

Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15a-4; SEC File No. 270-7; OMB Control No. 3235-0010.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 15a-4 under the Securities Exchange Act of 1934 (the "Exchange Act") permits a natural person member of a securities exchange who terminates his or her association with a registered broker-dealer to continue to transact business on the exchange while the Commission reviews his or her application for registration as a broker-dealer if the exchange files a statement indicating that there does not appear to be any ground for disapproving the application. The total annual burden imposed by Rule 15a-4 is approximately 106 hours, based on approximately 25 responses (25 Respondents $\times$ 1 Response/Respondent), each requiring approximately 4.23 hours to complete. The total annual cost burden is \$5,875, based on approximately 25 responses, each costing approximately \$235 to complete.

The Commission uses the information disclosed by applicants in Form BD: (1) to determine whether the applicant meets the standards for registration set forth in the provisions of the Exchange Act; (2) to develop a central information resource where members of the public may obtain relevant, up-to-date information about broker-dealers, municipal securities dealers and government securities broker-dealers, and where the Commission, other regulators and SROs may obtain information for investigatory purposes in connection with securities litigation; and (3) to develop statistical information about broker-dealers, municipal securities dealers and government securities broker-dealers. Without the information disclosed in Form BD, the Commission could not effectively implement policy objectives of the Exchange Act with respect to its investor protection function.

The statement submitted by the exchange assures the Commission that the applicant, in the opinion of the exchange, is qualified to transact business on the exchange during the time that the applications are reviewed.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, DC 20549.

Dated: May 18, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-13385 Filed 5-25-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44327; File No. SR-ISE-2001-04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the International Securities Exchange LLC Relating to Its Disciplinary Procedures

May 18, 2001.

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 February 6, 2001, the International Securities Exchange LLC (the "Exchange" or the "ISE") 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 ISE. 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 is proposing various changes to its disciplinary rules and

procedures. A complete copy of the text of the proposed rule change is available at the Office of the Secretary, the ISE and 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 ISE 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 ISE 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 Exchange has entered into a regulatory services agreement with NASD Regulation ("NASDR") pursuant to which, among other things, NASDR provides services related to conducting regulatory investigations and disciplinary actions. The ISE is proposing to make changes to its disciplinary rules and procedures to reflect and facilitate this "hybrid" regulatory system. In particular, the Exchange seeks to conform its disciplinary rules and procedures to those of NASDR where appropriate. In addition, the Exchange has carefully reviewed the disciplinary rules currently in place at the other self-regulatory organizations ("SROs") and seeks to incorporate rules and standards found in the rule of the other SROs in a manner tailored to fit the needs of the Exchange, while assuring a disciplinary process that is fair to the Exchange's members as required by the Securities Exchange Act of 1934, as amended ("Exchange Act"). The specific changes are discussed below.

The Exchange proposes to include in separate Rules the provisions currently contained in Rule 1601 that (1) require members and persons associated with Members to provide information upon the request of the Exchange, and (2) specify the Exchange's authority and obligation to investigate possible violations within the disciplinary jurisdiction of the Exchange. These provisions will be contained in Rules 1601 and 1602, respectively. While Rule 1615 already provides the Exchange authority to contract with another SRO to perform some or all of the Exchange's

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

disciplinary functions, a parenthetical has been added in both Rules to specify that another SRO acting on behalf of the ISE can require members to provide information and conduct investigations. No substantive changes have been made to these rules, although the language specifying the Exchange regulatory staff's authority and obligation to investigate possible violations has been amended to reflect language more recently approved by the Commission for the Pacific Exchange ("PCX").³

Rule 1602 is re-numbered to Rule 1603 and re-titled "Letters of Consent." This rule currently permits a disciplinary matter to be concluded through a letter of consent prior to the initiation of formal disciplinary proceedings upon approval of the letter of consent by the Business Conduct Committee ("BCC"). The Exchange proposes to change the existing procedures to require that the Chief Regulatory Officer accept a letter of consent before it may be presented to the BCC for consideration. The rule specifies that if agreement on the terms of a letter of consent cannot be reached between a member or associated person and regulatory staff, or if a letter of consent is rejected by the Chief Regulatory Officer, the Exchange may then institute a formal disciplinary action. The rule continues to require that the BCC approve all letters of consent before they may become final.

