

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

Within 35 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 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 Exchange 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, as amended, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange.

All submissions should refer to File No. SR-Amex-2001-06 and should be submitted by November 12, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46658; File No. SR-GSCC-2002-08]

#### Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Revising GSCC's Schedule of Money Tolerances

October 11, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 11, 2002, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The proposed rule change amends GSCC's schedule of money tolerances.

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

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>2</sup>

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

GSCC's rules contain a Schedule of Money Tolerances ("Schedule") that permits GSCC to compare a trade with a discrepancy in its settlement amount or start amount if the discrepancy falls within a specified money tolerance. Specifically, the Schedule provides for: (i) a money tolerance of \$1 per million on the settlement amount of a trade, which is applied to buy-sell transactions and to the close leg of repo transactions

in real time; (ii) a money tolerance of \$40 per million on the settlement amount of a trade, which is applied to buy-sell transactions and the close leg of repo transactions at the end-of-day phased comparison process; and (iii) a money tolerance of \$1 per repo transaction on the start amount of a repo transaction.

GSCC understands, based on member input, that one of the tolerances in the Schedule is inappropriate and creates risk. Specifically, the real-time money tolerance of \$1 per million on the settlement amount is causing repo transactions with differences of as much as nearly four basis points in the rate to compare immediately during the day. (The data on repo transactions is submitted to GSCC interactively, which now is how the large majority of data is submitted to GSCC.) In the past, these differences normally were discovered and corrected by members on a unilateral basis during the day, but because trades submitted in real time typically are compared shortly after execution, there is not sufficient time for them to be unilaterally corrected on GSCC's system. In order to remedy this problem, the proposed rule change amends the money tolerance on settlement money that is applied in real time to ten cents per million.

The proposed rule change also amends this section of the Schedule to indicate that a settlement money difference of less than \$1.00 will not prevent a trade from being matched by GSCC. For example, assume that two members submit a \$9 million trade with a \$0.98 difference in the settlement amount. Applying the \$0.10 per million money tolerance, which in this case is \$0.90, without the \$1.00 minimum would lead to the trade not being matched because the discrepancy of \$0.98 is greater than the tolerance of \$0.90. The minimum tolerance of \$1.00, however, would permit this trade to match. GSCC believes that a money difference of less than \$1.00 is de minimis and should not result in trades not being compared.

GSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder because it lessens the risk of members' trades with significant money differences being compared before such differences can be corrected.

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

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

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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>15</sup> 17 CFR 200.30-3(a)(12).

*(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. 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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(4)<sup>4</sup> promulgated thereunder because the proposal effects a change in an existing service of GSCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of GSCC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of GSCC or persons using the service. At any time within sixty days of the filing of the 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 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 will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the File No. SR-GSCC-2002-08

and should be submitted by November 12, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-46663; File No. SR-NASD-2002-40]

**Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to Proposed Rule Change, by NASD, Relating to NASD Rules 1022, 1032, 2210, 3010, 3370, IM-1022-1, and IM-1022-2 and New Rules 2865 and IM-2210-7**

October 15, 2002.

**I. Introduction**

On March 22, 2002, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposal to adopt new rules and amend existing rules to provide for the trading of security futures. Notice of the proposed rule change and Amendment No. 1 thereto was published for comment in the *Federal Register* on July 18, 2002.<sup>3</sup> The Commission received two comment letters regarding the proposed rule change.<sup>4</sup> On September 5, 2002, NASD filed Amendment No. 2 to the proposed rule change.<sup>5</sup> On September 26, 2002, NASD filed Amendment No. 3 to the proposed rule change.<sup>6</sup> This order

<sup>5</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 46186 (July 11, 2002), 67 FR 47412.

<sup>4</sup> Letter from Jonathan Barton, Chairman, Steering Committee on Securities Futures of the Futures Industry Association and the Securities Industry Association, Inc. ("SIA/FIA Committee"), to Jonathan Katz, Secretary, Commission, dated August 9, 2002; Letter from Richard G. DuFour, Executive Vice President, Chicago Board Options Exchange ("CBOE"), to Jonathan Katz, Secretary, Commission, dated August 21, 2002.

<sup>5</sup> See letter from Gary L. Goldsholle, Associate General Counsel, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated September 5, 2002.

<sup>6</sup> See letter from Gary L. Goldsholle, Associate General Counsel, NASD, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated September 26, 2002.

approves the proposed rule change, accelerates approval of Amendment Nos. 2 and 3, and solicits comments from interested persons on those amendments.

**II. Description of the Proposed Rule Change**

The rule change modifies existing NASD rules and adopts new rules to accommodate the trading of security futures (*i.e.*, futures on individual stocks and narrow-based stock indices).<sup>7</sup> A description of the rule change follows.

**A. New Security Futures Rule 2865**

Under the rule change, NASD is adopting Rule 2865 as its security futures rule. The new rule is based on NASD's existing options rule, Rule 2860. Some aspects of Rule 2865 are substantially similar to corresponding provisions of Rule 2860. However, several provisions of Rule 2865 are tailored specifically to security futures.

**Delivery of Security Futures Risk Disclosure Statement**

Rule 2865(b)(1) will require every member to deliver the security futures risk disclosure statement to each customer at or prior to the time the customer's account is approved for trading security futures. The disclosure statement will discuss the risks of security futures, how they trade, margin, effects of leverage, settlement procedures, customer account protections, and the tax consequences of trading security futures.<sup>8</sup>

**Discretionary Accounts**

Rule 2865(b)(18) establishes discretionary account procedures for security futures that are similar to those for options. These procedures will require that the written authorization of the customer required by NASD Rule 2510 specifically authorize security futures trading in the account. Under the rule change, a discretionary account, even if it is permitted to trade options, cannot trade security futures unless a new written discretionary account authorization specifically authorizing security futures trading is on file.

**Statements of Account**

Rule 2865(b)(15) will require members to deliver a customer account statement no less frequently than each month where there has been an entry during the preceding month with respect to a security futures contract, and quarterly to all customers that have

<sup>7</sup> See *e.g.*, Section 3(a)(55) of the Act, 15 U.S.C. 78c(a)(55).

<sup>8</sup> See Securities Exchange Act Release No. 46612, (October 7, 2002) (file No. SR-NASD-2002-128).

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(4).