SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51745; File No. SR-NSCC-2005-04)

May 26, 2005

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change to Establish a Confirmation and Matching Service for Over-the-Counter U.S. Equity Options Transactions

I. Introduction

On April 29, 2005, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change File No. SR-NSCC-2005-04 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 May 10, 2005.[2] The comment period ended on May 25, 2005. No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

II. Description

NSCC is permanently adding Addendum M to its Rules and Procedures to establish a confirmation and matching service for over-the-counter ("OTC") U.S. equity options transactions. The service is called the Equity Options Service.[3]

Currently, confirmation of trade details among dealers and the dealers' buy-side customers in the OTC equity options market is supported largely by faxes and telephone

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

2 Securities Exchange Act Release No. 51649 (May 3, 2005), 70 FR 24666.

3 The Commission approved NSCC's Equity Options Service on a temporary basis through May 31, 2005, so that NSCC could evaluate the operations of the service and report its findings to the Commission. Securities Exchange Act Release No. 50652 (November 17, 2004), 69 FR 67377. NSCC staff has communicated its findings to Commission staff during various meetings and conversations.

communications. It is widely acknowledged by the industry that this current operational infrastructure, which depends upon nonstandardized, manual processing, results in excessive processing costs, delays, and errors. The industry is seeking to reduce the attendant operational risks associated with OTC equity options processing by automating and standardizing the trade confirmation process for OTC equity options.

In response to similar conditions prevailing in the credit default swaps industry, The Depository Trust & Clearing Corporation ("DTCC"), the corporate parent of NSCC, created a subsidiary, DTCC Deriv/SERV LLC ("Deriv/SERV"), in 2003. Deriv/SERV currently offers a confirmation and matching service for OTC credit default swaps transactions and the associated cash flows. This service is now used by approximately 75 entities, which includes all of the largest OTC credit default swaps dealers.

Deriv/SERV has developed a confirmation and matching service for OTC equity options transactions and the associated cash flows ("Deriv/SERV Equity Options Service"). The Deriv/SERV Equity Options Service provides for confirmation and matching either between two OTC equity options dealers or between an OTC equity options dealer and its buy-side customer. Where either the buyer or the seller of an OTC equity option is a U.S. person and the OTC equity option is issued by a U.S. issuer ("U.S. Equity Option Transaction"), NSCC provides confirmation and matching services through its Equity Options Service to Deriv/SERV pursuant to a service agreement between NSCC and Deriv/SERV ("Service Agreement").[4] In connection

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4 DTC has represented that the continued processing of Deriv/SERV's transactions will not be a strain on the capacity of DTC's systems. The host computer and other automated facilities associated with the NSCC Equity Options Service are provided by DTC pursuant to service agreements between NSCC and DTCC and between DTCC and DTC.

with the NSCC Equity Options Service, Deriv/SERV has become a Data Services Only Member of NSCC.[5]

The Deriv/SERV Equity Options Service is operated pursuant to the operating procedures of Deriv/SERV ("Deriv/SERV Operating Procedures"). U.S. Equity Option Transactions are also subject to Addendum M of NSCC's Rules and Procedures. Therefore, each user of the Deriv/SERV Equity Options Service enters into an agreement with Deriv/SERV obligating the user to abide by the terms of the Deriv/SERV Operating Procedures and obligating them to abide by Addendum M for any U.S. Equity Option Transactions. Pursuant to the Service Agreement, NSCC has the right to require Deriv/SERV to cause Deriv/SERV's users to abide by the terms of Addendum M. In addition, pursuant to the Service Agreement, NSCC and Deriv/SERV have agreed that should the Commission request that NSCC provide to the Commission any information relating to the NSCC Equity Options Service, Deriv/SERV will provide any such information in its possession to NSCC so that NSCC may provide such information to the Commission.

NSCC is responsible neither for the content of the messages transmitted through the NSCC Equity Options Service nor for any errors, omissions, or delays that may occur relating to the NSCC Equity Options Service in the absence of gross negligence on NSCC's part. Both the Service Agreement and the Deriv/SERV Operating Procedures provide that NSCC has no liability in connection with the NSCC Equity Options Service in the absence of gross negligence

5 NSCC Rules and Procedures, Rule 31.

on NSCC's part. The NSCC Equity Options Service does not involve netting or money settlement through the facilities of NSCC, and it is a nonguaranteed service of NSCC.[6]

Deriv/SERV will charge its users fees in connection with the Deriv/SERV Equity Options Service and pursuant to the Service Agreement will make payments to NSCC for the services that NSCC provides. NSCC will file proposed rule changes under Section 19(b) of the Act for fees that NSCC charges to Deriv/SERV for the NSCC Equity Options Service and for any changes made by NSCC to the Equity Options Service.

III. Discussion

Section 17A(b)(3)(F) 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.[7] The Commission finds the proposed rule change to be consistent with Section 17A(b)(3)(F) of the Act because the NSCC Equity Options Service should provide for the prompt and accurate clearance and settlement of U.S. OTC equity option transactions by facilitating the transmission of automated, standardized information on a centralized communications platform. This should reduce processing errors, delays, and risks that are typically associated with manual processes.

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[6] The NSCC Equity Options Service is a nonguaranteed service limited to the matching and communication of information and does not involve settlement of securities transactions or funds through the facilities of NSCC. In its Matching Release, the Commission concluded that matching (i.e., the "comparison of data respecting the terms of settlement of securities transactions") constitutes a clearing agency function within the meaning of Section 3(a)(23)(A) of the Exchange Act. Securities Exchange Act Release No. 39829 (April 6, 1998), 63 FR 17943 [File No. S7-10-98].

[7] 15 U.S.C. 78q-1(b)(3)(F).

NSCC has requested that the Commission approve the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of the filing because the Commission's current approval of NSCC's Equity Options Service expires May 31, 2005.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular 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-NSCC-2005-04) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland
Deputy Secretary

Action as set forth or recommended herein APPROVED pursuant to authority delegated by the Commission under Public Law 87-592.

For: *Division of Market Regulation*

By: ____________________________

Date: ____________________________

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8 17 CFR 200.30-3(a)(12).