

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Section 6(b)(5) imposes the same requirements on a national securities exchange.

The Commission finds that the proposed rule changes are consistent with these Sections of the Act. The Commission finds that the NASD and the NYSE have proposed rules that accurately, reasonably, and efficiently implement the requirements of the PATRIOT Act as it applies to their members. While the Commission acknowledges that the commenters have raised possible burdens these proposed rules place upon certain entities that are required to implement anti-money laundering compliance programs by April 24, 2002, the Commission agrees with NASD Regulation and the NYSE that they have no authority to grant exceptions or exemptions to these federally mandated requirements and deadlines. The Commission believes that NYSE and NASD members that are subject to the requirements of the PATRIOT Act must have written anti-money laundering programs in place by April 24, 2002, and must implement those procedures in a timely fashion. The Commission also recognizes, however, that anti-money laundering compliance programs will evolve over time, and that improvements to these programs are inevitable as members find new ways to combat money laundering and to detect suspicious activities.

With regard to all other issues raised by the commenters, the Commission is satisfied that NASD Regulation and the NYSE have adequately and accurately addressed the commenters' concerns.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁵⁶ that the proposals SR-NASD-2002-24 and SR-NYSE-2002-10 be and hereby are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45788; File No. SR-NSCC-2002-01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Making Technical Changes to Its Rules Related to the Timing of Clearing Fund Deposits

April 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 23, 2002, the National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

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

The purpose of the proposed rule change is to make a technical correction to NSCC Rule 4 relating to the timing of clearing fund deposits.

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

On June 15, 2001, the Commission approved proposed rule change SR-NSCC-2001-04 which modified and consolidated NSCC's clearing fund rules.³ The purpose of the filing was to: (1) move all NSCC members subject to

clearing fund requirements, and not only those member firms that were subject to surveillance status, to risk-based margining and (2) modify the rules to provide that additional clearing fund deposits must be made on the same day requested and within the time frame established by NSCC. The filing stated, in part, that all clearing fund requirements and other deposit requirements shall be made by members within one hour of demand unless otherwise determined by NSCC.⁴ At that time, the prior notification requirement found in Section 7 of Rule 4 of NSCC's Rules and Procedures should have been deleted because it is inconsistent with the time frame in that filing.

Inadvertently, this deletion was not made. The purpose of this proposed rule change is to delete the inconsistent prior notification provisions of NSCC Rule 4.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC since the proposed rule change clarifies the clearing fund deposit process and assures the safeguarding of funds within NSCC's custody and control.

(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 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 thereunder and particularly with the requirements of Section 17A(b)(3)(F).⁵ Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to assure the safeguarding of funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the approval of NSCC's rule change is consistent with this section because it

¹ 15 U.S.C. 78s(b)(1).

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

³ Securities Exchange Act Release No. 44431 (June 15, 2001), 66 FR 33280.

⁴ NSCC Rules and Procedures Procedure XV, II.(B).

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁵⁶ 15 U.S.C. 78s(b)(2).

⁵⁷ 17 CFR 200.30-3(a)(12).

will enable NSCC to resolve a discrepancy that exists in its rules and procedures with regard to the time frame for deposits of clearing fund and to more quickly collect additional clearing fund requirements, which was one intended purpose of NSCC's approved filing SR-NSCC-2001-04.

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 proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow NSCC to avoid confusion among participants regarding the time within which additional clearing fund deposits must be received by NSCC.

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, 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-2002-01 and should be submitted by May 17, 2002.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁶ that the proposed rule change (File No. SR-NSCC-2002-01) be and hereby is approved.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45787; File No. SR-OCC-2001-11]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to IntraDay Margin Deposits

April 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 7, 2001, The Options Clearing Corporation ("OCC") 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 OCC. 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 amend OCC Rule 609 to make explicit the procedures applicable to deposits of intraday margin.

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

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule changes 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. OCC 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 newly added language to Rule 609 is to make explicit OCC's policies with respect to required deposits of intraday margin.

OCC can require a deposit of intraday margin for a variety of reasons. Most often, deposits of intraday margin are required in response to changes in market conditions that affect the value of clearing members' positions and/or collateral. Currently, Rule 609 states that OCC's Chairman, Management Vice Chairman, and President each are authorized to require any clearing member to make such deposits within such time period as the officer may prescribe.

Pursuant to a long-standing policy, intraday margin deposits must be satisfied in immediately available funds within one hour of OCC's issuance of a debit instruction against the applicable bank account of a clearing member. This policy will now be explicitly set forth in Rule 609 although the authority to prescribe a different settlement time, including a shorter settlement time, will be preserved. In order to expedite processing, the individuals authorized to require intraday margin deposits will now include any officer of OCC so authorized by the Chairman, Management Vice Chairman, or President.

The proposed change is consistent with the purposes and requirements of section 17A of the Exchange Act because it makes explicit OCC's procedures for managing required deposits of intraday margin, which should promote the safeguarding of securities and funds.

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

OCC does not believe that the proposed rule change will impose any burden on competition.

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

Written comments relating to the proposed rule change have not yet been solicited or received. OCC will notify the Commission of any written comments received by OCC.

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)

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

⁶ 15 U.S.C. 78s(b)(2).