

the **Federal Register** on August 13, 1999.³ No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description

GSCC's Rule 4, Section 4 permits GSCC to accept letters of credit (in addition to cash and eligible netting securities) as clearing fund collateral. GSCC's rules define "eligible letter of credit" as a letter of credit that is, among other things, "in a form, and contains such other terms and conditions, as may be required by the Corporation." GSCC has determined that as of September 1, 1999, a letter of credit delivered to GSCC as clearing fund collateral must be in the form of the uniform letter of credit ("ULC") developed by the UCG. To accommodate the ULC, the rule change will amend GSCC's definition of "eligible letter of credit" to conform it with the uniform letter of credit.

The ULC consists of a (i) a cover page with variable terms and (ii) uniform terms. Variable terms include the name of the clearing member, the beneficiary clearing organization, the issuing bank, the amount of the credit, and the expiration date. General instructions drafted by the UCG assist clearing organization members in completing the ULC. In addition, GSCC has provided supplemental instructions to assist members specifically with letters of credit furnished to GSCC.

According to GSCC, the ULC provides that the presentment of a demand for payment can be accomplished at the discretion of the clearing corporation by hand delivery, facsimile transmission, or SWIFT message. If the demand is made before GSCC's pre-set cutoff time, the bank issuing the letter of credit must effect payment within sixty minutes.

It is expected that from time to time modifications will be made to the ULC by the UCG. If and when that occurs, GSCC will require its members to use the revised form.⁴

II. Discussion

Section 17A(b)(3)(F)⁵ of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. GSCC and the

other members of the UCG developed the ULC to foster uniformity among the various U.S. securities and futures clearing organizations with respect to letters of credit that are deposited as collateral. This uniformity will help reduce operational burdens for industry participants and their letter of credit issuers. It should also enhance the legal certainty that the letters of credit received by GSCC and other UCG members as collateral will be enforceable.⁶ Accordingly, the Commission finds that the rule change is consistent with GSCC's obligations under the Act.

GSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will permit GSCC to implement the ULC by September 1, 1999, at which time its previous letters of credit expire. Since September 1, 1999, is the scheduled implementation date of the ULC by certain UCG members, accelerated approval will also provide for a more coordinated implementation of the ULC. Furthermore, the Commission has not received any comment letters and does not expect to receive any comment letters on the proposal.

III. 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-GSCC-99-03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41801; File No. SR-NSCC-99-05]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Acceptance of Letters of Credit

August 27, 1999.

On April 20, 1999, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NSCC-99-05) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ to permit NSCC to replace its current letter of credit form with a letter of credit form developed by the Uniform Clearing Group ("UCG").² Notice of the proposal was published in the **Federal Register** on August 13, 1999.³ No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description

Rule 4, Section 1 of NSCC's Rules and Procedures permits NSCC to accept letters of credit in addition to cash and government securities as collateral for its clearing fund.⁴ The proposed rule change will require that letters of credit delivered to NSCC on or after September 1, 1999, be in the form of the uniform letter of credit ("ULC") developed by the UCG.

The ULC consists of a cover page plus the uniform terms. All variable terms of the ULC, such as the name of the clearing member, the beneficiary clearing corporation, the issuing bank, the amount of the credit, and the expiration date, are set forth on the cover page. To assist members in completing the ULC, the UCG drafted general instructions. In addition, NSCC has provided supplemental instructions

¹ 15 U.S.C. 78s(b)(1).

² The members of the UCG include the Boston Stock Exchange Clearing Corporation, The Depository Trust Company, Government Securities Clearing Corporation, MBS Clearing Corporation, NSCC, The Options Clearing Corporation, Board of Trade Clearing Corporation, Chicago Mercantile Exchange, Clearing Corporation of New York, Kansas City Board of Trade, Minneapolis Grain Exchange, New York Mercantile Exchange, Emerging Markets Clearing Corporation, and Clearing Corporation for Options and Securities.

³ Securities Exchange Act Release No. 41716 (August 6, 1999), 64 FR 44252.

⁴ Securities Exchange Act Release No. 18052 (August 21, 1981), 46 FR 43341.

³ Securities Exchange Act Release No. 41715 (August 6, 1999), 64 FR 44249.

⁴ GSCC will file a proposed rule change with the Commission prior to requiring members to comply with any substantive change made to the ULC by the UCG.

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶ For example, the ULC recites certain understandings regarding the issuing bank's obligation to honor a demand. GSCC states that these understandings restate the existing principles governing letters of credit and were added to reduce the likelihood of dispute.

