change, DTC's call lottery process allocated partially called securities [4] among participants having positions in the called securities based on the participants' positions on the call publication date.[5] Under the amendment, for BEO issues of securities DTC will run lotteries using its participants' positions as of the close of business on the day DTC announces the lottery instead of the call publication date.[6] The proposed rule change does not set forth any other amendments to DTC's call lottery procedures.

DTC has stated its belief that changing procedures solely for BEO securities will contribute to a reduction in short positions without causing any adverse impact to the parties concerned. The concept of a publication date appears to be far less relevant to BEO securities than to other securities. Generally issuers of these securities do not publish partial call notices but rather inform only the holder of record (which is DTC for BEO issues) which then notifies its participants. Although the issuer may inform DTC of a publication date, DTC believes this is done only for purposes of DTC's lottery, and the date has no other real significance. DTC generally processes calls of BEO issues within twenty-four hours of the call being announced by DTC.

II. Discussion

Section 17A(b)(3)(F) [7] of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that DTC's proposed rule change is consistent with DTC's obligations under the Act because the new procedures should help reduce the number of short positions created by call lotteries. In particular, the rule change will eliminate short positions that occur when a participant sells its shares between the call publication date and the date DTC announces the lottery. As a result, DTC participants will avoid the expenses associated with experiencing short positions, including DTC's daily charge of 130% of the market value of each security for which the participant has a short position at DTC.

III. 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–DTC–97–14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

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[4] The terms of certain issues allows the issuer to call for part or all of the outstanding securities for redemption at certain times during the issue's life. This type of issue is referred to as a callable security. Callable securities are either preferred stock or bonds which the issuer is permitted or required to redeem before the stated maturity. Generally when an issuer calls a security, the issuer's trustee publishes notice that the issue has been called or in the case of registered securities, mails notice to the registered holders.

[5] The call publication date is the date on which the issuer gives notice of the redemption.

[6] A copy of DTC's proposed call lottery procedures is attached as Exhibit A to DTC's proposed rule change, which is available for inspection and copying at the Commission's Public Reference room or through DTC.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39664; File No. SR–NASD–98–07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Extension of Time to Answer Arbitration Complaints

February 13, 1998.

Pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 2, 1998,[2] the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Association has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (e)(6) of Rule 19b–4 under the Act [3] which renders the proposal effective upon receipt of this filing by the Commission.[4] 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

NASD Regulation is proposing to amend Rule 10314 of the NASD's Code of Arbitration Procedure (''Code'') to recognize and conform to current practice and to reduce the administrative burden on NASD Regulation staff. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

10314. Initiation of Proceedings

Except as otherwise provided herein, an arbitration proceeding under this Code shall be instituted as follows:

(a) Unchanged.

(b) Answer-Defenses, Counterclaims, and/or Cross-Claims

(1) Within twenty (20) business *45 calendar* days from receipt of the Statement of Claim, Respondent(s) shall serve each party with an executed Submission Agreement and a copy of the Respondent's Answer. Respondent's executed Submission Agreement and Answer shall also be filed with the Director of Arbitration with sufficient additional copies for the arbitrator(s) along with any deposit required under the schedule of fees. The Answer shall specify all available defenses and relevant facts thereto that will be relied upon at the hearing and may set forth any related Counterclaim the Respondent(s) may have against the Claimant, any Cross-Claim the Respondents(s) may have against any other named Respondents(s) and any Third-Party Claim against any other party or person based upon any existing dispute, claim, or controversy subject to arbitration under this Code.

(2)(A)—(B) Unchanged.

(c) A Respondent, Responding Claimant, Cross-Claimant, Cross-Respondent, or Third-Party Respondent who fails to file an [a] *A*nswer within [twenty (20) business] *45 calendar* days from receipt of service of a Claim, unless the time to answer has been

[1] 15 U.S.C. 78s(b)(3)(A).

[2] The NASD filed a technical amendment on February 11, 1998 to change the operative date of the proposed rule filing from March 1, 1998 to March 16, 1998. *See* letter from Jean I. Feeney, Assistant General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Market Regulation, Commission, dated February 6, 1998.

[3] 17 CFR 240.19b–4(e)(6).

[4] The Association has represented that this proposed rule change: (1) Will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition, and (iii) will not become operative for 30 days after the date of this filing, unless otherwise accelerated by the Commission. The Association also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b–4(e)(6) under the Act. *Id.*

extended pursuant to subparagraph (5) below, may, in the discretion of the arbitrators, be barred from presenting any matter, arguments, or defenses at the hearing.

(3)—(4) Unchanged.

(5) The time period to file any pleading, whether such be denominated as a Claim, Answer, Counterclaim, Cross-Claim, Reply, or Third-Party Pleading, may be extended for such further period as may be granted by the Director of Arbitration *or with the consent of the initial claimant. Extensions of the time period to file an Answer are disfavored and will not be granted by the Director except in extraordinary circumstances.*

(c)—(d) Unchanged.

