of T. NSCC then collects Clearing Fund payments at 10 a.m. on T+1. NSCC is revising its processing to address the timing of the NSCC trade guarantee, trade processing, and Clearing Fund provisions for such shortened settlement Index Receipts.

Because next day settling trades are effectively guaranteed in the CNS night cycle prior to margining, NSCC currently uses a process that takes that uncertainty into consideration by collecting a ''look-back'' premium in the Clearing Fund calculation.[5] Leveraging this existing practice for next-day settlement of creates and redeems would be cost-prohibitive based on the large number of ''in kind'' shares[6] that are exchanged in this process.

NSCC is therefore delaying the processing of next day settling creates and redeems and their underlying components until the CNS day cycle on T+1.[7] These transactions would be reported on the Second Supplemental Consolidated Trade Summary that is generally released mid-day. Delayed processing should allow NSCC ample time to collect Clearing Fund payments prior to guaranteeing the transactions and thus obviate the need for the look-back Clearing Fund premium.[8]

In addition, NSCC plans to implement a new fee for shortened-cycle creates and redeems as more fully described below.

Therefore, NSCC proposes to amend its Rules as follows to provide for settlement of index receipt transactions on T+1 or T+2 on an optional basis:

(a) Amendment of Addendum K regarding guarantee of next day settling index receipts

NSCC is amending Addendum K to provide that settlement of creates and redeems, including the underlying components, on a T+1 basis (including T+2 settling as-of creates and redeems submitted on T+1) will be guaranteed on Settlement Date when NSCC determines to complete processing for those items in the day cycle (normally, 11:30 a.m.), provided that the transaction is not removed from processing as described below.[9]

(b) Amendment of Procedure II to allow for settlement on a shorter than T+3 basis

NSCC is amending Procedure II, Section H to provide that: (i) The Index Receipt agent may elect for settlement of the creates and redeems on a T+1 or T+2 basis; (ii) as-of Index Receipt creates and redeems will only be accepted if submitted by the cut-off time designated by NSCC;[10] (iii) NSCC reserves the right to remove Index Receipt transactions from processing in the event that the applicable member has not met a Clearing Fund call on settlement date; and (iv) next day settling creates and redeems (including T+2 settling as-of creates and redeems submitted on T+1) will be posted to the Second Supplemental Consolidated Trade Summary and processed in the day cycle of the CNS Accounting Operation.

(c) Amendment of Procedure XV (Clearing Fund Formula)

NSCC is amending Procedure XV to provide that creates and redeems of Index Receipts and the underlying components, will not be subject to the ''20-day look back provision.''[11]

(d) Amendment of Addendum A (Fee Structure)

The current fee for regular-way (T+3) settlement of creates and redeems is $30 per create and redeem. To offset additional costs associated with shortened settlement processing, NSCC plans to implement a new fee of $50.00 per create and redeem with a shortened settlement cycle.

C. Implementation timeframe

NSCC intends to implement the changes set forth in this filing in the third quarter of 2008. Members will be advised of the implementation date through issuance of NSCC Important Notices.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Commission believes the proposal is consistent with the requirements of Section 17A(b)(3)(F),[12] which, among other things, requires that the rules of a clearing agency are designed to remove impediments to and perfect the mechanisms of a national system for the prompt and accurate clearance and settlement of securities transactions. The Commission finds that the proposed rule change, which enhances the processing of exchange-traded funds, is consistent with those statutory obligations.

IV. 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[13] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–NSCC–2008–07) be, and hereby is, approved.[15]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–23761 Filed 10–7–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58702; File No. SR–NSX–2008–16]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NSX Rules To Provide for a Minimum Execution Quantity Instruction on Certain Pegged Zero Display Reserve Orders

October 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on

[5] In order to account for the risk of unknown positions, Risk Management performs a look-back calculation to estimate shortened settlement volumes and values. The shortened settlement component is added to a members' Clearing Fund requirement for 21 days after each shortened settlement occurs.

