additional information on T+3, or thereafter,[12] The Exchange notes that, as the closing prices are discounted, these programs may be priced away from the primary market's last sale and potentially outside of the day's trading range.

For regulatory oversight purposes, the Exchange represents that it will require each member firm that reports transactions in CP or RP Programs to: (1) Identity the issue, shares, and price on each cross; (2) indicate whether the firm is facilitating as agent or principal; (3) indicate, if principal, that it is short exempt; (4) identify the time slice period for CP entered crosses; (5) indicate the average (Benchmark) price determined by the member firm; and (6) for RP programs, identify all crosses in a particular basket. The Exchange represents that it may also require other identifiers deemed necessary to monitor pricing. The Exchange will use this information to validate Benchmark prices.

C. Request for Exemptions from Rule 10a–1 and Rule 11Aa3–1 of the Act

The Exchange requests that the Commission exempt both the CP and RP Programs from the short sale rule, Rule 10a–1, of the Act.[13] The Exchange believes that, based on the manner of pricing transactions that will occur within the CP and RP programs, the practices that Rule 10a–1 is designed to prevent are not at issue. Specifically, the Exchange indicates that over the course of the CP and RP Programs, the price direction of a particular stock, *i.e.*, the tick, will not be a factor in determining to fill customers CP and orders. The Exchange also notes that member firms will be acting as facilitators.

The Exchange also requests that the Commission exempt the RP Programs from certain reporting of transactions requiring under Rule 11Aa3–1 of the Act because under the RP Programs a composite transaction would be reported instead of individual transactions.[14]

III. Discussion

The Commission has reviewed carefully the proposed rule change, as amended, and finds that it is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[15] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 6(b)(5)[16] in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Commission finds that the proposed rule change and the programs established thereunder will assist the BSE in allowing its member firms to use the PPS to facilitate execution of certain customer average pricing and risk based portfolio programs, and to act on either a principal or agent basis by entering crossing orders with their customers after hours to be executed with each other. By allowing access to the PPS to report these programs, the commission notes that the BSE may be able to expedite execution and customer reporting of these particular crosses at 4:15 p.m. (EST), rather than at 5:15 p.m. (EST) during the NYSE's Crossing Session II.

The BSE requests an exemption from Rule 10a–1, the short sale rule, and Rule 11Aa3–1 of the Act.[17] The Commission is currently reviewing the BSE's request for exemption from the short sale rule.[18] The Commission is granting the BSE's request for exemption of its RP Programs from the reporting requirements of Rule 11Aa3–1 of the Act because the proposed reporting procedures for the RP programs relate to composite transactions. The Commission finds that granting such an exemption would be consistent with the requirements of Rule 11Aa3–1.[19]

In the notice, the Commission indicated that it would consider granting accelerated approval of the proposal after a 15-day comment period. Although, the Commission received no comment letters on the proposal during the 15-day comment period, the Commission does not find good cause for accelerating approval of the proposed rule change, as amended.[20]

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular with Section 6(b)(5).[21]

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–BSE–00–04) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–1968 Filed 1–22–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43849; File No. SR–GSCC–00–13]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Establishment of a Cross-Margining Agreement With the Chicago Mercantile Exchange and a Clarification of the Government Securities Clearing Corporation's Cross-Margining Rules

January 17, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 13, 2000, 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 parties.

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

GSCC is seeking to establish a cross-margining arrangement with the

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[12] The Exchange states that transactions which occur ''regular way'' will settle within the standard T+3 settlement period, and that cash settlements may settle beyond the standard T+3 settlement period, according to the agreement of the parties to the transaction. The Exchange notes that the overwhelming majority of transactions occur ''regular way.'' *See* Amendment No. 1, *supra* note 3.

[13] 17 CFR 240.10a–1. *See supra* note 6.

[14] 17 CFR 240.11Aa3–1. *See supra* note 6.

[15] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5).

[17] *See supra* note 6.

[18] *See supra* note 6.

[19] *See supra* note 6.

