

react to published MOC order imbalances, the proposal may contribute to reducing volatility at the close. Finally, the proposal requests that the Commission permanently approve the Exchange's MOC pilot program. As noted above, these auxiliary closing procedures have been used by the NYSE since 1986 without significant difficulty. Therefore, the Commission believes that it is appropriate at this time to approve the Exchange's pilot program on a permanent basis.

The Commission finds good cause for approving the proposed rule change and Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of this proposal in the **Federal Register**. As discussed in more detail above, the changes made in this proposal are identical to changes made by the NYSE and the Amex.<sup>22</sup> As a result, the Commission does not believe that the proposal raises any new regulatory issues. Further, the Commission notes that the Amex and NYSE proposals were published for the full 21-day comment period during which no comment letters against either proposal were received by the Commission. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)<sup>23</sup> of the Act, to approve the Exchange's proposal and Amendment No. 1 to the Exchange's proposal on an accelerated basis.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change and Amendment No. 1, including whether it 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, D.C. 20549. 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 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 BSE. All submissions should refer to File No.

SR-BSE-98-06 and should be submitted by November 6, 1998.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>24</sup> that the proposed rule change (SR-BSE-98-06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>25</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40536; File No. SR-NSCC-98-10]

#### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Modifying NSCC's Collateral Management Service

October 8, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 22, 1998, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-NSCC-98-10) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

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

The proposed rule change will add an interactive messaging feature to NSCC's Collateral Management Service ("CMS").<sup>2</sup>

#### 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.<sup>3</sup>

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

CMS provides automated access to information on participants' clearing fund, margin, and other deposits at NSCC and other participating clearing entities.<sup>4</sup> The information available through CMS includes excess and deficit collateral amounts and detailed data on deposited collateral (*i.e.*, cash, securities, and letters of credit).

CMS information is made available to NSCC participants that choose to participate in the service, to participating clearing entities, and if an entity requests, to participants of a participating clearing entity. Each participating clearing entity may access only its own participants' information through CMS. Similarly, a participant may access only its own information through CMS. CMS enables participating clearing entities to submit information and enables participating clearing entities and participants to view their respective information. However, CMS currently does not provide any additional processing capabilities.

The participating clearing entities that currently provide information to CMS include The Depository Trust Company ("DTC"), Government Securities Clearing Corporation ("GSCC"), MBS Clearing Corporation, NSCC, and The Options Clearing Corporation ("OCC"). Information regarding the Mortgage-Backed Securities Division of DTC (formerly Participants Trust Company) is expected to be provided to CMS in the near future. In addition, NSCC has established an interface that links CMS to the Pays and Collects System ("PCS") of the Board of Trade Clearing Corporation ("BOTCC").<sup>5</sup>

NSCC believes that CMS enables participants to manage their collateral efficiently at participating clearing entities by providing a single automated source of information. According to NSCC, CMS also benefits participating

<sup>24</sup> 15 U.S.C. 78s(b)(2).

<sup>25</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The complete text of the proposed amendments to NSCC's rules and procedures is attached to NSCC's filing as Exhibit A, which is available for inspection and copying at the Commission's Public Reference Room and through NSCC.

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

<sup>4</sup> For a detailed description of CMS, refer to Securities Exchange Act Release No. 36091 (August 10, 1995), 60 FR 42931 [File No. SR-NSCC-95-06].

<sup>5</sup> PCS is a database operated by BOTCC that contains information regarding participants' collateral positions at futures clearing entities.

<sup>22</sup> *Id.*

<sup>23</sup> 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).

clearing entities by increasing cooperation and coordination of information on common participants thereby helping them to better monitor their participants' collateral positions. NSCC believes that CMS is especially useful to identify excess collateral positions at participating clearing entities in the event of a default of a common participant.

The proposed rule change has the following specific objectives: (i) to enable participating clearing entities and participants to send and receive messages regarding collateral on an automated basis through CMS, (ii) to enable participants that elect to participate in CMS to request a withdrawal of excess collateral on a daily basis, including an intraday withdrawal of excess cash collateral, and (iii) to address the movement of collateral based on CMS messages. The modifications primarily affect Rule 53 (Collateral Management Service) of NSCC's Rules and Procedures.

