

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. 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2002-160 and should be submitted by January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46958; File No. SR-NSCC-2002-08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to New Clearing Fund Valuation of Deposited Securities

December 6, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 3, 2002, 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 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 modify NSCC's clearing fund rules to permit NSCC to apply haircuts to securities pledged by NSCC participants as clearing fund collateral.

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-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 modify Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of NSCC's Rules and Procedures to establish haircuts for securities posted by NSCC members as clearing fund collateral.

Under Rule 4, NSCC members are required to make deposits to NSCC's clearing fund.³ Rule 4 also states that NSCC, at its discretion, may permit part of a member's (with the exception of "mutual fund/insurance services members") clearing fund deposit to be evidenced by an open account indebtedness secured by (a) unmatured bearer bonds that are either direct obligations of or obligations guaranteed as to principal and interest by the United States or its agencies ("qualifying bonds") and/or (b) one or more irrevocable letters of credit under certain guidelines established within NSCC's rules.⁴

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

³ The amount of each member's required deposit is determined by NSCC in accordance with one or more formulas.

⁴ The Commission recently approved a NSCC proposed rule change (File No. SR-NSCC-2002-05) that increased the minimum amount of cash that must be deposited by members (with the exception of "mutual fund/insurance services members") to satisfy clearing fund requirements and that limited the amount of a deposit that may be collateralized with letters of credit. Securities Exchange Act Release Nos. 46931 (Nov. 27, 2002) and 46389 (Aug. 21, 2002), 67 FR 55053 (Aug 27, 2002).

In its efforts to ensure that it has adequate collateral to cover its members' obligations, NSCC has decided to haircut the value of securities deposited to meet clearing fund requirements. The proposed haircut percentages will range from 2% to 5% and will be based on the type of security deposited, its market risk, and years to maturity.⁵ The proposed haircuts are similar to those currently applied by The Depository Trust Company as a part of its risk management controls. These percentages may change from time to time and NSCC will communicate any changes to participants should this occur.

NSCC intends to implement this change no sooner than thirty days after the Commission's approval of this proposed rule filing provided, however, that NSCC would like to make this change effective concurrent with the changes covered by proposed rule change File No. SR-NSCC-2002-05.⁶

NSCC believes that this proposed rule change is consistent with the provisions of the Act and the rules and regulations there under because it will ensure that NSCC is able to better safeguard securities and funds in its possession.

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

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 the self-regulatory

⁵ NSCC's proposed haircut schedule for U.S. Treasury and agency securities is: Interest bearing with remaining terms to maturity of up to 10 years—2%; Interest bearing with remaining terms to maturity in excess of 10 years—5%; Zero coupon with remaining terms to maturity of up to 5 years—2%; Zero coupon with remaining terms to maturity in excess of 5 years—5%.

⁶ *Supra* note 4.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

organization consents, the Commission will:

(A) By order approve such 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 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 rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at NSCC's principal office. All submissions should refer to File No. SR-NSCC-2002-08 and should be submitted by December 31, 2002.

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

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46960; File No. SR-NYSE-2002-62]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Continuing Annual Fees for Domestic and Non-U.S. Issuers, Technical Original Listing Fees, and Supplemental Listing Applications Fees (Sections 902.02, 902.03, and 902.04 of the NYSE Listed Company Manual)

December 6, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,²

notice is hereby given that on November 20, 2002, the New York Stock Exchange, Inc. ("NYSE") 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 by the NYSE. 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 NYSE is proposing to amend Sections 902.02, 902.03, and 902.04 of the NYSE's Listed Company Manual (the "Manual") to increase and simplify the continuing annual listing fee pricing for all listed companies (excluding closed-end funds), and to increase the fee for technical original listings and supplemental listing applications. The NYSE is also proposing to make permanent an overall \$1 million per issuer fee cap that has been in effect on a pilot basis, scheduled to expire on December 31, 2002.³ The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

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

In its filing with the Commission, the NYSE 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. The NYSE 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

The NYSE is proposing changes to certain of its original and continuing annual listing fees, all of which it proposes will become effective on January 1, 2003.

The NYSE in recent years has reduced or capped listing fees in several respects.⁴ However, the NYSE has

determined that certain listing fee increases have now become necessary to ensure that revenue is adequate to satisfy increasing costs for operations, technology, regulation and infrastructure. The proposed revisions to listing fees are intended to increase revenue, simplify the continuing annual fee structure and change a historical policy that has kept the continuing fees of certain companies at unusually low levels. While the NYSE believes these proposed fee increases will impact listed companies, it should be noted that the NYSE is also increasing fees applicable to members and member organizations. Such member fee increases are being filed in a separate rule proposal.

The NYSE believes the simplest of the changes proposed herein are increases to the "technical original" listing fee and the minimum fee charged for consideration of a listing application. Section 902.02B of the NYSE Listed Company Manual provides for a "reduced initial fee" of \$5,300 when a company makes a technical change in the nature of the company without substantively affecting the equity position or rights of its common shareholders. This fee, often referred to as a "technical original" listing fee, applies when, for example, a company changes its state of incorporation or reincorporates, forms a holding company which replaces the listed company, or does a reverse split. The NYSE is proposing to increase this fee from \$5,300 to \$15,000.

Section 902.02B of the NYSE Listed Company Manual also specifies that the minimum fee for the consideration of any listing application is \$1,500. When shares are being issued concurrently with the application, the company is charged the greater of the per share rate or this minimum fee. (Similarly, the minimum fee would not be payable when the company pays the higher "technical original" listing fee described in the immediately preceding paragraph.) However, this \$1,500 fee is

original listing fees at \$500,000); Securities Exchange Act Release No. 43164 (August 16, 2000), 65 FR 51387 (August 23, 2000) (SR-NYSE-00-15), (implementing a flat initial listing fee for tracking stocks, later modified to cover all additional classes of common stock); Securities Exchange Act Release No. 45995 (May 29, 2002), 67 FR 39089 (June 6, 2002) (SR-NYSE-2002-20) (implementing a flat initial listing fee for tracking stocks to cover all additional classes of common stock); Securities Exchange Act Release No. 43163, 65 FR 51389 (August 23, 2000) (SR-NYSE-00-16), (capping total listing fees per issuer in any given calendar year at \$1 million); and Securities Exchange Act Release No. 43700 (December 11, 2002), 65 FR 79147 (December 18, 2000) (SR-NYSE-00-48), (reducing the original listing fee cap to \$250,000 and imposed a new allocation fee on NYSE specialists).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 43163 (August 16, 2000), 65 FR 51389 (August 23, 2000) (SR-NYSE-00-16).

⁴ For example, see Securities Exchange Act Release No. 42270 (December 22, 1999), 65 FR 312 (January 4, 2000) (SR-NYSE-99-41), (capping