

investor protection and market quality goals with a \$0.01 minimum increment.¹⁶ The Commission finds that the proposed amendments are appropriate during the pilot period.¹⁷

With regard to the amendments to NASD Rule 4632, the Commission finds that providing alternative reporting examples for securities quoting in decimals is consistent with the Act in general, and in particular with section 15A(b)(6).¹⁸ By providing examples of trade reporting for securities quoting in decimals, Nasdaq clarifies how trade reporting will operate in a decimals environment, which should help to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of the filing in the **Federal Register**. Notice of the proposal indicated that the Commission would consider granting accelerated approval of the proposed rule change after a 15-day comment period.¹⁹ The Commission received no comments on the proposal. Given the absence of comments, and Nasdaq's resolve to begin decimal pricing in certain Nasdaq securities on March 12, 2001, the Commission finds good cause to approve the proposal on an accelerated basis to ensure that the amendments are approved in advance of March 12, 2001.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with section 15A(b)(6),²⁰ in particular.

¹⁶ We note that concerns have been raised recently about the effect of a penny increment on trading behavior. See Norris, Big Board Will Study Effects of Decimal Trading, *The New York Times*, Feb. 17, 2001, at C1. We also note that the NASD has previously expressed concerns that transactions based on very small price changes could undermine the operation of the Short Sale Rule in a fractional pricing context. See Securities Exchange Act Release No. 31003 (August 6, 1992), 57 FR 36421, 36426 (Amended Notice Proposing NASD Short Sale Rule). The Commission will separately study the effect of decimal pricing on the operation of self-regulatory organization and Commission rules containing provisions that are designed to give public orders precedence over member orders, e.g., Exchange Act Rule 11a1-1(T). In addition, we will study the effect of decimal pricing on the operation of short sale rules.

¹⁷ Approving the amendment on a one-year pilot basis does not prevent Nasdaq from proposing a rule change regarding the Interpretation and the Short Sale Rule before the end of the one-year pilot should Nasdaq believe it is appropriate.

¹⁸ *Id.*

¹⁹ *Supra* note 3.

²⁰ 15 U.S.C. 78o-3(b)(6).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,²¹ that the proposed rule change (SR-NASD-01-09), be and hereby is approved on a pilot basis for the proposed rule changes to IM-2110-2 and the related Interpretation to IM-2110-2, and IM-3350 on a pilot basis ending on Friday, March 1, 2002;

It is further ordered, pursuant to section 19(b)(b) of the Act,²² that the proposed rule change (SR-NASD-01-09), be and hereby is approved as to the amendment to NASD Rule 4632.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44032; File No. SR-NSCC-00-09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Certain Securities Undergoing Reorganization

March 3, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 12, 2000, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as 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 persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would permit NSCC to process otherwise ineligible securities in the continuous net settlement ("CNS"), balance order or other related system.

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

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

NSCC's rules permit NSCC to continue to process certain securities undergoing reorganization or issuing dividends and specify how NSCC shall handle those issues. However, not all types of reorganizations or dividends fit the procedures specifically set forth in the rules. Ordinarily, this would require that the affected security be exited from the applicable system. Exiting the affected security from the applicable system poses a burden on the financial investment community when the issue is widely traded.

The purpose of the proposed rule filing is to permit NSCC the flexibility to process in the CNS, balance order, or other related system, on an exception basis, securities that would not otherwise have been eligible for processing to the extent NSCC has the capability to do so. The proposed rule change would provide that in such circumstance, NSCC would issue a notice to its members setting forth how NSCC would process the security. The proposed rule change further would provide that the procedures set forth in the notice would have the same effect as if they were set forth in NSCC's rules.

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, NSCC believes that the proposed rule change is consistent with section 17A(b)(3)(F) of the Act³ which requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.

²¹ 15 U.S.C. 78s(b)(2).

²² *Id.*

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

³ 15 U.S.C. 78q-1(b)(3)(F).

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 other written comments received by NSCC.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NSCC consents, the Commission will:

(a) By order approve the proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-00-09 and should be submitted by March 30, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44031; File No. SR-NSCC-00-10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Processing Certain Securities Undergoing Reorganization

March 2, 2001.

On October 10, 2000, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NSCC-00-10) 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 December 18, 2000.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change modifies NSCC's Rules and Procedures to permit securities that are subject to certain voluntary corporate action which previously would have caused them to be exited from NSCC's continuous net settlement ("CNS") system to continue to be processed in CNS.³ NSCC has enhanced the CNS system to enable it to process securities with reorganization events that have a wider and more varied range of features. The proposed rule change provides that when NSCC determines that it has the operational capability to continue to process such an issue, the issue will continue to be CNS eligible, and NSCC will establish procedures necessary for NSCC to accommodate the issue in CNS. NSCC will issue an Important Notice to its members detailing how the security will be processed.

NSCC's Rules and Procedures permit NSCC to continue to process certain

securities undergoing corporate reorganizations and specify how NSCC shall handle those issues. For example, currently NSCC's Procedure VII provides for the processing in CNS of securities subject to tender offers with protect periods of three or more days. Securities subject to tender offers with protect periods of less than three days cannot currently be processed in CNS, and NSCC would normally exit such securities from the CNS system. In that case, NSCC would issue receive/deliver instructions to participants with long or short positions in the subject security. The proposed rule change allows securities subject to tender offers with no protect periods or protect periods of less than three days to be processed in CNS.

Another example, would be issues subject to multiple tender offers. Currently, NSCC's Rules and Procedures provide for the establishment of up to two CNS reorganization subaccounts for issues subject to two tender offers. Under NSCC's proposed rule change, it could, provided it has the operation capability to do so, establish multiple CNS subaccount for issues subject to multiple tender offers.

In addition, in order to eliminate the possibility of error which arises from manual processing, NSCC has determined not to continue providing certain features which were processed on a manual basis. For example, the rule no longer permits new input on the list day of the protect period.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirement of the Act and the rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(F).⁴ Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that NSCC's rule change meets this standard because the proposed rule change allows additional corporate actions to be processed in and receive the benefits of NSCC's CNS system. Thus, the proposed rule change facilitates the prompt and accurate clearance and settlement of such securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A(b)(3)(F) of

⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 43699 (December 11, 2000), 65 FR 79144.

³ The proposed rule change also modified NSCC's Rules and Procedures to refer to reorganization events as voluntary and mandatory instead of as voluntary and involuntary.

⁴ 15 U.S.C. 78q-1(b)(3)(F).