⁷ 17 CFR 200.30-3(a)(12).

relating specifically to letters of credit furnished to NSCC.

NSCC expects that modifications may be made to the ULC in the future. If and when that occurs, NSCC will require its members to use the revised form.⁵

II. Discussion

Section 17A(b)(3)(F)⁶ of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. NSCC and the other members of the UCG developed the ULC to foster uniformity among the various U.S. securities and futures clearing organizations with respect to letters of credit that are deposited as collateral. This uniformity will help reduce operational burdens for securities and futures industry participants and their letter of credit issuers. It should also enhance the legal certainty that the letters of credit received by NSCC and other UCG members as collateral will be enforceable. Accordingly, the Commission finds that the rule change is consistent with NSCC's obligations under the Act.

NSCC has requested that the Commission find good cause for approving 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 so approving the proposed rule change because accelerated approval will permit NSCC to implement the ULC by September 1, 1999, at which time its previous letters of credit expire. Since September 1, 1999, is the scheduled implementation date of the ULC by certain UCG members, accelerated approval will also provide for a more coordinated implementation of the ULC. Furthermore, the Commission has not received any comment letters and does not expect to receive any comment letters on the proposal.

III. 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-99-05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41800; File No. SR-NSCC-99-10]

Self-Regulatory Organizations; The National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to Arrangements to Integrate the National Securities Clearing Corporation and The Depository Trust Company

August 27, 1999.

On August 5, 1999, the National Securities Clearing Corporation filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NSCC-99-10) 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 August 16, 1999.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

I. Description

The rule change involves arrangements to integrate NSCC and The Depository Trust Company ("DTC"). Under the rule change, NSCC and DTC will form a New York corporation ("Holding Company") that will own directly all of the outstanding stock of NSCC and will own indirectly through a Delaware subsidiary of the Holding Company all of the outstanding stock of DTC.

The Holding Company will issue two classes of stock: common and preferred. The Holding Company will conduct two exchange offers in which (1) current DTC stockholders will have the opportunity to exchange their DTC shares for Holding Company common stock on a one-for-one basis and (2) the New York Stock Exchange ("NYSE") and the National Association of Securities Dealers, Inc. ("NASD"), the two current stockholders of NSCC, will be offered shares of Holding Company

preferred stock on a one-for-one basis in exchange for their NSCC shares.

In connection with the exchange for shares of DTC stock, the current DTC Stockholders Agreement has been amended to provide that if a specified super majority of DTC stockholders tender their shares of DTC stock for shares of Holding Company common stock: (1) any DTC stockholders that fail to tender their shares DTC stock will cease to be qualified holders of DTC stock; (2) their shares of DTC stock will automatically be transferred to NSCC; (3) NSCC will tender such shares of DTC stock to the Holding Company in exchange for an equivalent number of shares of Holding Company common stock; and (4) the non-tendering DTC stockholders will be paid DTC book value for their shares of DTC stock as and when NSCC, in accordance with procedures set forth in the Holding Company Shareholders Agreement, sells or transfers its shares of Holding Company common stock to other participant or members of DTC and NSCC.³

The Holding Company's Articles of Incorporation, By-Laws, and Shareholders Agreement ("Basic Documents")⁴ contain provisions designed to preserve the rights that the stockholders of NSCC and DTC currently have in particular to satisfy the fair representation requirement of Section 17A(b)(3)(C) of the Act.⁵ Specifically, the Basic Documents provide for the following:

- As owners of Holding Company preferred stock, the NYSE and the NASD each will have the right to put one person on the Board of Directors of the Holding Company. All other directors will be elected annually by the owners of Holding Company common stock. The Holding Company will elect as the directors of NSCC and DTC the persons that the stockholders of the Holding Company elect as the directors of the Holding Company.
- The rights to purchase Holding Company common stock will be reallocated to the users of NSCC and DTC based upon the users' usage of the clearing agencies' services and facilities. Under the Basic Documents, these rights will be reallocated initially in 2000 and again in 2001. Thereafter, depending

³ NSCC has informed the Commission that the procedures to be used by NSCC to sell or transfer Holding Company common stock are in all material respects the same as the procedures set forth in DTC's Stockholders Agreement applicable to the sale by a stockholder of DTC shares.

⁴ NSCC included the Basic Documents as exhibits to its filing, which is available for inspection and copying in the Commission's public reference room and through NSCC.

⁵ 15 U.S.C. 78q-1(b)(3)(C).

⁵ NSCC will file a proposed rule change with the Commission prior to requiring members to comply with any substantive changes made to the ULC.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 41719 (August 9, 1999), 64 FR 44569.