[20] The BSE originally filed the proposed rule change with the Commission on March 9, 2000, and requested accelerated approval at that time. The BSE then requested that the Commission delay noticing the proposed rule change until the impact of the rescission of NYSE Rule 390 was determined. In November 2000, the BSE decided to proceed with this filing. The Commission, therefore, does not believe that acceleration of approval of this proposed rule change would be appropriate.

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30/3(a)(12).

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

Chicago Mercantile Exchange (''CME'').[2] In addition, GSCC is proposing to revise GSCC Rule 22, Section 4, to clarify that GSCC will fulfill its obligations under any cross-margining agreement before crediting an insolvent member for any profit realized on the liquidation of the member's final net settlement positions.

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 section (A), (B), and (C) below, of the most significant aspects of these statements.[3]

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

On August 19, 1999, the Commission approved GSCC's proposed rule change to establish a cross-margining program with other clearing organizations and to begin its program with the New York Clearing Corporation (''NYCC'').[4] GSCC is now seeking to establish a cross-margining arrangement with the CME similar to the one GSCC already has in place with NYCC. The proposal will implement GSCC's ''hub-and-spoke'' method of cross-margining, which was introduced in the rule filing establishing the GSCC–NYCC cross-margining arrangement and which applies when more than one clearing organization is involved in cross-margining with GSCC.

(i) GSCC's Cross-Margining Program

GSCC believes that the most efficient and appropriate approach for establishing cross-margining links for fixed-income and other interest rate products is to do so on a multilateral basis with GSCC as the ''hub.'' Each clearing organization that participates in a cross-margining arrangement with GSCC (hereinafter a ''Participating CO'') will enter into a separate cross-margining agreement between itself and GSCC, as in the case of NYCC and now CME. Each of the agreements will have similar terms,[5] and no preference will be given by GSCC to one Participating CO over another.

Cross-margining is available to any GSCC netting member (with the exception of inter-dealer broker netting members) that is, or that has an affiliate that is, a member of a Participating CO. Any such member (or pair of affiliated members) may elect to have its margin requirements at both clearing organizations calculated based upon the net risk of its cash and repo positions at GSCC and offsetting and correlated positions in related contracts carried at the Participating CO. Cross-margining is intended to lower the cross-margining participant's (or pair of affiliated members') overall margin requirement. The GSCC member (and its affiliate, if applicable) signs an agreement under which it (or they) agrees to be bound by the cross-margining agreement between GSCC and the Participating CO and which allows GSCC or the Participating CO to apply the member's (or its affiliate's) margin collateral to satisfy any obligation of GSCC to the Participating CO (or vice versa) that results from a default of the member (or its affiliate).

Margining based on the net combined risk of correlated positions is based on an arrangement under which GSCC and each Participating CO agree to accept the correlated positions in lieu of supporting collateral. Under this arrangement, each clearing organization holds and manages its own positions and collateral and independently determines the amount of margin that it will make available for cross-margining (referred to as the ''residual margin amount'').

GSCC computes the amount by which the cross-margining participant's margin requirement can be reduced at each clearing organization (*i.e.,* the ''cross margin reduction'') by comparing the participant's positions and the related margin requirements at GSCC against those at each Participating CO.[6] GSCC offsets each cross-margining participant's residual margin amount (based on related positions) at GSCC against the offsetting residual margin amounts of the participant (or its affiliate) at each Participating CO. If the residual margin that GSCC has available for a participant is greater than the combined residual margin submitted by the Participating COs, GSCC will allocate a portion of its residual margin equal to the combined residual margin at the Participating COs. If the combined residual margin submitted by the Participating COs is greater than the residual margin that GSCC has available for that participant, GSCC will first allocate its residual margin to the Participating CO with the most highly correlated position.[7] 1 if the positions are equally correlated, GSCC will allocate pro rata based upon the residual margin amount available at each Participating CO. GSCC and each Participating CO may then reduce the amount of collateral that they collect to reflect the offsets between the cross-margining participant's positions at GSCC and its (or its affiliate's) positions at the Participating CO.[8] In the event of the default and liquidation of a cross-margining participant, the loss sharing between GSCC and each of the Participating COs will be based upon the foregoing allocations and the cross-margin reduction.