Rule 1603 (Charges) is re-numbered to Rule 1604. This rule currently provides that the Exchange will prepare a statement of charges whenever it appears that there is probable cause for finding a violation within the disciplinary jurisdiction of the Exchange. The current language also provides that the statement of charges will be served upon the member or person being charged (the "Respondent"), and that the Respondent will be given access to documents related to the case. The proposed rule change specifies that a statement of charges will be prepared by regulatory staff and must be approved by the Chief Regulatory Officer.

Rule 1604 (Answer) is re-numbered to Rule 1605. This rule currently provides a Respondent with 15 days after service of the charges to file a written answer. The Exchange proposes to extend this answer period to 25 calendar days to conform with the period allowed under NASDR procedures.⁴ In addition, the Exchange proposes to add a provision

specifying that, upon review of a Respondent's answer, the Chief Regulatory Officer may modify the statement of charges and re-serve them on the Respondent. The Respondent will then be given additional time to answer the amended charges.

Rule 1605 (Hearing) is re-numbered to Rule 1606. This rule specifies the procedure for conducting disciplinary hearings. Currently, the rule specifies that hearings will be held before "one or more" members of the BCC. The Exchange proposes to amend the rule to specify that disciplinary hearings will be held before a panel comprised of a professional hearing officer and two members of the BCC. The professional hearing officer will be provided by NASDR under our regulatory services agreement, and under the proposal, this person will be the Panel Chairman that handles all procedural matters. The two ISE member representatives on a panel will be appointed by the Chairman of the BCC from among the members of the BCC. We propose to adopt guidelines governing this appointment, as well as a provision specifying that a panel member must withdraw from a panel if at any time he or she has a conflict of interest or bias or circumstances otherwise exist where his or her fairness might reasonably be questioned.⁵

The Exchange proposes to extend from 15 days to 28 calendar days the notice period provided parties regarding the time and place of the hearing. The Exchange also proposes to change the time in advance of a scheduled hearing by which each party is required to furnish the panel and the opposing party copies of all documentary evidence to be presented at the hearing from five days to 10 calendar days. These changes are made to conform with NASDR procedures.⁶

The Exchange further proposes to specify in Rule 1606 that interlocutory Board review of decisions made by a panel during a hearing will generally be prohibited. The proposed provision states that interlocutory review will be permitted only if the panel agrees to such review after determining that the issue is a controlling issue of rule or policy and that immediate Board review would materially advance the ultimate resolution of the case. Currently, there

is nothing in the Exchange rules with respect to interlocutory review, and the proposal is consistent with NASDR procedures.⁷

Finally, the Exchange proposes to amend Rule 1606 regarding ex parte communications to specify that the prohibition on ex parte communications extends to members of a hearing panel and to board members, in addition to BCC members. It would be inappropriate for a member or an associated person to discuss a pending disciplinary matter with any party that may be called upon to render a decision in the matter. In light of the proposed changes discussed above that specifies that a hearing panel will make disciplinary determinations, and the right for review of a panel decision by the Board discussed below, the prohibition should be extended to members of panels and the Board.

Rule 1608 (Decision) is renumbered to Rule 1607. The Exchange proposes to delete paragraph (b) from the rule. This provision specifies that if a hearing panel is comprised of less than half of the members of the BCC, there would be an automatic review by a majority of the BCC. As discussed above, the Exchange is proposing that hearings be conducted by a hearing panel instead of the BCC. Therefore, paragraph (b) is not applicable under the proposed change to Rule 1607 (Hearings).

Rule 1606 (Summary Proceedings) is re-numbered Rule 1608. This rule currently specifies that a panel may make a determination without a hearing and may impose a penalty as to violations that a Respondent has admitted or has failed to answer on that otherwise do not appear in dispute. The Exchange proposed to specify that the ten-day notice currently required under the rule is "calendar" days and that it be given to the panel chairman, but proposes no substantive changes to this rule.