[6] Most Index Receipts are created and redeemed in units of 50,000. In other words, if a member were to create six units it would receive 300,000 shares of the Index Receipt securities.

[7] The CNS day-cycle is typically run at 11:30 a.m. Component securities that are not CNS-eligible would be processed through the Balance Order Accounting Operation.

[8] If Clearing Fund payments are not timely collected on T+1, creates and redeems would not be processed.

[9] In addition, the transaction must be submitted for recording by an Index Receipt agent by such cutoff time as designated by the NSCC (pursuant to Procedure II).

[10] Submission of next-day settling creates and redeems will be required by such cut-off time on T.

[11] The ''20-day look back provision'' provides for a charge based on the average of the member's three highest aggregate calculated charges for daily ''Specified (shortened cycle) Activity'' measured over the most recent 20 settlement days.

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 15 U.S.C. 78q–1.

[14] 15 U.S.C. 78s(b)(2).

[15] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

September 19, 2008, National Stock Exchange, Inc. (''NSX'' or the ''Exchange'') 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 by the Exchange. The Commission is publishing this notice to solicit comment 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 is proposing to amend NSX Rules to allow ETP Holders the option of submitting a minimum execution quantity requirement on any Midpoint or Market Peg Zero Display Reserve Order resting in the NSX Book.

The text of the proposed rule change is below. Proposed new language is in *italics.* Material proposed to be deleted is enclosed in brackets.

RULES OF NATIONAL STOCK EXCHANGE, INC.

CHAPTER XI

Trading Rules

* * * * *

Rule 11.11. Orders and Modifiers

Users may enter into the System the types of orders listed in this Rule 11.11, subject to the limitations set forth in this Rule or elsewhere in these Rules.

(a)–(b) No change.

(c) Other Types of Orders and Order Modifiers

(1) No change.

(2) Reserve Order. A limit order with a portion of the quantity displayed (''display quantity'') and with a reserve portion of the quantity (''reserve quantity'') that is not displayed.

(A) A User may enter a Reserve Order with zero display quantity, in which case the Reserve Order will be known as a ''Zero Display Reserve Order.'' The price of a Zero Display Reserve Order may be set (''pegged'') to track the buy-side of the Protected BBO, the sell-side of the Protected BBO, or the midpoint of the Protected BBO. *A pegged Zero Display Reserve Order which tracks the inside quote of the opposite side of the market is defined as a Market Peg and a pegged Zero Display Reserve Order that tracks the midpoint is defined as a Midpoint Peg.* A pegged Zero Display Reserve Order may have an optional limit price (''Cap'') beyond which the order shall not be executed.

(B) For Market Peg and Midpoint Peg Zero Display Reserve Orders, a User may enter an optional minimum transaction quantity instruction of at least a round lot for an execution (hereinafter ''Minimum Execution Quantity''). Orders with the Minimum Execution Quantity instruction will not execute unless the minimum quantity can be satisfied. However, if the residual shares of a Zero Display Reserve Order with a Minimum Execution Quantity instruction is less than the Minimum Execution Quantity on the order, the order may be executed even if the resulting execution is an odd lot.

([B]*C*) A Zero Display Reserve Order, pegged or otherwise, may be designated as a Post Only Order by a User. If a Zero Display Reserve Order is not designated as a Post Only Order and is entered using the Order Delivery mode of interaction described in Rule 11.13(b)(2) and the order is immediately marketable upon entry into the System, the order will have its mode of order interaction converted to Automatic Execution as described in Rule 11.13(b)(1). *A Zero Display Reserve Order with a Minimum Execution Quantity instruction will be deemed a Post Only Order regardless of whether the order is designated as a Post Only Order.*

([C]*D*) Zero Display Reserve Orders will not be eligible for routing to away trading centers pursuant to Rule 11.15(a)(ii).

(3)–(4) No change.

(5) Post Only Order. A limit order that is to be posted on the Exchange and not routed away to another trading center.

