

Authorization and Approval) requires the written authorization of a customer before a member may exercise any discretionary power with respect to trading an options contract in a customer account.

Rule 2860(b)(19) (Options; Requirements; Suitability) prohibits a member from recommending an options transaction unless the member has reasonable grounds to believe based on the information furnished by the customer that the recommended transaction is not unsuitable for the customer.

Rule 2860(b)(23)(C)(i) (Options; Requirements; Tendering Procedures for Exercise of Options; Allocation of Exercise Assignment Notices) requires notification to customers of the method used to allocate exercise notices to its customers' accounts.

Rule 3110(c) (Books and Records; Customer Account Information) requires members to obtain specified customer information.

Rule 3110(f)(3) (Books and Records; Requirements when Using Predispute Arbitration Agreements with Customers) requires that a copy of the agreement containing a predispute arbitration clause must be given to the customer, who must acknowledge receipt on the agreement or on a separate document.

Rule 3110(g)(2) and (3) (Books and Records; Telemarketing Requirements) requires members to obtain written customer authorization before obtaining a check drawn on a customer's account.

Rule 3230(d) (Clearing Agreements) requires notification upon the opening of an account to each customer whose account is introduced on a full disclosed basis of the existence of the clearing or carrying agreement.

Marketplace Rules: The Nasdaq Stock Market Rules

Rule 4643 (Customer Confirmations) prohibits members from effecting transactions in Nasdaq SmallCap Market securities unless, at or before completion of the transaction, the member gives or sends the customer written notification disclosing specified information.

Procedural Rules: Complainants, Investigations and Sanctions

Rule 8110 (Availability to Customers of Certificate, By-Laws and Rules) requires a member to provide customer access to copies of the NASD Certificate of Incorporation, By-Laws, and Rules.

Procedural Rules: Uniform Practice Code

Rule 11860(a)(3) and (4) (Acceptance and Settlement of COD Orders) requires a member to deliver to the customer a confirmation, or all relevant data customarily contained in a confirmation not later than the close of business on the next business day after any such execution and to obtain an agreement from the customer to furnish instructions regarding the receipt or delivery of the securities involved in the transaction.

Rule 11870(c) (Customer Account Transfer Contracts; Transfer Instructions): customers must be informed of the conditions for account transfer and must authorize the transfer.

Questions concerning this Notice may be directed to Mary Revell, Assistant General Counsel, NASD Regulation, at (202) 728-8203.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39020; File No. SR-NSCC-97-11]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Limited Cross-Guaranty Agreements

September 4, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 3, 1997, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

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 obtain Commission approval of the limited cross-guaranty agreements between NSCC and each of the International Securities Clearing Corporation ("ISCC"), the Government Securities Clearing Corporation ("GSCC"), and the MBS Clearing Corporation ("MBSCC").

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 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.²

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries submitted by NSCC.

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 obtain Commission approval of the limited cross-guaranty agreements between NSCC and each of ISCC, GSCC, and MBSCC. NSCC represents that the limited cross-guaranty agreements are substantially similar to the form of limited cross-guaranty agreement previously approved by the Commission in filings made by GSCC, ISCC, and MBSCC.³

The limited cross-guaranty agreements between the clearing agency counterparties provide a guarantee that can be invoked in the event of a default of a common member. The guarantee is applicable only to the extent that the common member has unsatisfied obligations at one clearing agency and excess resources at another clearing agency. The guarantee is limited to the amount of the defaulting common member's resources remaining at the guaranteeing clearing agency. The agreements also set forth each clearing agency's priority structure with respect to the order in which it will make guaranty payments to other clearing agencies with which it has entered into a limited cross-guaranty agreement.⁴ The agreements also provide that demand for payment must be made within six months of the suspension of the common member.

NSCC amended its rules in File No. SR-NSCC-93-07 to accommodate limited cross-guaranty agreements.⁵ NSCC Rule 25 provides that in addition to a member's other obligations to NSCC under its rules, each member is obligated to NSCC for an amount equal to any guaranty payment NSCC is required to make to a cross-guaranty party pursuant to the terms of any clearing agency cross-guaranty agreement.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act because it promotes the safeguarding of

³ See Securities Exchange Act Release No. 37616 (August 28, 1996), 61 FR 46887 (order approving proposed rule changes filed by MBSCC, GSCC, and ISCC seeking authority to enter into limited cross-guaranty agreements).

⁴ Such priority schedule may be amended by later limited cross-guaranty agreements with other entities by delivery of an amended priority schedule to the counterparty.

⁵ Securities Exchange Act Release No. 33548 (January 31, 1994), 59 FR 5638 (order approving proposed rule change). The proposed rule change incorporated the limited guaranty provisions into NSCC's rules and approved NSCC's limited cross-guaranty agreement with The Depository Trust Company.

securities and funds in the clearing agency's custody or control or for which it is responsible and fosters cooperation and coordination with other entities engaged in the clearance and settlement of securities transactions.

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

NSCC does not believe that the proposed rule change will have an impact on or impose a 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 it receives.

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

Section 17A(b)(3)(F)⁶ of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that the proposal is consistent with NSCC's obligations to assure the safeguarding of securities and funds in its custody or control or for which it is responsible because the agreement should reduce NSCC's risk of loss due to a member's default.⁷ The agreement should also mitigate the systemic risks posed to the national clearance and settlement system as a result of a defaulting common member and thus should foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

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 approving the proposed rule change prior to the thirtieth day after publication of notice because it will permit NSCC to put a risk reduction

mechanism into place in an expedient fashion.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-97-11 and should be submitted by October 2, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (File No. SR-NSCC-97-11) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39022; File Nos. SR-OCC-97-17 and SR-NSCC-97-12]

Self-Regulatory Organizations; The Options Clearing Corporation and National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to a Limited Cross-Guaranty Agreement

September 4, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 2, 1997, The Options Clearing Corporation ("OCC") and on

September 3, 1997, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I and II below, which items have been prepared primarily by OCC and NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule changes.

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

The purpose of the proposed rule changes is to obtain Commission approval of the form of limited cross-guaranty agreement into which OCC and NSCC propose to enter.

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, OCC and NSCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. OCC and NSCC have prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.²

A. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The purpose of the proposed rule changes is to obtain Commission approval of the form of limited cross-guaranty agreement into which OCC and NSCC propose to enter. OCC amended its by-laws and rules in File No. SR-OCC-96-18³ to accommodate limited cross-guaranty agreements and accordingly is not proposing to amend the language of its by-laws and rules

² The Commission has modified the text of the summaries submitted by OCC and NSCC.

³ Securities Exchange Act Release No. 38410 (March 17, 1997), 62 FR 13931 (order approving proposed rule change). In general, the proposed rule change added a provision to OCC Rule 1104 to permit OCC to pay any amount owed by OCC to another cross-guaranty party pursuant to a limited cross-guaranty agreement; added a provision to Article VIII, Section 5 of OCC's by-laws to authorize OCC to have recourse to a suspended clearing member's clearing fund contribution for the amount of any payment which it is required to make pursuant to a limited cross-guaranty agreement; and added additional provisions to Article VIII, Section 5 of OCC's by-laws to address the treatment in various circumstances of amounts which OCC might receive under a limited cross-guaranty agreement.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ This order also approves future limited cross-guarantee agreements into which NSCC or OCC may enter which other clearing agencies provided that the form of such agreements are substantially similar to the form of agreement approved in this filing.

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).