Rule 1607 (Offers of Settlement) is re-numbered Rule 1609. This rule provides that a Respondent may submit a written offer of settlement following service of a statement of charges. The Exchange proposes to re-organize this rule, as well as specify that an offer of settlement may be submitted to the Chief Regulatory Officer if a panel has not yet been formed. The Respondent may submit a written statement in support of the offer, but the Exchange proposes to eliminate the right to request an oral argument in support of the offer. The proposal also specifies that where a

³ See PCX Rule 10.2; Securities Exchange Act Release No. 42756 (May 11, 2000).

⁴ See NASD Code of Procedure, Rules 9138(a) and 9215(a).

⁵ These provisions are similar to the recusal guidelines provided for in the NASD and AMEX rules. See NASD Code of Procedures, Rules 9233(a) (specifying that the term "days" in the disciplinary rules is "calendar" days) and 9234(a); AMEX Rules, Exchange Disciplinary Proceedings, Rules 1 and 2(b).

⁶ NASD Code of Procedure, Rules 9221(d) (25 days notice of hearing) and 9261(a) (requiring submission of documentary evidence at least 10 days prior to hearing date).

⁷ See NASDR Code of Procedure, Rule 9148; see also Chicago Board Options Exchange ("CBOE") Rule 17.6(b).

panel or Chief Regulatory Officer accepts an offer of settlement, it or he will issue a decision, including findings and conclusions and imposing a sanction, consistent with the terms of the offer. Where a panel or Chief Regulatory Officer rejects an offer of settlement, it or he will notify the Respondent and the matter will proceed as if such offer had not been made. A decision to accept or reject an offer of settlement is final, and the Respondent may not seek review thereof.

Rule 1609 (Review) is re-numbered to Rule 1610. This rule provides that the Respondent has 15 days following a decision to submit a petition for review of a disciplinary decision. The Exchange proposes to extend this period to 25 "calendar" days and specify that the review is conducted by the Board to be consistent with the time allowed under NASD rules.⁸ The Exchange does not propose any other substantive changes to this rule.

Rule 1610 (Judgment and Sanction) is re-numbered to Rule 1611. This rule provides generally that members and associated persons may be disciplined by, among other things, fine, censure, expulsion, suspension, and limitation of activities, functions and operations. The Exchange proposes to adopt a provision under this rule specifying that all fines and other monetary sanctions be paid to the Chief Financial Officer of the Exchange. The proposal would permit the Exchange to summarily suspend a Member that fails to promptly pay a fine, or terminate the association of a person who fails to promptly pay a fine, when such fine becomes finally due and payable.⁹ In addition, the Exchange proposes to require that a member or associated person bear such costs of the proceeding as the adjudicator deems fair and appropriate under the circumstances.¹⁰

Rule 1611 (Service of Notice) and 1612 (Extension of Time Limits) have been combined in Rule 1612 (Procedural Matters). The Exchange does not propose any substantive changes to these rules.

The Exchange also proposes several changes to the minor rule violation plan contained in Rule 1614.¹¹ Under this rule, the Exchange staff has the authority to issue "traffic tickets" for violations that are minor in nature. While violations are generally black and white, recipients of penalties under the

minor rule violation plan have a right to appeal the imposition of a fine to the BCC and ultimately to the Board. The Exchange proposes to specify that the formal rules of evidence do not apply to review hearings conducted by the BCC under Rule 1614. The BCC will determine the time and place of the hearing and make all determinations with regard to procedural or evidentiary matters, as well as prescribe the time within which all documents or written materials must be submitted. Evidence may be presented and witnesses may testify and be subject to questioning by the BCC and the opposing party. A person fined under Rule 1614 is entitled to be presented by counsel who may participate fully in the hearing.¹²

The Exchange also proposes to clarify the application of the Rule to particular violations. Paragraph (d) of the rule currently specifies sanctions for violations of Rule 412 (Position Limits), Rule 1403 (Focus Reports), Rule 1404 (Requests for Data), Rule 717 (Order Entry), Rule 803 (Quotation Parameters) and Rule 805 (Execution of Orders in Appointed Options). The Exchange is not proposing to include any additional rules or to change any of the sanctions with the exception of a time parameter associated with Rule 803 and the sanctions related to violations of Rule 805, both of which are discussed below.

