

subject line if email 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 Web site viewing and printing 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. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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 publicly available. All submissions should refer to File Number SR-Phlx-2013-84 and should be submitted on or before September 24, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70263; File No. SR-NSCC-2013-09]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to the Decommissioning of NSCC's Over-the-Counter (OTC) Equity Comparison Service

August 27, 2013.

On July 2, 2013, the National Securities Clearing Corporation filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-NSCC-2013-09 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act")<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> The proposed rule change was published for comment in the **Federal Register** on July 18, 2013.<sup>3</sup> The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

#### I. Description

NSCC is amending its rules to decommission the over-the-counter ("OTC") Equity Comparison Service and delete two obsolete provisions in Procedure II, "Trade Comparison and Recording Service."

#### OTC Equity Comparison Service

Currently, NSCC provides a framework to compare and record transactions in eligible equity and debt securities executed on national stock exchanges and in the OTC market, as provided in Rule 7 and Procedure II.<sup>4</sup> Rule 7 and Procedure II both note that NSCC will stop providing comparison services once each exchange and/or marketplace assumes responsibility for trade comparison.<sup>5</sup> According to NSCC, all marketplaces interfacing with NSCC have assumed responsibility for equity comparison and, as a result, NSCC's OTC Equity Comparison Service receives a nominal amount of over-the-counter bilateral equity transaction submissions.<sup>6</sup> Therefore, NSCC is decommissioning its OTC Equity Comparison Service and amend several rules to reflect this, as described below.

This change will not impact comparison services with respect to debt transactions, which are compared through the Real Time Trade Matching (or "RTTM") system, or transactions submitted to the Obligation Warehouse.<sup>7</sup>

Once the OTC Equity Comparison service is decommissioned, comparison submissions for equity transactions,

other than those submitted to the Obligation Warehouse, will not be accepted by NSCC and related output will not be produced.<sup>8</sup> As a result, upon the effective date of this proposal, all equity transactions submitted for processing to NSCC, other than those submitted through the Obligation Warehouse, must be compared prior to submission (i.e., at the marketplace of execution or through FINRA/NASDAQ's Automated Comparison Transaction facility ("ACT")) and submitted to NSCC on a locked-in basis for trade recording).<sup>9</sup>

#### Changes to Rule 7, Procedure II, Rule 5, Rule 1, Addendum A, and Addendum K

To facilitate this proposal, NSCC is amending several rules. NSCC is amending Rule 7, "Comparison and Trade Recording Operation," and Procedure II, "Trade Comparison and Recording Service" to reflect changes consistent with the above. These changes also require certain technical changes including re-numbering footnotes and updating cross-references.

NSCC is amending Rule 5, "General Provisions" to reflect changes consistent with the above and to clarify that output issued by NSCC with respect to transactions either compared by it, or recorded locked-in transactions, defined as "Compared Contracts," evidence valid, binding and enforceable compared transactions for purposes of the Rules.

NSCC is amending Rule 1, "Definitions" to add the definition of "Compared Contracts" as described in Rule 5.

NSCC is amending its fee schedule in Addendum A to delete references to charges associated with OTC equity comparison.

NSCC is amending Addendum K to update a cross-reference to reflect these proposed changes.

#### Obsolete Provisions in Procedure II

NSCC also is deleting two obsolete provisions in Procedure II. First, NSCC is deleting a provision relating to the submission of municipal securities transactions by members on behalf of non-members since the function is no longer in use.<sup>10</sup> Second, NSCC is deleting a provision relating to potential announcement via Important Notice of the availability of the comparison service for when-issued corporate securities. According to NSCC, NSCC has not scheduled to implement a comparison service for corporate when-

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Securities Exchange Act Release No. 69980 (July 12, 2013), 78 FR 42989 (July 18, 2013) (SR-NSCC-2013-09) ("Notice").

<sup>4</sup> See NSCC Rule 7 and Procedure II; See Notice, *supra* note 3 at 42989-90.

<sup>5</sup> See NSCC Rule 7 note 1 and Procedure II note 1.