NSCC intends to implement the modifications to CMS upon approval of the proposed rule change. Participating clearing entities will be able to make available the CMS modifications relating to clearing fund and margin requirements and deposits on a phased-in basis at a time determined by each clearing entity. NSCC believes that phased-in implementation will afford participating clearing entities sufficient time to address operational and regulatory considerations in connection with their and their participants' participation in the CMS modifications.

#### CMS Message Processing

The proposed rule change will modify NSCC Rule 53 to enable NSCC, participating clearing entities, and participating participants to send and receive interactive messages ("CMS messages") regarding their respective CMS information. CMS messages will include the following: (i) a request by NSCC or a participating clearing entity to a participant for additional collateral, (ii) a request by a participant to NSCC or to a participating clearing entity to return excess collateral, (iii) a request by a participant to NSCC or to a participating clearing entity to use excess cash collateral to satisfy a settlement deficit at the entity where there is such excess cash collateral, (iv) a request by a participant to NSCC or to a participating clearing entity to substitute collateral, and (v) a request by a participant to use excess cash collateral at a participating clearing entity or NSCC to satisfy a clearing fund or margin deficit at another participating clearing entity or NSCC.

NSCC, participating clearing entities, and participating participants will be able to send and receive CMS messages on an automated basis by using CMS message screens. Generally, the CMS message screens will contain fields to identify the requesting entity, the entity or entities receiving the CMS message, the type of request, the request amount, the type of collateral, and the date of the request. CMS will transmit the request to the entity or entities identified in the request. All requests by a participant to NSCC or to participating clearing entities will require approval of the clearing entity.

The proposed rule change will add Procedure XVI to NSCC's rules and procedures to set forth procedures for processing each of the five basic types of CMS messages. First, Procedure XVI will provide that NSCC and participating clearing entities may submit a request for additional collateral to a participant through CMS.<sup>6</sup> The request will be transmitted to the participant identified in the request. Second, Procedure XVI provides that a participant may submit a request for the return of excess collateral to NSCC or to a participating clearing entity through CMS.<sup>7</sup> The requesting participant will receive a message from the clearing entity indicating the approval or rejection of the request and in the case of a rejection the reason(s) for the rejection.

Third, Procedure XVI will provide that a participant may submit a request to NSCC or to a participating clearing entity to use excess cash collateral to satisfy a settlement deficit at the clearing entity where there is such excess cash collateral.<sup>8</sup> The request will be transmitted to the clearing entity identified in the request for approval or rejection. The requesting participant will receive a message indicating the approval or rejection of the request and in the case of a rejection the reason(s) for the rejection.

Fourth, Procedure XVI will provide that a participant may submit a request

<sup>6</sup>The request must include the identity of the requesting clearing entity, the identity of the participant, the total amount of the request, the type of collateral (*i.e.*, cash, securities, and/or letters of credit), the date of the request, and such other information as may be required or permitted.

<sup>7</sup>The request must include the identity of the requesting participant, the identity of the appropriate clearing entity, the total amount of the request, the type of collateral (*i.e.*, cash, securities, and/or letters of credit), the date of the request, and such other information as may be required or permitted.

<sup>8</sup>The request must include the identity of the requesting participant, the identity of the appropriate clearing entity, the total amount of the request, the date of the request, and such other information as may be required or permitted.

to NSCC or to a participating clearing entity to substitute collateral.<sup>9</sup> The request will be transmitted to the clearing entity identified in the request for approval or rejection. The requesting participant will receive a message indicating the approval or rejection of the request and, in the case of a rejection, the reason(s) for the rejection.

Fifth, Procedure XVI will provide that a participant may submit a request to use excess cash collateral at one participating clearing entity or NSCC to satisfy a clearing fund or margin deficit at another participating clearing entity or NSCC.<sup>10</sup> The request will be transmitted to both clearing entities identified in the request for approval or rejection. The requesting participant will receive a message from each clearing entity indicating the approval or rejection of the request and in the case of a rejection the reason(s) for the rejection.

Procedure XVI also will provide that requests must be submitted by such times on each processing day as may be established by NSCC and participating clearing entities from time to time. A request by a participant to NSCC or to a participating clearing entity that is not fully approved on the day that it is submitted will not be carried forward to the next processing day. However, CMS provides for "today for tomorrow" requests that will pend and be incorporated into the next day's processing if so designated.

