(ii) The appropriate MPC [also] may disallow any group from participating in RAES where it appears to the Committee that such group:

(A) has ''purchased'' RAES rights from members of the group;

(B) does not afford each group participant a reasonable participation in profits and losses (As a guideline: no RAES participant may receive a flat fee, and a minimum participation level of any group member would be ¼ of a number that would represent an equal distribution to all group members, with responsibility for losses equivalent to share of profits);

(C) is managed by a person who is not a member of the group; or

(D) is managed by a person who has a financial interest in another group.

* * * * *

II. Description of the Proposal

Currently, Rule 24.16(a)(iv) sets forth four eligibility requirements that must be met by a Market-Maker before he or she can participate on RAES in SPX options. The CBOE proposal would eliminate two of the current four Market-Maker eligibility requirements. One of these requirements is that the Market-Maker must execute at least fifty percent of his or her Market-Maker contracts for the preceding calendar month in SPX. Another requirement is that the Market-Maker must execute in person at least seventy-five percent of his or her Market-Maker trades for the preceding calendar month in SPX. No comparable RAES eligibility requirements are imposed upon Market-Makers trading in non-index option classes. The Exchange proposes to eliminate the in-person and volume quotas from the eligibility requirements of Rule 24.16 so that the RAES eligibility requirements of SPX Market-Makers are the same as those for Market-Makers trading in non-index options.[4]

The Exchange represents that recently, Market-Maker participation on RAES in index options has been low compared to historical levels. The Exchange believes that this is a problem that has been aggravated by the fact that the in-person and volume requirements in essence require the Exchange to have new Market-Makers desiring to participate on RAES wait for at least 30 days before logging onto RAES. The proposed rule change would permit a new Market-Maker to log onto RAES if the Market-Maker: (1) has signed the RAES Participation Agreement and completed the RAES instructional program;[5] (2) has been approved under Exchange rules as a Market-Maker with a letter of guarantee;[6] and (3) is maintaining his or her principal business on the CBOE as a Market-Maker.[7]

The Exchange also proposes to eliminate the cap, set forth in Rule 24.16(e)(i), on the number of Market-Makers that may participate in a RAES group.[8] Rule 24.16(e)(i) provides that a RAES group may not exceed the lesser of: (1) 33⅓ percent; or (2) a smaller maximum number set by the appropriate Market Performance Committee. According to the CBOE, a recent decline in RAES participation in index options has, by operation of such Exchange rules as Rule 24.16(e)(i), resulted in reductions, as compared to historical levels, in the size of RAES groups. The reductions have taken place because, among other reasons, CBOE Rule 24.16(e)(i) currently ties maximum RAES group size to the level of RAES participation.[9]

III. Discussion

The CBOE proposal would amend Rule 24.16 to eliminate what the CBOE represents are several disincentives to Market-Maker participation in SPX trades. The Commission finds that removal of in-person volume quotas and elimination of the cap on the number of Market-Maker that may participate in SPX trades are appropriate measures to reduce disincentives. In addition, the Commission recognizes the importance of encouraging Market-Maker participation to ensure adequate liquidity, particularly where participation levels are low.

For these reasons the Commission finds that the proposed rule change is consistent with the Act[10] and the rules and regulations promulgated thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,[11] which requires that the rules of an Exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposal (SR–CBOE–00–49) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

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[4] The remaining two eligibility provisions for Market-Makers desiring to trade in SPX options would continue to require Market-Makers to be approved under Exchange rules and to maintain their principal places of business on the CBOE as Market-Makers. CBOE Rule 24.16(a)(iv)(A); CBOE Rule 24.16(a)(iv)(B).

[5] CBOE Rule 24.16(a).

[6] CBOE Rule 24.16(a)(iv)(A).

[7] CBOE Rule 24.16(a)(iv)(B).

[8] A RAES group is a group of market-makers who participate on RAES via either an Exchange-approved joint account or a member organization account with multiple market-maker nominees. E-mail from Jamie Galvin, Attorney, Legal Division, CBOE to Steven Johnston, Special Counsel, Division of Market Regulation (''Division''), Commission, dated April 10, 2001.

[9] Conversation between Jamie Galvin, Attorney, Legal Division, CBOE, and Steven Johnston, Special Counsel, Division, Commission, February 28, 2001 (clarifying operation of current CBOE Rule 24.16(e))

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

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44206; File No. SR–GSCC–00–05]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Enhancements to the GCF Repo Service and Clarifying Certain Risk Management Practices of the Service

April 20, 2001.

On June 5, 2000, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') and on July 13, 2000, amended a proposed rule change (File No. SR–GSCC–00–05) 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 December 4, 2000.[2] No comments letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

GSCC introduced its GCF Repo Service in November 1998.[3] The GCF

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

[2] Securities Exchange Act Release No. 43626 (November 27, 2000), 65 FR 75750.

