

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

Written comments were neither solicited nor received.

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 Act¹³ and rule 19b-4(f)(2) thereunder, because it establishes or changes a due, fee, or charge imposed by the self-regulatory organization.¹⁴ At any time within 60 days of the filing of such 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.

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 will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR-NASD-2002-151 and should be submitted by December 26, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-46913; File No. SR-NSCC-2002-09)

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Acceptance of Trade Data

November 26, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ notice is hereby given that on October 24, 2002, 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 and order to solicit comments from interested persons and to grant approval of the proposed rule change.

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

The proposed rule change would amend NSCC's rules to provide that NSCC may accept trade data from derivatives clearing organizations.

II. Self-Regulatory Organization's Statement 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 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 filing is to allow NSCC to accept trade data from derivatives clearing organizations ("DCOs") that are registered or deemed registered with the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act. OneChicago LLC has

developed a physically-settled, narrow-based security index futures that wills delivery of the underlying securities at expiration. To facilitate the settlement of these futures at expiration, NSCC will need to receive trade date relating to exercise obligations.

NSCC's rules currently provide that NSCC may accept trade data from self regulatory organizations ("SROs"), as defined in the Act.³ In its connection with OneChicago and these physically-settled, narrow-based security index futures, the Chicago Mercantile Exchange ("CME") will have trade data relating to expiration obligations necessary for settlement. While the CME is a DCO, it is not an SRO. In order to be able to accept trade data from the CME, NSCC is proposing to amend Section 5 of its Rule 7 (Comparison and Trade Recording Operation) to provided that NSCC may accept trade data from DCOs that are registered or deemed to be registered with the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act.

NSCC believes that the proposed rule filing is consistent with the requirements of the Act and the rules and regulations there under because it promotes the prompt and accurate clearance and settlement of securities transactions.

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

NSCC does not believe that the proposed rule change would have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement 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 received by NSCC.

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

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations there under particularly with the requirements of Section 17A(b)(3)(F).⁴ Section 17A(b)(3)(F) requires that the rules of a

³ Section 3(a)(26) of the Act defines an SRO as any national securities exchange, registered securities association, registered clearing agency, or (solely for purposes of sections 19(b), 19(c), an 23(b) of the Act) the Municipal Securities Rulemaking Board established by Section 15B of the Act.

⁴ 15 U.S.C. 78q-1(b)(3)(F).

¹³ 15 U.S.C. 78s(b)(3)(a)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. By authorizing NSCC to accept trade data from registered DCOs, the proposed rule change will allow NSCC to accept trade relating to expiration obligations of security futures from CME or any other DCO with such information. As a result, the proposed rule change promotes the prompt and accurate clearance and settlement of security futures.

NSCC has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the rule change prior to the thirtieth day after publication because by so approving NSCC will be able to accept trade data from the CME on these physically-settled, narrow-based security index futures once they begin trading in the near future.

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 related 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 will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the File No. SR-NSCC-2002-09 and should be submitted by December 26, 2002.

V. 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 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-

NSCC-2002-09) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46888; File No. SR-NYSE-2002-34]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. Relating to the Amendment of Rule 342 (Offices—Approval, Supervision, and Control)

November 22, 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 August 16, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") 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 Exchange. On October 22, 2002, the NYSE filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange is filing with the Commission a proposed amendment to NYSE Rule 342 ("Offices—Approval, Supervision, and Control") providing for a new definition of the term "branch office." The proposed amendment to the rule would limit the requirement to register certain business locations as "branch offices" to account for advances in technology used to conduct and

monitor business, changes in the structure of broker-dealers and in the lifestyles and work habits of broker-dealers. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

Rule 342. Offices—Approval, Supervision, and Control

(a)–(e) No Change.

Supplementary Material

.19 [10] Annual fee.—Each office of a member organization (including any foreign branch office), other than the main office of the member organization, shall be subject during its existence to a registration fee as determined by the Exchange for each calendar year or part thereof, unless specifically exempted by the Exchange.

.10 Definition of Branch Office

A "branch office" is any location, other than the main office, where one or more associated persons of a member or member organization ("associated person") regularly conduct the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of any security, or is held out as such, excluding:

(A) any location that is established solely for customer service and/or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office;

(B) any location that is the associated person's primary residence; provided that: (i) the location is used for less than 50 business days in any one calendar year; (ii) only one associated person, or multiple associated persons, who reside at that location and are members of the same immediate family, conduct business at the location; (iii) the location is not held out to the public as an office and the associated person does not meet with customers at the location; (iv) neither customer funds nor securities are handled at that location; (v) the associated person is assigned to a designated branch office, and such branch office is reflected on all business cards, stationery, advertisements and other communications to the public by such associated person; (vi) the associated person's correspondence and communications with the public are subject to the firm's supervision; (vii) electronic communications (i.e., e-mail) are made through the member organization's electronic system; (viii) all orders are entered through the designated branch office; (ix) written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the member or member organization; and

⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission (October 21, 2002) ("Amendment No. 1"). In Amendment No. 1, the Exchange corrected the reference to the provision of the Act under which the proposal was filed. The original filing was incorrectly marked as having been filed pursuant to section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A), while Amendment No. 1 was marked as having been filed pursuant to Section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2).