

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-59413; File No. SR-NSCC-2009-01)

February 18, 2009

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To amend Addendum O to Allow Admission of Entities that are Organized in a Country Other Than the U.S. for Admission as Limited Members

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on January 28, 2009, the National Securities Clearing Corporation (“NSCC”) 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 NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act² and Rule 19b-4(f)(4) thereunder³ so that the proposal was effective upon filing with the Commission. 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 will permit entities that are organized in a country other than the United States and that are not otherwise subject to U.S. federal or state regulation to be eligible to become Mutual Fund/Insurance Services Members, Fund Members, and Insurance Carrier/Retirement Services Members.

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

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(iii).

³ 17 CFR 240.19b-4(f)(4).

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 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 such statements.

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

Prior to this rule change, NSCC permitted entities that are organized in a country other than the United States and that are not otherwise subject to U.S. federal or state regulation (“non-U.S. entities”) to become Direct Clearing Corporation Members only. The proposed rule change amends Addendum O to NSCC’s Rules and Procedures by expanding the types of membership categories available to non-U.S. entities. Specifically, non-U.S. entities will be able to apply to be Mutual Fund/Insurance Services Members, Fund Members, and Insurance Carrier/ Retirement Services Members.⁴

NSCC believes that such change is appropriate because the admission process that is already in place is designed to mitigate the risks posed to NSCC by admission of non-U.S. members. For example, admission is subject to an applicant’s demonstration that it meets reasonable standards of financial responsibility, operational capability, and character, and each

⁴ Rule 2 and Addendum B address admission of applicants as members of NSCC. Admission of an applicant whose use of NSCC services is limited to mutual fund services and/or insurance and retirement processing services is subject to the following provisions of Addendum B, depending on the particular capacity in which the applicant seeks to act: Section 2 of Addendum B (Mutual Fund/Insurance Services Members); Section 3 of Addendum B (Fund Members); Section 4 of Addendum B (Insurance Carrier/Retirement Services Members). NSCC has not yet established admission criteria applicable to non-U.S. entities that are insurance companies. NSCC will file a proposed rule change extending Addendum O to such non-U.S. applicants at such time as it has established applicable criteria.

member must continue to be in a position to demonstrate to NSCC that it meets these standards as an ongoing condition of membership.

Furthermore, Addendum O to NSCC's rules establishes additional admissions criteria applicable to non-U.S. entities that address the unique risks associated with their admission, including: (1) that the entity is not subject to U.S. federal or state regulation; (2) that the operation of the laws of the entity's home country and time zone differences may impede the successful exercise of NSCC's rights and remedies, particularly in the event of the entity's failure to settle; and (3) that financial information about the non-U.S. entity made available to NSCC for monitoring purposes may be less adequate than information about U.S.-based entities.⁵ In addition to executing the standard NSCC membership agreement, Addendum O requires that the non-U.S. entity enter into a series of undertakings and agreements that are designed to address jurisdictional concerns and to assure that NSCC is provided with audited financial information in a format that is acceptable to NSCC. The non-U.S. entity must also be subject to regulation in its home country and be in good standing with its home country regulator. In order to address the risks presented by acceptance of financial statements prepared in non-U.S. GAAP, Addendum O provides for a higher capital requirement than that otherwise applicable for admission under NSCC rules.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act⁶ because the proposed policy does not unfairly discriminate

⁵Addendum O was adopted by NSCC pursuant to Securities Exchange Act Release No. 58344, (Aug. 12, 2008), 73 FR 48413 (Aug. 19, 2008) [File No. SR-NSCC-2007-15]. Certain of the criteria set forth in Addendum O may be waived where inappropriate to a particular applicant or class of applicants (e.g., a foreign government, international or national central securities depositories).

⁶ 15 U.S.C. 78q-1(b)(3)(F).

against non-U.S. entities seeking admission to NSCC because it appropriately takes into account the unique risks to the clearing corporation raised by their admission.

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

NSCC does not believe that the proposed rule change will have any impact, 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

NSCC has not solicited or received written comments relating to the proposed rule change. NSCC will notify the Commission of any written comments it receives.

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 Act⁷ and Rule 19b-4(f)(4)⁸ thereunder because it effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 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.

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(4).

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. 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-comment@sec.gov. Please include File No. SR-NSCC-2009-01 on the subject line.

Paper Comments:

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

All submissions should refer to File No. SR-NSCC-2009-01. This file number 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 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. to 3:00 p.m. Copies of such filing also will be available for inspection and copying at NSCC's principal office and on NSCC's Web site at <<http://www.nsc.com/legal/index.html>>. 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 No. NSCC-2009-01 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.⁹

Florence E. Harmon
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).