<sup>6</sup> See Notice, *supra* note 3 at 42990. According to NSCC, during May 2013, NSCC compared approximately 90 sides (an approximate average of 45 trades) for equity transactions through its OTC Comparison service. As of June 24, 2013, NSCC compared a total of 74 sides (37 trades) for the entire month of June 2013 to date. See *id.* at note 3.

<sup>7</sup> NSCC provides an Obligation Warehouse service under which certain transactions may be submitted for comparison that are not otherwise submitted for processing to NSCC through its other services. See NSCC Rule 51 and Procedure IIA; Notice, *supra* note 3 at 42990.

<sup>8</sup> See Notice, *supra* note 3 at 42990.

<sup>9</sup> See *id.*

<sup>10</sup> See *id.*

<sup>11</sup> 17 CFR 200.30-3(a)(12).

issued securities.<sup>11</sup> In the event that NSCC proposes to implement this, NSCC states that it will submit a rule filing to the Commission.<sup>12</sup>

According to NSCC, the effective date of the proposed rule changes will be announced via an NSCC Important Notice at least 30 days in advance of its implementation.<sup>13</sup>

## II. Discussion

Section 19(b)(2)(C) of the Act<sup>14</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act<sup>15</sup> requires the rules of a clearing agency to be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions, 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 protect investors and the public interest. The Commission finds that NSCC's proposed rule changes are consistent with these requirements, primarily because, this change promotes transaction comparison at the point of trade, which increases operational efficiencies. Further, by deleting two obsolete provisions in Procedure II, NSCC is ensuring its rules are accurate and reflect its operations.

## 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 of the Act<sup>16</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NSCC-2013-09) be, and hereby is, approved.<sup>17</sup>

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70272; File No. SR-FINRA-2013-035]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change to Adopt FINRA Rules 4314 (Securities Loans and Borrowings), 4330 (Customer Protection—Permissible Use of Customers' Securities) and 4340 (Callable Securities) in the Consolidated FINRA Rulebook

August 27, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("SEA" or "Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on August 14, 2013, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by FINRA. 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

FINRA is proposing to adopt financial and operational rules relating to securities loans and borrowings, permissible use of customers' securities, and callable securities as FINRA Rules in the consolidated FINRA rulebook. Specifically, the proposed rule change would adopt with amendments the following as FINRA Rules: (1) Incorporated NYSE Rule 296 (Liquidation of Securities Loans and Borrowings) and Supplementary Material paragraphs .10 and .20 regarding requirements applicable to a member that is a party to an agreement for the loan or borrowing of securities as FINRA Rule 4314 (Securities Loans and Borrowings); (2) Incorporated NYSE Rule 402 (Customer Protection—Reserves and Custody of Securities) regarding requirements applicable to a

member borrowing or lending a customer's securities that are eligible to be pledged or loaned as FINRA Rule 4330 (Customer Protection—Permissible Use of Customers' Securities); and (3) Incorporated NYSE Rule 402.30 (Securities Callable in Part) regarding requirements applicable to a member that has in its possession or under its control any callable securities as FINRA Rule 4340 (Callable Securities).

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

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

In its filing with the Commission, FINRA 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. FINRA 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

###### 1. Purpose

As part of the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook"),<sup>3</sup> FINRA is proposing to amend and adopt the following as FINRA Rules in the Consolidated FINRA Rulebook: (1) NYSE Rule 296 (Liquidation of Securities Loans and Borrowings)<sup>4</sup> and Supplementary Material paragraphs .10 and .20 as FINRA Rule 4314 (Securities Loans and Borrowings); (2) NYSE Rule 402 (Customer Protection—Reserves and Custody of Securities) as FINRA Rule 4330 (Customer Protection—Permissible Use of Customers' Securities); and (3) NYSE Rule 402.30 (Securities Callable

<sup>3</sup> The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice* March 12, 2008 (Rulebook Consolidation Process).

<sup>4</sup> For convenience, the Incorporated NYSE Rules are referred to as the NYSE Rules.

<sup>11</sup> See *id.*

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

<sup>14</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>15</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>16</sup> 15 U.S.C. 78q-1.

<sup>17</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.