GSCC will guarantee the cross-margining participant's (or its affiliate's) performance to each Participating CO up to a specified maximum amount which relates back to the cross-margin reduction. Each Participating CO will provide the same guaranty up to the same specified maximum amount to GSCC. The guaranty represents a contractual commitment that each clearing organization has to the other. There will always be a cap on the amount that one clearing organization is required to pay another clearing organization.

[2] CME is a Delaware corporation whose clearing division acts as the clearing organization for certain futures and options on futures contracts that are traded on the CME. The Commodity Futures Trading Commission (''CFTC''), pursuant to the Commodity Exchange Act, as amended (''CEA''), has designated the CME as a contract market for such contracts.

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

[4] Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR–GSCC–98–04]. The requisite rule changes necessary for GSCC to engage in cross-margining were made in the NYCC cross-margining rule filing. GSCC is proposing one additional rule change in this rule filing in order to further clarify that GSCC will fulfill its obligations under any cross-margining agreement before crediting an insolvent member for any profit realized on the liquidation of the member's final net settlement positions.

[5] It is anticipated that in the interest of conformity NYCC and GSCC will execute a new cross-margining agreement that is substantially the same as the draft agreement with the CME. the draft agreement is attached as Exhibit B to GSCC's rule filing.

[6] NYCC uses GSCC's margin rates to determine margin reduction. CME, which utilizes its own rates, and GSCC compare margin reduction rates and use the lower of the two in determining margin reduction.

[7] GSCC has computed and tested disallowance factors that will be applicable to each potential pair of positions being offset.

[8] GSCC and each Participating CO unilaterally have the right to not reduce a participant's's margin requirement by the cross-margin reduction or to reduce it by less than the cross-margin reduction. However, the clearing organizations may not reduce a participant's margin requirement by more than the cross-margin reduction.

(ii) Information Specific to the Current Agreement between GSCC and CME

(a) *Participation in the cross-margining program:* Any netting member of GSCC other than an inter-dealer broker will be eligible to participate. Any clearing member of CME will be eligible to participate.[9]

(b) *Products subject to cross-margining:* The products that will be eligible for the GSCC–CME cross-margining arrangement are the Treasury securities that fall into GSCC's Offset Classes A through G as defined in GSCC's Rules that are cleared by GSCC and Eurodollar futures contracts with ranges in maturity from 3 months to 10 years and options on such futures contracts cleared by CME.[10] GSCC offset classes will be offset against CME offset classes based on correlation studies, and the appropriate disallowance factors will be applied. All eligible positions maintained by a cross-margining participant in its account at GSCC and in its (or its affiliate's) proprietary account at CME will be eligible for cross-margining.[11]

(c) *Margin Rates:* GSCC and CME currently use different margin rates to establish margin requirements for their respective products. Margin reductions in the GSCC–CME cross-margining arrangement will always be computed based on the lower of the applicable margin rates. This methodology results in a potentially lesser benefit to the participant but ensures a more conservative result (*i.e.*, more collateral held at the clearing organization) for both GSCC and CME.

(d) *Daily Procedures:* On each business day, it is expected that the CME will inform GSCC of the residual amounts it is making available for cross-margining by approximately 10 p.m. New York time. GSCC will inform CME by approximately 12 a.m. New York time how much of these residual margin amounts it will use. Reductions as computed will be reflected in the daily clearing fund calculation.

[9] The draft GSCC–CME agreement requires ownership of 50 percent or more of the common stock of an entity to indicate control of the entity for purposes of the definition of ''affiliate.''

[10] The NYCC products eligible for cross-margining under the GSCC–NYCC cross-margining arrangement are Treasury futures.

[11] At least initially, the GSCC–CME cross-margining arrangement will be applicable on the futures side only to positions in a proprietary account of a cross-margining participant (or its affiliate) at the CME. The arrangement will not apply to positions in a customer account at CME that would be subject to segregation requirements under the CEA. This is also the case with respect to the arrangement with NYCC.