#### Withdrawal of Excess Collateral on a Daily Basis

The proposed rule change also will modify Rule 53 to allow participating participants to request a withdrawal of excess collateral on a daily basis, including an intraday withdrawal of excess cash collateral. This modification is an exception to NSCC's general rule that permits a participant to request the return of excess collateral no more frequently than monthly and is also an exception to the general rule that permits certain participants on surveillance status to request the return

<sup>9</sup>The request must include the identity of the requesting participant, the identity of the appropriate clearing entity, the total amount and type of the collateral (*i.e.*, cash, securities, and/or letters of credit) to be returned to the participant, the total amount and type of collateral (*i.e.*, cash, securities, and/or letters of credit) to be substituted by the participant, the date of the request, and such other information as may be required or permitted.

<sup>10</sup>The request must include the identity of the requesting participant, the identity of the clearing entity from which the excess cash collateral is to be sent, the identity of the clearing entity to which the excess cash collateral is to be sent, the total amount of the request, the date of the request, and such other information as may be required or permitted.

of excess collateral no more frequently than quarterly. As a result, the proposed rule change makes conforming changes to NSCC's rules and procedures to provide for this exception.

#### Movement of Collateral Based on CMS Messages

The proposed rule change will modify Rule 53 to address the movement of collateral based on CMS messages. The actual movement of collateral based on a CMS message will be made between the appropriate clearing entity and the participant pursuant to the rules and procedures of the appropriate clearing entity. However, under the proposed rule change the movement of collateral based on a participant's request to use excess cash collateral at one clearing entity to satisfy a clearing fund or margin deficit at another clearing entity will be made directly between the clearing entities daily on a bilateral net basis or as otherwise may be determined by the clearing entities.

Currently, an agreement authorizing use of data for CMS ("CMS Agreement") addresses NSCC's authorization from participating clearing entities to collect and provide clearing fund and margin requirement and deposit information. Under an amendment to the CMS Agreement,<sup>11</sup> NSCC and participating clearing entities will agree to make payments in accordance with their respective rules and procedures based on approved participant requests to use excess cash collateral at one clearing entity to satisfy a clearing fund or margin deficit at another clearing entity daily on a bilateral net basis or as otherwise may be determined by the clearing entities.<sup>12</sup> From the perspective of a participant, excess cash collateral will be treated as moved at the time both clearing entities approve the participant's request or at such other

<sup>11</sup> The text of the amendment to the CMS Agreement is attached to NSCC's filing as Exhibit B, which is available for inspection and copying at the Commission's Public Reference Room and through NSCC.

<sup>12</sup> As an example of bilateral netting, assume participant A requests to move \$10 million excess cash collateral from NSCC to GSCC, participant B requests to move \$5 million excess cash collateral from GSCC to NSCC, participant C requests to move \$5 million excess cash collateral from DTC to OCC, and participant D requests to move \$1 million excess cash collateral from OCC to DTC. In this example, NSCC would move the net amount of \$5 million to GSCC, and DTC would move the net amount of \$4 million to OCC.

time as the clearing entities may mutually agree.

The proposed rule change will provide that the movement of excess cash collateral from NSCC to an NSCC participant based on a CMS message will be included in NSCC's money settlement process unless the participant requests an intraday wire transfer of funds. The proposed rule change also will make a technical modification to Section 6 of Rule 53 to add references to CMS messages.

NSCC believes that the modifications to CMS will create additional efficiency in the processing of collateral. CMS will enable communications regarding collateral to be processed on an automated basis thereby streamlining the current manually intensive telephonic and facsimile process. CMS will also facilitate the movement of collateral by enabling participants to move excess cash collateral from one clearing entity to satisfy a clearing fund or margin deficit at another clearing entity directly through the clearing entities. The CMS modifications will include additional information regarding participants' collateral in CMS thereby helping participating clearing entities to better monitor their participants' collateral positions.

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(f) of the Act<sup>13</sup> because it is designed to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible, foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, and in general to protect investors and the public interest.

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

NSCC does not believe that the proposed rule change will have an impact 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 have been solicited or received. NSCC will notify

<sup>13</sup> 15 U.S.C. 78-1(b)(3)(F).

the Commission of any written comments received by NSCC.

### 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 NSCC 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. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, an 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-98-10 and should be submitted by November 6, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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<sup>14</sup> 17 CFR 200.30-3(a)(12).