

Date of Filing of Appeal Papers: April 17, 1995.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
2. Effect on the community (39 U.S.C. 404(b)(2)(A)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404(b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission orders:

(a) The Postal Service shall file the record in this appeal by May 2, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.
Cyril J. Pittack,
Acting Secretary.

Appendix

- April 17, 1995 Filing of Appeal letter
April 24, 1995 Commission Notice and Order of Filing of Appeal
May 12, 1995 Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)]
May 22, 1995 Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)]
June 12, 1995 Postal Service's Answering Brief [see 39 CFR 3001.115(c)]
June 27, 1995 Petitioners' Relay Brief should Petitioner choose to file one [see 39 CFR § 3001.115(d)]

- July 5, 1995 Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116]
August 15, 1995 Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35640; File No. SR-GSCC 94-7]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Changes in Membership Standards

April 24, 1995.

On October 11, 1994, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change to establish minimum financial standards for two current netting system membership categories: insurance companies and registered investment companies. On December 5, 1994, GSCC filed an amendment to the proposed rule change.² On December 15, 1994, the Commission published notice of the proposed rule change in the Federal Register to solicit comment from interested persons.³ On February 14, 1995, GSCC filed a second amendment to the proposed rule change.⁴ The amendment was a technical amendment that did not require republication of notice. On April 20, 1995, GSCC filed a third amendment to the proposed rule change.⁵ That amendment withdrew that portion of the proposed rule change relating to financial standards for investment companies. No comments were received. This order approves the proposal as amended.

¹ 15 U.S.C. 78s(b)(1) (1988).

² Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry Carpenter, Assistant Director, Division of Market Regulation ("Division"), Commission (December 1, 1994).

³ Securities Exchange Act Release No. 35061 (December 7, 1994), 59 FR 64720.

⁴ Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Christine Sibille, Staff Attorney [sic], Division, Commission (February 10, 1995).

⁵ Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry Carpenter, Assistant Director, Division, Commission (April 20, 1995).

I. Description

The proposed rule change establishes minimum financial standards for insurance company applicants for membership in GSCC's Netting System.⁶

(A) Background

GSCC Rule 2, Section 1 currently provides that insurance companies as defined by Section 2(a)(17) of the Investment Company Act of 1940 ("Investment Company Act") are eligible to become members of GSCC's Netting System if they are in good standing with their primary regulator.⁷ Insurance companies are regulated primarily by the states in which they organize and operate. States generally have imposed statutory and administrative requirements for the maintenance of reserves that are intended to bear a reasonable relationship to the risks presented by the insurers' outstanding contractual obligations. These requirements appear generally to have served to ensure that insurance companies are financially responsible.

In December 1992, the National Association of Insurance Commissioners ("NAIC") adopted a model law that establishes standards for the adequacy of life and health insurance company surplus levels based upon the risk profile of their operations and investments.⁸ The model law is to replace the fixed dollar minimum capital requirements under state law with an authorized control level risk-based capital ("RBC") at or below which an insurance commissioner must act and place an insurer under varying degrees of increased state control.

The RBC is an adjusted capital requirement based on four main risk categories (asset risk, insurance risk, interest rate risk, and business risk). The asset risk category provides for risk of default on investments held by insurance companies by imposing reductions in valuation ranging from .3% of the value of obligations

⁶ Currently, no insurance companies are members of GSCC's Netting System.

⁷ Section 2(a)(17) of the Investment Company Act provides that "'Insurance company' means a company which is organized as an insurance company, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and which is subject to supervision by the insurance commissioner or a similar official or agency of a State; or any receiver or similar official or any liquidating agent for such a company, in his capacity as such."

⁸ While only twenty states have adopted the model law as of November 1994, the risk-based capital report has been included in the NAIC financial statement used by all states. As a result, all insurance companies must disclose the risk profile in their annual financial reports.