Many of the sanction schedules for violations of the Rules listed above currently contain an indication that upon a certain number of violations, a referral will be made to the BCC. This reference to the BCC is made because the rules currently provide for the BCC to issue formal charges that initiate formal disciplinary actions. In light of the proposed changes discussed above that provide for the issuance of charges by the Chief Regulatory Officer, the Exchange proposes to remove the reference to the BCC in the minor rule schedules and instead indicate that the level of violation subjects the member to "Formal Disciplinary Action," which is outside of the scope of Rule 1614. This has the same effect as the prior reference to the BCC and does not substantively change the sanction schedules.

Rule 803 contains maximum quotation spread parameters that currently are uniform across the five options exchanges. Unlike other options exchanges, market makers on the ISE quote independently from remote locations, and each quote entered by a market maker must have a size

associated with the price. Once the size associated with a price is exhausted, the price is automatically moved down for a bid and up for an offer by the Exchange according to parameters preset by the market maker. As a result, a market maker might enter a quote with an allowable bid-ask spread, but have its bid and/or offer automatically moved by the Exchange so that the spread becomes too wide. Accordingly, market makers must be given some amount of time to update a quote to bring the spread within the allowable parameters. Currently, Rule 1614(d)(6) specifies that a market maker must take immediate action to adjust its quote to comply with the maximum allowable spread, and that except in unusual market conditions, immediate means within five seconds. This five second guideline was adopted before the Exchange initiated trading. Experience now indicates that five seconds is insufficient for a market maker to enter an adjusted price and communicate the new price to the Exchange. Accordingly, the Exchange proposes to increase the guideline to ten seconds. While ten seconds remains a very short period of time for a market maker to enter an adjusted price, the Exchange believes it is prudent to keep the guideline as low as practically possible. If experience with the ten second guideline indicates that additional time is needed to create a fair opportunity for members to comply with the spread parameters, the Exchange will consider amending the rule to increase the guideline.

With respect to violation Rule 805, the Exchange is proposing to increase the fine amounts and clarify the application of the sanction schedule. Rule 805 requires market makers to execute a minimum percentage of their total volume in appointed options measured on a quarterly basis. The sanction schedule currently provides that a member will receive a letter of caution for the first violation of this requirement within a rolling twelve-month period, and will be subject to a fine of \$400, \$800 and \$1200 for the second, third and fourth violations, respectively. The Exchange believes that it is appropriate to increase the fine amounts to \$500, \$1000 and \$2500, respectively. In addition, the sanction schedule currently indicates that a member will receive a letter of caution for the first offense "within 85% of the requirement" and a fine for the second offense "not within 85% of requirement." The Exchange proposes that both of these references be deleted, as they are inconsistent with each other and the intent of the Rule 1614. In

⁸ See NASD Code of Procedure, Rule 9311(a).

⁹ See NASD Code of Procedure, Rule 8320(b).

¹⁰ See NASD Code of Procedure, Rule 8330.

¹¹ This constitutes the requisite notification required for minor rule violation plans under Rule 19d-1 of the Exchange Act.

¹² This language parallels that contained in the Exchange's existing hearing procedures contained in Rule 1605(d), which is proposed to be amended to Rule 1606(e).

particular, paragraph (a) of Rule 1614 states that the Exchange is not required to impose a fine pursuant to the Rule with respect to the violation of any Rule included therein, and that the Exchange may, whenever it determines that any violation is not minor in nature, bring a formal disciplinary action, rather than impose the sanction contained in the minor violation schedule. The Exchange will consider the severity of the violation of Rule 805 in every case, whether it is the first, second, third or fourth violation within a rolling twelve-month period and determine whether it is appropriate to apply the minor rule sanction contained in the schedule or whether formal disciplinary action should be taken.

