

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57194; File No. SR-NSCC-2007-16)

January 24, 2008

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change as Modified by Amendment Nos. 1 and 2 to Provide Clarification with Respect to the Correspondent Clearing Service and to Make Technical Changes to the Rules and Procedures Relative to Trade Recording and Special Representative Services

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on December 18, 2007, the National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) and on January 15, 2008, and on January 22, 2008, amended the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by NSCC. 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

The purpose of the proposed rule change is to: (1) clarify the appropriate use of NSCC’s Correspondent Clearing Service and (2) make technical corrections, clarification, and organizational changes relative to its Trade Recording and Special Representative Services.

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

In its filing with the Commission, NSCC 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

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

the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>2</sup>

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

The purpose of the proposed rule change is to: (1) clarify the appropriate use of NSCC's Correspondent Clearing Service and (2) make technical corrections, clarification, and organizational changes relative to its Trade Recording and Special Representative Services.

1. Clarification of Correspondent Clearing Service

NSCC is modifying its Procedure IV (Special Representative Service) to clarify the appropriate use of the Correspondent Clearing Service.

The Correspondent Clearing Service is designed to provide an automated vehicle by which a Member, acting as a Special Representative, may move a position that it has in the process of clearance at NSCC to the account of another Member (its correspondent) on whose behalf the original trade was executed. The Correspondent Clearing Service is not a mechanism for original trade submission.<sup>3</sup> For example, Member A that sold securities for Member B (its correspondent) on the NYSE would have the sell side of the transaction submitted by the NYSE in the normal Trade Recording Operation thereby incurring a CNS obligation to deliver the shares sold. Acting as Special Representative for its correspondent Member B, Member A would

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<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>3</sup> The term "original trade" is used here solely to distinguish between a trade executed in the marketplace by the Special Representative and a transaction booked for accounting purposes to accommodate the movement of positions between Members as permitted in Procedure IV (Special Representative Service).

submit transaction data showing itself as the buyer of those securities and its correspondent Member B as the seller. As a result, Member A would net out in the CNS System (its sell side netting against its buy side) and its correspondent Member B would incur a CNS obligation to deliver. In other words, the service provides for the correspondent's obligation to be substituted for that of the Special Representative.

The Correspondent Clearing Service was not designed as a mechanism to permit a Special Representative, acting as a Qualified Special Representative ("QSR"), to submit original locked-in trade data, and it should not be used as such. A QSR is a Member that either (i) operates an automated execution system where it is always the contra-side of every trade, (ii) is the parent or affiliate of an entity operating such an automated system, where it is the contra-side of every trade, or (iii) clears for a broker-dealer that operates such a system, and the subscribers to the system acknowledge the clearing Member's role in the clearance and settlement of these trades.

Accordingly, the proposed revisions provide that the Correspondent Clearing Service may only be used in the following situations: (1) to accommodate a Member with multiple affiliate accounts that wishes to move a position resulting from an "original trade" in the process of clearance from one affiliate account to another and (2) to accommodate a Member that relies on its Special Representative to execute a trade in a market that the Member is precluded from due either to membership requirements (e.g., membership requirement for access to markets) or applicable regulation, in order that the resulting position be moved from the Special Representative to that Member (including direct market access offsets).

## 2. Technical Corrections

At this time, as part of updating its Rules and Procedures relative to the Trade Recording and Special Representative Services, NSCC is making certain technical corrections, clarifications, and organizational changes to:

(1) Rule 7 including moving the definitions of “Special Representative,” “Qualified Special Representative,” and “Index Receipt Agent” from Rule 39 (where they currently appear) to Rule 7 (where these terms are first used) and renumbering the rules accordingly; and

(2) Procedure II (Trade Comparison and Recording Service) to (i) add clarifying language to the introductory paragraph to describe the procedure used by NSCC to confirm locked-in trade data and (ii) add back language relating to receipt of locked-in trade data from QSRs that was inadvertently deleted in error in rule change SR-NSCC SR-2003-12.<sup>4</sup>

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(A) of the Act<sup>5</sup> and the rules and regulations thereunder applicable to NSCC because it should better enable NSCC to facilitate the prompt and accurate clearance and settlement of securities transactions by clarifying the purpose of its Correspondent Clearing Service and by making needed changes to its Trade Recording and Special Representative Services.

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<sup>4</sup> Securities Exchange Act Release No. 48141 (July 8, 2003), 68 FR 42153 [File No. SR-NSCC-2003-12].

<sup>5</sup> 15 U.S.C. 78q-1.

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

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

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

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act<sup>6</sup> and Rule 19b-4(f)(1)<sup>7</sup> thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of the proposed rule changes, the Commission may summarily abrogate such rule changes 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.<sup>8</sup>

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>7</sup> 17 CFR 240.19b-4(f)(1).

<sup>8</sup> For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on January 22, 2008, the date on which the last amendment

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes are consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2007-16 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSCC-2007-16. This file numbers should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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

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to the proposed rule change was filed with the Commission. 15 U.S.C. 78s(b)(3)(C).

inspection and copying in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at <http://www.nsc.com/legal/>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NSCC-2007-16 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).