

specified in Rule 204(e), we estimate that a broker-dealer will have to make such determinations with respect to approximately 1.76 securities per day. As of December 31, 2007, there were 5,561 registered broker-dealers. Each of these broker-dealers may clear trades through a participant of a registered clearing agency. We estimate that on average, a broker-dealer will have to certify to the participant that it has not incurred a fail to deliver position on settlement date in an equity security for which the participant has a fail to deliver position at a registered clearing agency or, alternatively, that it is in compliance with the requirements set forth in Rule 204(e), 2,466,415 times per year (5,561 broker-dealers certifying once per day on 1.76 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 394,626 burden hours (2,466,415 multiplied by 0.16 hours/certification).

**V. Pre-Fail Credit Demonstration Requirement:** If a broker-dealer purchases or borrows securities in accordance with the conditions specified in Rule 204(e) and determines that it has a net long position or net flat position on the settlement day on which the broker-dealer purchases or borrows securities we estimate that a broker-dealer will have to make such determination with respect to approximately 1.76 securities per day.<sup>7</sup> As of December 31, 2007, there were 5,561 registered broker-dealers. We estimate that on average, a broker-dealer will have to demonstrate in its books and records that it has a net long position or net flat position on the settlement day for which the broker-dealer is claiming credit, 2,466,415 times per year (5,561 broker-dealers checking for compliance once per day on 1.76 securities, multiplied by 252 trading days in a year). The total approximate estimated annual burden hour per year will be approximately 394,626 burden hours (2,466,415 multiplied by 0.16 hours/demonstration).

Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We submitted the collection of information to OMB for review and approval in accordance with 44 U.S.C. 3507(j) and 5 CFR 1320.13. The title for the collection of information is "Rule 204" and the OMB control number for

the collection of information is 3235-0647.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an e-mail to:

*Shagufta\_Ahmed@omb.eop.gov*; and (ii) Charles Boucher, Director/Chief Information Officer, Securities and Exchange Commission, c/o Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA\_Mailbox@sec.gov*. Comments must be submitted within 30 days of this notice.

Dated: October 5, 2009.

**Florence E. Harmon,**

*Deputy Secretary.*

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**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60765; File No. SR-NSCC-2009-08]

### Self-Regulatory Organizations; The National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise Fees for Certain Insurance and Retirement Processing Services

October 1, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 10, 2009, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("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 purpose of the proposed rule change is to revise fees for certain retirement and insurance processing services.

#### 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.<sup>2</sup>

##### (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 revise fees for certain insurance and retirement processing services provided by NSCC to better align fees with the costs of delivering services.<sup>3</sup>

Effective October 1, 2009, NSCC is adopting an incentive discount for Registered Representative ("REP") and Brokerage Identification Number ("BIN") transactions, a subset of In-Force Transaction types that are formally called "Brokerage Identification Number Change Requests," "Brokerage Identification Number Change Confirms," "Registered Representative Change Requests," and "Registered Representative Change Confirms." The first \$350 that NSCC charges to a member each month for such transactions shall be waived. Further, effective October 1, 2009, a member that submits any of these transaction types will receive a credit equaling 30% of its monthly fee for BIN and REP transactions.<sup>4</sup> The 30% credit will then be applied against fees that are charged to a member for NSCC's established Insurance and Retirement Products (called "Core Products"). Established products that are designated as Core Products are Positions, Commissions, Financial Activity Reporting, Applications/Subsequent Premiums, and Asset Pricing. The purpose of bundling products in this fashion and providing a credit in connection with usage of new products is to compensate members for the

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>3</sup> This proposed rule change filing replaces proposed rule change filing SR-NSCC-2009-06, which was withdrawn by NSCC on September 9, 2009.

<sup>4</sup> The credit will be calculated by subtracting the \$350 discount from the member's total monthly BIN and REP fees and then multiplying that resulting amount by 30%.

<sup>7</sup> See *supra* note 1.

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

programming and other costs associated with new product adoption.

In addition, effective October 1, 2009, NSCC is adopting a reduction in fees that may be incurred by a member due to extraordinary events, such as mergers or mass reconciliations, that generate unusually high transaction volume for a limited duration. A member must arrange with NSCC in advance for the appropriate reduction in fees in such circumstances. With respect to transaction types for which the member has no history of prior usage, the credit will be 85% of the transaction fees chargeable for the transaction type. There will be an additional credit of 5% if the member continues use of the transaction type in its usual processing flows after the event. With respect to transaction types for which the member has a history of prior usage, the credit will be in an amount sufficient to produce an aggregate fee that is no more than 120% of the average amount charged to the member for such transactions in the prior three months.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>5</sup> and the rules and regulations thereunder applicable to NSCC because the proposed rule change updates NSCC's fee schedule and provides for equitable allocation of fees among its members.

#### *(B) Self-Regulatory Organization's Statement on Burden on Competition*

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

#### *(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> thereunder because the proposed rule change is establishing or changing a due, fee, or other charge applicable only to a member. At any time within sixty days of the filing of

such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

### **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. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Electronic comments may be submitted by using the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or
- Send an e-mail to [rule-comment@sec.gov](mailto:rule-comment@sec.gov). Please include File No. SR-NSCC-2009-08 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSCC-2009-08. This file number should be included on the subject line if e-mail 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 inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at [http://www.dtcc.com/legal/rule\\_filings/nscc/2009.php](http://www.dtcc.com/legal/rule_filings/nscc/2009.php). 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 available publicly. All submissions should refer to file number SR-NSCC-2009-08 and should be submitted on or before October 30, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60785; File No. SR-Phlx-2009-86]

### **Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Specialist and Registered Options Traders Allocation and Assignment Rules**

October 2, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on September 30, 2009, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") 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 prepared by the Exchange. 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 Exchange proposes to amend Phlx Rules 501 (Specialist Appointment), 505 (Allocation, Reallocation and Transfer of Issues), 506 (Allocation Application), 507 (Application for Approval as an SQT or RSQT and Assignment of Options), and 513 (Voluntary Resignation of Options Privileges) to clarify and streamline the process for specialist allocations and Streaming Quote Trader ("SQT")<sup>3</sup> and

<sup>8</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.

<sup>3</sup> An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically in eligible options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. See

Continued

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).