(A) No change.

(B) A Post Only Order that is a Zero Display Reserve Order and which would interact immediately with a contra-side round lot order will:

(i) execute against a contra-side round lot order if the contra-side order is a Zero Display Reserve Order that is not designated as a Post Only Order. Upon execution, the contra-side Zero Display Reserve Order (which was not designated as a Post Only Order) will be deemed as taking liquidity from the Post Only Order that is a Zero Display Reserve Order and be liable for the applicable fee for taking liquidity that is set forth in the NSX [BLADE] Fee *and Rebate* Schedule even if the contra-side Zero Display Reserve Order was placed in the NSX Book prior to the Post Only Order that is a Zero Display Reserve Order;

(ii) not execute against a contra-side round lot order if (x) the contra-side order is a displayed order that is already contained in the NSX Book or (y) the contra-side order is another Post Only Order that is a Zero Display Reserve Order that is already contained in the NSX Book. The Post Only Order that is a Zero Display Reserve Order will instead be placed in the NSX Book.

(6)–(9) No change.

(d) No change.

* * * * *

Rule 11.14. Priority of Orders

(a) Ranking. Orders of Users shall be ranked and maintained in the NSX Book based on the following priority:

(1) No Change.

(2) Where orders to buy (or sell) are made at the same price, the order clearly established as the first entered into the System at such particular price shall have precedence at that price, up to the number of shares of stock specified in the order, *provided that the priority between displayed and Reserve orders is set forth in subsection (4) below.* A cancel and replace of an order will result in a new timestamp and change in time priority.

(3) No Change.

(4) The displayed quantity of a Reserve Order shall have time priority as of the time of display. If the displayed quantity of the Reserve Order is decremented such that 99 shares or fewer would be displayed, the displayed portion of the Reserve Order shall be refreshed for (i) the original displayed quantity, or (ii) the entire reserve quantity, if the remaining reserve quantity is smaller than the original displayed quantity. After the refresh, the displayed portion of the Reserve Order shall have time priority as of the time of the refresh. The reserve quantity of a Reserve Order shall have no time priority against other displayed orders at the same price until displayed. If all displayed orders and displayed portions of Reserve Orders at a given price are executed, and following such execution any marketable contra-side orders remain outstanding, then such contra-side orders shall be executed against the reserve portions of Reserve Orders at such price based on the time priority as determined by this paragraph (4). For purposes of the preceding sentence, a Zero Display Reserve Order *without a Minimum Execution Quantity instruction* will be deemed to have a displayed portion equal to one round lot. *A Zero Display Reserve Order with a Minimum Execution Quantity instruction will be deemed to have a displayed portion equal to its Minimum Execution Quantity for the first pass, and for each additional pass, will be deemed to have a displayed portion equal to one round lot.* Following satisfaction of the marketable contra-side orders, the NSX Book will be refreshed.

(b) No Change.

* * * * *

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 Exchange 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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange is proposing to amend Exchange Rule 11.11 to allow ETP Holders the option of submitting a minimum round lot execution instruction on certain Zero Display Reserve Orders posting in the NSX Book. Under current Rule 11.11(c)(2), Zero Display Reserve Orders may be entered with either a limit price or with a "peg", which, at the ETP Holder's discretion is pegged to the buy-side, sell-side or midpoint of the Protected Best Bid or Offer ("PBBO").

In this proposal, NSX proposes to enhance its Zero Display Reserve Order functionality to allow ETP Holders seeking to post Zero Display Reserve Orders pegged to track the inside quote on the opposite side of the market (hereinafter "Market Peg") or the midpoint (hereinafter "Midpoint Peg") to stipulate a minimum transaction size of at least one round lot for an execution (hereinafter the "Minimum Execution Quantity").[3]

Any Midpoint or Market Peg order with a Minimum Execution Quantity instruction will be deemed a "Post Only" order, regardless of whether the order is designated as such. Thus, any Zero Display Reserve Order with a Minimum Execution Quantity instruction will never take liquidity from the NSX Book.