[3] In 1998, the Commission approved a rule change that allowed GSCC to implement the GCF Repo Service on an intrabank basis. Securities Exchange Act Release No. 40623 (October 30, 1998), 63 FR 59831 (November 5, 1998) [File No. SR–GSCC–98–02]. In 1999, the Commission approved a rule change that allowed GSCC to implement the interbank phase of the GCF Repo Service. That enhancement has enabled participating dealers to engage in GCF Repo trading with participating

Repo Service allows GSCC's non-inter-dealer broker netting members to trade general collateral repos involving U.S. Government securities throughout the day without requiring trade for trade settlement on a delivery versus payment basis.

GSCC has been activating the generic CUSIP numbers representing the securities that are eligible for GCF Repo processing in stages. U.S. Treasury securities with a maturity of ten years or less and U.S. Treasury securities with a maturity of thirty years or less were the first products to be made eligible for GCF Reprocessing. At the beginning of this year, GSCC also began accepting non-mortgage-backed agency securities for GCF Repo processing and more recently began accepting mortgage-backed agency securities (''MBS'') for GCF Repo processing.[4]

Having gained the experience of operating the GCF Repo Service for more than two years, GSCC is now enhancing the service in certain ways in order to make it more responsive to its members' needs and to clarify certain risk management practices, each in a manner consistent with market practice.

(i) Authority To Deliver Comparable or U.S. Treasury Securities

The first enhancement by GSCC applies to the collateral allocation obligations of securities lenders[5] in GCF Repo transactions. Securities lenders will now be permitted to satisfy their collateral allocation requirements[6] in connection with their GCF Repo activity with, in addition to ''comparable securities''[7] and cash, U.S. Treasury securities (*i.e.*, bills, notes, or bonds). Market participants consider comparable securities to be acceptable substitutes because securities that fall within the same generic CUSIP number tend to have the same level of liquidity. U.S. Treasury securities are also acceptable substitutes securities because of their high level of liquidity.

The second enhancement by GSCC applies where the securities borrower due to reasons beyond its control and despite its exercising best efforts is not able to return in a timely manner the securities that were delivered on the day before by the securities lender. In such a situation, the securities borrower will now have the right to return (1) comparable securities, (2) U.S. Treasury bills, notes, or bonds, or (3) cash. The securities borrower will be responsible make the securities lender whole (through GSCC) for any actual damages directly suffered by the securities lender as a result of its not receiving back the same securities that it originally loaned.

(ii) Insolvency Situation Involving Mortgage-Backed Securities

The third enhancement by GSCC clarifies its risk management procedures associated with the CGF Repo Service to reflect the nature of MBS and MBS market practice. In the event of a securities borrower's insolvency, it may be impractical or even impossible for GSCC to obtain the identical types of MBS that were originally lent. Moreover, MBS market practice in such a situation is that securities lenders in repurchase transactions would not expect to receive the same MBS back.

GSCC's Rule 22, section 4 is being amended to give GSCC the authority in an insolvency situation, where MBS were the underlying collateral, to delivery back to a securities lender comparable securities or U.S. Treasury bills, notes, or bonds. Alternatively, the rule will permit GSCC to give a securities lender the right to close out the transaction by buying comparable securities or U.S. Treasury bills, notes, or bonds in return for a cash payment by GSCC equal to the value of the securities it bought. However, if GSCC determines that the price paid by the securities lender is unreasonably high, GSCC will be entitled to pay the securities lender a reasonable price as determined by an independent third party pricing source for the comparable securities or U.S. Treasury bills, notes, or bonds.

II. Discussion

Section 17A(b)(3)(F)[8] of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule change is consistent with these obligations because it should further enable GSCC to help facilitate the prompt and accurate clearance and settlement of GCF repos involving U.S. Government securities and to remove impediments to and help perfect the mechanism of the national clearance and settlement system for securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of 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–00–05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

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dealers that use a different clearing bank. Securities Exchange Act Release No. 41303 (April 16, 1999), 64 FR 20346 (April 26, 1999) [File No. SR–GSCC–99–01].

[4] On March 20, 2000, GSCC activated the generic CUSIP number representing Federal Home Loan Mortgage Corporation and Federal National Mortgage Association fixed-rate MBS.

[5] As provided in GSCC's Rule 46, the use of borrowing and lending terminology in this proposed rule change filing and in GSCC's rules and agreements shall not be deemed to affect the intent of members as to their characterization of their transactions in agreements entered into by the members with each other or with third parties with respect to such transactions.

[6] ''Collateral Allocation Obligation'' is defined in GSCC's Rules as ''the obligation of a Netting Member to allocate securities or cash for the benefit of the Corporation to secure such Member's GCF Net Funds Borrower Position.''

[7] In its Rules, GSCC has defined the term ''Comparable Securities'' to mean ''a security or securities that are represented by a particular Generic CUSIP Number, any other security or securities that are represented by the same Generic CUSIP Number.''

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44207; File No. SR–Phlx–2001–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Automatic Display of Customer Limit Orders

April 20, 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 February 2, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change 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.

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

[2] 17 CFR 240.19b–4.