(iii) Benefits of Cross-Margining

GSCC believes that its cross-margining program enhances the safety and soundness of the settlement process for the Government securities marketplace by: (1) Providing clearing organizations with more data concerning members intermarket positions (which is especially valuable during stressed market conditions) to enable them to make more accurate decisions regarding the true risk of such positions to the clearing organizations; (2) allowing for enhanced sharing of collateral resources; and (3) encouraging coordinated liquidation processes for a joint participant, or a participant and its affiliate, in the event of an insolvency. GSCC further believes that cross-margining benefits participating clearing members by providing members with the opportunity to more efficiently use their collateral. More important from a regulatory perspective, however, is that cross-margining programs have long been recognized as enhancing the safety and soundness of the clearing system itself. Studies of the October, 1987 market crash gave support to the concept of cross-margining. For example, The Report of the President's Task Force on Market Mechanisms (January 1988) noted that the absence of a cross-margining system for futures and securities options markets contributed to payment strains in October 1987. The Interim Report of the President's Working Group on Financial Markets (May 1988) also recommended that the SEC and CFTC facilitate cross-margining programs among clearing organizations. As a result, the first cross-margining arrangement between clearing organizations was implemented in 1988.[12]

GSCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[13] and the rules and regulations thereunder applicable to GSCC because it will provide members with significant benefits, such as greater liquidity and more efficient use of collateral in a prudent manner and will enhance GSCC's overall risk management process.

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

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

[12] Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567 (October 7, 1988) [File No. SR–OCC–86–17].

[13] 15 U.S.C. 78q–1.

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

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

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

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

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC.

All submissions should refer to File No. SR–GSCC–00–13 and should be submitted by February 13, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–1907 Filed 1–22–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–443847; File No. SR–NYSE–00–59]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc.; Amending the Late Filing Fee Required Under NYSE Rule 416, Questionnaires and Reports

January 16, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2000, 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 Exchange. 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 amends Exchange Rule 416, Questionnaire and Reports, with respect to increasing the fee charged to members and member organizations for the failure to submit certain prescribed information required by the Exchange on a timely basis. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Questionnaires and Reports

Rule 416. (a) Each member and member organization shall submit to the Exchange at such times as may be designated in such form and within such time period as may be prescribed such information as the Exchange deems essential for the protection of investors and the public interest.

(b) Unless a specific temporary extension of time has been granted, there shall be imposed upon each member or member organization required to file reports pursuant to this Rule, a fee of [$100] *$500* for each day that such report is not filed in the prescribed time. Requests for such extension of time must be submitted to the Exchange at least three business days prior to the due date.

(c) Any report filed pursuant to this Rule containing material inaccuracies shall, for purposes of this [r]*R*ule, be deemed not to have been filed until a corrected copy of the report has been resubmitted.

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 Exchange 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 Exchange 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

1. Purpose

NYSE Rule 416 requires members and member organizations to submit prescribed information deemed by the Exchange to be essential for the protection of investors and the public interest. Pursuant to NYSE Rule 416, the Exchange requires the periodic submittal of specific predefined financial, operational, and other information necessary for an effective evaluation of a member's or member organization's compliance with applicable rules and regulations. NYSE Rule 416 has also been used to prepare the membership for specific initiatives such as participation in Year 2000 Testing and the conversion to Decimalization.

Since it is critical for the Exchange to ensure submission of such data, pursuant to NYSE Rule 416(b), the Exchange charges a member or member organization a fee for the failure to file reports on a timely basis. The current fee, which has been in effect since September 7, 1972, is $100 for each day that such report is not filed within the prescribed time. The Exchange proposes that this daily fee be updated and increased to $500 in order to provide members and member organizations greater incentive to submit filings in a timely manner.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(4) of the Act,[3]which permits the rules of an exchange to provide for the equitable allocation of reasonable dues, fees and other charges among the members, issuers and other persons using its services.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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) of the Act [4] and subparagraph (f)(2) of Rule 19b–4 thereunder,[5] because the proposal is establishing or changing a due, fee or other charge. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection, of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[14] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b)(4).

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).