A Zero Display Reserve Order with a Minimum Execution Quantity instruction may only be executed if the quantity is equal to or greater than the minimum quantity amount. Thus, if an order with the Minimum Execution Quantity instruction is posted in the NSX Book and eligible for matching, it will be allocated shares in the first matching pass in accordance with the minimum quantity amount. However, in any subsequent matching pass, these orders will be allocated shares in the same method as other Zero Display Reserve Orders with a deemed display of one round lot, according to its price and time priority under NSX Rule 11.14(a). A chart reflecting the allocation method is reflected in Example 1 below.

Example 1:

BOOK

Time	Bid	Display	Reserve	Min Ex Qty
T1	Market Peg	0	2000	0
T2	Mdpt Peg	0	5000	500
T3	Mdpt Peg	0	3000	0
T4	9.80	100	0	

NBBO 10 X 10.10—INBOUND MARKET SELL OF 3000

Pass 1–20	T1	2,000 @ 10.10 (100 each pass) 10.05
Pass 21	T2	500 @ 10.05
	T3	100 @ 10.05
Pass 22	T2	100 @ 10.05
	T3	100 @ 10.05
Pass 23	T2	100 @ 10.05
	T3	100 @ 10.05

Zero Display Reserve Orders with a Minimum Execution Quantity instruction will not execute unless the minimum quantity required can be satisfied. In the event that following a partial execution the residual order quantity is less than the Minimum Execution Quantity, the Minimum Execution Quantity will be ignored and the order may be executed, even if the resulting execution is an odd lot. In addition, as with other Zero Display Reserve Order features, the Minimum Execution Quantity instruction may be modified by entering a cancel/replace of the Zero Display Reserve Order. However, in this case, a new timestamp will be applied.

Finally, the Exchange proposes a technical change to conform Rule 11.11(c)(5)(B)(i) to the revised name of the NSX Fee and Rebate Schedule.

Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,[4] in general, and Section 6(b)(5) of the Act,[5] in particular, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, 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 feature proposed in this filing promotes the foregoing objectives by facilitating executions with optional minimum quantity thresholds.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the

[3] While the minimum quantity for a Minimum Execution Quantity order is a round lot, mixed lots are permitted.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[8] Previously, the Commission approved an order type similar to the one proposed,[9] and this proposal does not raise any novel issues. For these reasons, the Commission designates the proposed rule change as operative upon filing.

At any time within 60 days of the filing of the proposed 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.[10]

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

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NSX–2008–16 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NSX–2008–16. 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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. 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–NSX–2008–16 and should be submitted on or before October 29, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Acting Secretary.

[FR Doc. E8–23765 Filed 10–7–08; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange fulfilled this requirement.

[8] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's effect on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] *See* Securities Exchange Act Release No. 56072 (July 13, 2007), 72 FR 39867 (July 20, 2007), (SR–NYSEArca–2007–61) (adopting Mid-Point Passive Liquidity Order with minimum quantity; Securities Exchange Act Release No. 56790 (November 15, 2007), 72 FR 65797 (November 23, 2007), (SR–NYSEArca–2007–113) (reducing Mid-Point Passive Liquidity Order's minimum executable size from 1000 to 100).

[10] 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58708; File No. SR-NYSE–2008–92]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Operation of Reserve Orders on the Exchange to the Earlier of December 31, 2008 or the Date on Which the Commission Approves the Exchange's Filing Pursuant to SR–NYSE–2008–46

October 1, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule19b-4 thereunder,[2] notice is hereby given that on September 29, 2008, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') 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 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 extend the operation of Reserve Orders on the Exchange to the earlier of December 31, 2008 or the date on which the Commission approves the Exchange's filing pursuant to SR–NYSE–2008–46. The text of the proposed rule change is available at NYSE, *http://www.nyse.com,* and 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, the Exchange 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 Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.