The final proposed rule change is to Rule 1615, which states that the Exchange may contract with another SRO to perform some or all of the Exchange's disciplinary functions.¹³ This rule also states that the Exchange shall specify to what extent the ISE's disciplinary rules govern ISE disciplinary actions and to what extent the rules of another SRO with which the Exchange has contracted shall govern such actions. Notwithstanding any arrangement with another SRO, the ISE retains ultimate legal responsibility for and control of all disciplinary functions, and this is also expressly stated in Rule 1615.

The Exchange proposes to adopt Supplemental Material .01 to Rule 1615 to specify that it has entered into a contract with NASDR to provide professional hearing officers and to act as an agent of the Exchange with respect to the ISE's disciplinary procedures. The proposed provision states that all of the ISE's disciplinary rules shall govern Exchange disciplinary actions. In addition, the provision recognizes that under Rule 1606(a) (as proposed in this filing) the professional hearing officer is designated as the chairman of a hearing panel, and that under Rule 1606(e) (as proposed in this filing), the chairman of the panel has the sole responsibility to determine procedural matters. In the course of discharging his responsibilities, the professional hearing officer shall apply the standards contained in the NASD Code of Procedure, and policies, practices and interpretations thereof, so long as the ISE's Rules are not in conflict.

The Exchange believes this provision strikes the appropriate balance between adopting and applying ISE procedures and gaining the benefit of its relationship with NASDR. Specifically, as described above, the ISE has proposed a disciplinary procedure that is similar to those of other exchanges and which it believes provides members with due process. The ISE also seeks to utilize the experience that has been developed by NASDR over decades of hearing cases and rendering opinions. By directing the professional hearing officer to apply the standards, policies, practices and interpretations under the NASD Code of Procedure where ISE Rules are not in conflict, the ISE represents that the Exchange and its members are able to benefit from this experience. As the ISE gains experience with respect to procedural issues arising during disciplinary hearings, it will propose its own rules where appropriate or when, in the opinion of the Exchange, it believes an interpretation, policy or practice different from what is applied under the NASD Code of Procedure should be applied to ISE disciplinary hearings. In this respect, the ISE will closely monitor determinations made by professional hearing officers and continually evaluate whether procedural issues should be made according to the NASD Code of Procedure.

2. Statutory Basis

The ISE believes that the proposed rule change, as amended, is consistent with the provisions of Section 6(b)(1) of the Act,¹⁴ which requires that an exchange be organized and have the capacity to be able to carry out the purposes of this title and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the exchange. The proposal is designed to further the purposes of Section 6(b)(6)¹⁵ requiring the rules of an exchange to provide that its members and persons associated with its members be appropriately disciplined for violation of the provisions of the Exchange Act, the rules or regulation thereunder, or the rules of the exchange, as well as Section 6(b)(7)¹⁶ requiring the rules of an exchange to provide a fair procedure for the disciplining of members and persons associated with members.

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

The ISE does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments on the proposed rule change, as amended, were neither solicited nor received.

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

Within 35 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 90 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 ISE consents, the Commission will:

(A) By order approve the proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written date, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., 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, as amended, 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR-ISE-2001-04 and should be submitted by June 19, 2001.

¹³ See Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d-2; Order Granting Approval of Plan Allocating Regulatory Responsibility; International Securities Exchange LLC and National Association of Securities Dealers, Inc., Securities Exchange Act Release No. 42815 (May 23, 2000), 65 FR 34762 (May 31, 2000).

¹⁴ 15 U.S.C. 78f(b)(1).

¹⁵ 15 U.S.C. 78f(b)(6).

¹⁶ 15 U.S.C. 78f(b)(7).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-13328 Filed 5-25-01; 8:45 am]

BILLING CODE 8010-01-M

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"),¹ 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.² 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.³

(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.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-13326 Filed 5-25-01; 8:45 am]

BILLING CODE 8010-01-M

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

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

³ The Commission has modified the text of the summaries prepared by NSCC.