exchange is able to re-submit the existing electronic fingerprint record to the Attorney General.

In such an event, the Exchange shall re-submit the existing electronic fingerprint record to the Attorney General and process the fingerprint record received back from the Attorney General with respect to the fingerprints in the same manner as is the case with respect to initially submitted fingerprints.

<sup>7</sup> 17 CFR 240.17f-2(c).

<sup>8</sup> 17 CFR 200.30-3(a)(17)(iii).

Once fingerprints are taken, the Exchange will review the information on the fingerprint card or in the electronic fingerprint record for the fingerprints, as applicable, for completeness, but not for accuracy, and will then submit the completed fingerprint card or electronic fingerprint record, as applicable, to the Attorney General for identification and processing.

The Exchange shall submit fingerprint cards and electronic fingerprint records to the Attorney General in accordance with any requirements of the Attorney General relating to the manner of submission of this information. The submission may occur through any of the following methods:

1. The Exchange may electronically transmit to the Attorney General an electronic fingerprint record created by a Live-Scan system;
2. The Exchange may print out an electronic fingerprint record created by a Live-Scan system onto a paper fingerprint card and submit the fingerprint card to the Attorney General through manual transmission, such as by United States mail; or
3. The Exchange may submit manually taken fingerprint cards to the Attorney General through manual transmission, such as by United States mail.

The purpose of allowing this flexibility is to permit the Exchange to retain the ability to submit fingerprints to the Attorney General in the event the Exchange is unable to electronically transmit electronic fingerprint records to the Attorney General due to a telecommunication problem or otherwise. Additionally, this flexibility will permit the Exchange to manually transmit to the Attorney General fingerprint cards manually taken by the Exchange and received from Exchange members and Exchange member applicants.

The Exchange will keep a list of the fingerprint cards and electronic fingerprint records submitted to the Attorney General in order to check on fingerprint submissions to the Attorney General pursuant to this Plan for which no fingerprint report has yet been received from the Attorney General. When a fingerprint report is received by the Exchange from the Attorney General with respect to fingerprints submitted by the Exchange pursuant to this Plan, the Exchange promptly will manually (such as by United States mail) or electronically forward a copy of the fingerprint report to the appropriate Exchange member or Exchange member applicant.

The Exchange promptly will review all fingerprint reports received from the Attorney General with respect to fingerprints submitted by the Exchange pursuant to this Plan in order to determine whether they contain information involving:

1. A statutory disqualification, as that term is defined in the Act; or
  2. Material misstatements or omissions concerning information previously reported to the Exchange.
- If so, the Exchange promptly will take appropriate action concerning eligibility or continued eligibility for Exchange membership or for employment or association with an Exchange member. Copies of fingerprint reports received from the Attorney General with respect to fingerprints submitted by the Exchange pursuant to this Plan will be maintained by the Exchange in accordance with the Exchange's Record Retention/Destruction/Conversion Plan filed with the Commission. Any maintenance of fingerprint records by the Exchange shall be for the Exchange's own administrative purposes, and the Exchange is not undertaking to maintain fingerprint records on behalf of Exchange members pursuant to Rule 17f-2(d)(2).

The above procedures will be modified in the following manner with respect to individuals in registration capacities recognized by the Exchange who are associated persons of Exchange members that are not members of NASD. The Exchange has established an arrangement with NASD to permit these individuals to be electronically registered with the Exchange through the Web Central Registration Depository ("Web CRD"). In connection with this registration process, these registered persons will have their fingerprints processed and submitted to the Attorney General through the facilities of either NASD or the Exchange. The extent to which these registered persons may utilize either one or both of these facilities will be determined by the Exchange and NASD. Fingerprint reports for these registered persons that are generated by the Attorney General will be provided to Web CRD and will be provided to the members with which these registered persons are associated through Web CRD. Record-keeping with respect to fingerprint submissions to and fingerprint reports from the Attorney General for these registered persons will be maintained by NASD. NASD will notify the Exchange if a fingerprint report received by Web CRD for one of these registered persons contains information relating to an arrest or conviction. In such an instance,

the Exchange will review the fingerprint report and take appropriate action, if necessary, concerning eligibility or continued eligibility of the individual for employment or association with an Exchange member.

The Exchange will advise Exchange members and Exchange member applicants of the availability of its fingerprint services and any fees charged by the Exchange in connection with those services and the processing of fingerprints pursuant to this Plan. The Exchange shall file any such fees with the Commission pursuant to Section 19(b)(3)(A) of the Act.

The Exchange shall not be liable for losses or damages of any kind in connection with its fingerprinting services, as a result of its failure to follow, or properly to follow, the procedures described above, or as a result of lost or delayed fingerprint cards, electronic fingerprint records, or fingerprint reports, or as a result of any action by the Exchange or the Exchange's failure to take action in connection with this Plan.

[FR Doc. 02-23354 9-12-02; Filed 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46472; File No. SR-GSCC-2001-10]

### Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Establishing a Loss Allocation Cap for Dealers Acting as Brokers on Substantially All of Their Repurchase Agreement Trades

September 6, 2002.

#### I. Introduction

On August 16, 2001, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-GSCC-2001-10) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> On August 31, 2001, GSCC amended the proposed rule change. Notice of the proposed rule change was published in the **Federal Register** on March 27, 2002.<sup>2</sup> No comment letters were received. For the reasons discussed below, the

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

<sup>2</sup> Securities Exchange Act Release No. 45605 (March 20, 2002), 67 FR 14753.