

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-44330; File No. SR-NSCC-2001-08)

### Self-Regulatory Organizations; The National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Processing Commission Payments

May 21, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 27, 2001, 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.<sup>2</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The proposed rule change amends the process by which commissions are paid to non-clearing members.

#### 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 these statements.<sup>3</sup>

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

As part of NSCC's ongoing efforts to increase processing efficiencies, NSCC has decided to modify its rules to further standardize and automate the processing of commission payments to non-clearing members.

In accordance with NSCC Rule 16, NSCC's Commission Bill Service currently permits non-clearing members entitled to a credit to receive their monthly commission bill payments either electronically by Automated Clearing House ("ACH") wire transfer or manually by check. At present, slightly less than 50% of NSCC's approximate 350 non-clearing members physically receive their commission bill payments by check. Such manual distributions are made on the floors of the New York Stock Exchange ("NYSE") and the American Stock Exchange ("AMEX"). The proposed rule change will require all non-clearing members to execute appropriate ACH documentation in order to receive their credit payments.

In the event a non-clearing member does not pay the amount it owes to NSCC, the rule is being changed to explicitly permit NSCC to set-off any future commission bill credits to which it is entitled.

Subject to SEC approval, NSCC will implement the proposed rule changes on July 13, 2001. If a non-clearing member has not executed the appropriate ACH wire transfer documentation such member will not receive any credit payments until it does.

The proposed rule change will facilitate the prompt and accurate payment of commission bill transactions. The proposed rule change is therefore consistent with Section 17A of the Act and the rules and regulations thereunder.

#### (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

NSCC has worked with and received the support of the NYSE and the AMEX with respect to these proposed changes. 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 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 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 also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-2001-08 and should be submitted by June 19, 2001.

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

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

<sup>2</sup> A copy of NSCC's proposed rule change is available at the Commission's Public Reference Section or through NSCC.

<sup>3</sup> The Commission has modified the text of the summaries prepared by NSCC.