* * * * *

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 Association 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 test of these statements may be examined at the places specified in Item IV below. The Association 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 of Rule Change

NASD Regulation is proposing to amend Rule 10314 of the Code to recognize and conform to current practice and to reduce the administrative burden on NASD Regulation staff. Currently, Rule 10314 requires respondents to answer an arbitration claim within twenty business days of receiving it. NASD Regulation's Office of Dispute Resolution (''Office'') routinely grants requests for extension of the time to answer for two weeks. Requests for extension generally arise because respondents need additional time to develop a complete answer to the claim. Complete answers are encouraged. In fact, under Rule 10314(b)(2)(A), to party who pleads only a general denial as an answer may, upon objection by a party, be barred by the arbitrators from presenting any facts of defenses at the hearing. In addition, under Rule 10314(b)(2)(B), a party who fails to specify all available defenses and relevant facts in the answer may, upon objection by a party, be barred by arbitrators from presenting such facts or defenses at the hearing.

The practice of granting extensions of time to answer, burdens the staff with processing requests and responses, and it undermines the certainty of the deadlines specified in the Rule. The NASD believes the Code should reflect the current reality that most claims are not answered within the 20 business day period that currently is specified.

Accordingly, the NASD has determined that Rule 10314 of the Code should be amended to extend the time to answer a claim to 45 calendar days and to eliminate routine extensions.[5] Under the proposed amendment, extensions are disfavored and will be granted only in extraordinary circumstances or with the consent of the initial claimant. The term ''extraordinary circumstances'' is not defined; however, the NASD intends that the circumstances that would qualify for an extension would be limited to unusual and unforeseeable personal or professional conflicts that would make filing on time extremely difficult or burdensome. Extending the time period to 45 calendar days provides approximately the same amount of time to answer as is currently the case, since 20 business days equal 28 calendar days, and a two-week routine extension (14 calendar days) would bring the total to 42 calendar days.

The Securities Industry Conference on Arbitration (''SICA'')[6] considered the proposed rule change at its October 16, 1997 meeting, but declined to adopt it as part of the Uniform Code of Arbitration. The other self-regulatory organization (''SRO'') members of SICA noted that, because of the small number of claims they process, they do not experience significant burdens related to administering extensions of time to answer. SICA members also believe that the proposed change would not reduce the number of extension requests and that it may result in additional delays. Notwithstanding their reluctance to adopt the proposed change, the members of SICA understood NASD Regulation's position that the proposed amendment will eliminate the administrative costs associated with granting extension in the time to answer claims. Accordingly, SICA recommended that NASD Regulation adopt the change on a pilot basis. The NASD has determined to adopt the rule without a sunset provision, but the NASD will monitor the impact of the proposed rule change.

2. Statutory Basis of Rule Change

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general , to protect investors and the public interest. The NASD believes that the proposed rule change protects the public interest by making the time period within which to answer uniform for all parties, whether or not they are knowledgeable enough to seek an extension of time, and by eliminating further extensions of time, absent extraordinary circumstances, in order to make the arbitration process move more expeditiously.

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

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

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 proposed rule change has been filed by the Association as a ''non-controversial'' rule change under Rule 19b–4(e)(6) under the Act.[8] Consequently, because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become

[5] The proposed rule change will not apply to simplified arbitration claims filed under Rule 10302 of the Code. Answers to claims involving less than $10,000 will continue to be due within 20 days of receipt of the Statement of Claim.

[6] SICA is a group composed of representatives of the self-regulatory organizations that provide dispute resolution forums, public investors, and the securities industry. Staff of the SEC attend as non-voting invitees. SICA was established with the encouragement of the SEC to develop uniform rules for securities arbitration (the ''Uniform Code of Arbitration'') and to provide a forum for the various dispute resolution forums and users of those forums to communicate about issues relating to securities industry dispute resolution SICA member forums are encouraged to adopt the provisions of the SICA Uniform Code of Arbitration, but are not required to do so.

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] 17 CFR 240.19b–4(e)(6).

operative until March 16, 1998, more than 30 days from February 2, 1998, the date on which it was filed, and the NASD provided the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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, 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 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 the file number in the caption above (SR–NASD–98–07) and should be submitted by March 13, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–4342 Filed 2–19–98; 8:45 am]

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[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39656; File No. SR–NSCC–97–18]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying the Interpretation of the Release of Clearing Data

February 12, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 23, 1997, 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. 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 modifies NSCC's interpretation concerning the release of clearing data to regulatory and self-regulatory organizations to permit NSCC to pass through customer municipal securities transaction data required by the Municipal Securities Rulemaking Board (''MSRB'').

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

The MSRB's rules require brokers, dealers, and municipal securities dealers (collectively, ''dealers'') to report interdealer municipal securities transaction data to the MSRB. In connection with this requirement, NSCC currently provides the MSRB with interdealer municipal securities transaction data based on trades submitted to NSCC by dealers for automated comparison. The MSRB uses the data to maintain a surveillance database and to make public reports on price and volume of frequently traded issues.

The MSRB has amended its rules to require dealers also to report customer (*i.e.*, institutional and retail) municipal securities transaction data to the MSRB for transactions effected after January 1, 1998. In connection with this requirement, the MSRB has asked NSCC to act as a conduit to enable dealers that are NSCC participants to use existing telecommunications links between NSCC and the MSRB to pass through the required customer municipal securities transaction data.

NSCC's interpretation concerning the release of clearing data to regulatory and self-regulatory organizations is set forth in Addendum H to NSCC's rules and procedures. Addendum H limits the release of municipal securities clearing data to regulatory and self-regulatory organizations that have demonstrated the necessity for obtaining the data in furtherance of their regulatory purpose.

The proposed rule change modifies Addendum H to permit NSCC to facilitate the provision of interdealer and customer municipal securities transaction data to the MSRB.[3] NSCC believes that the provision of this data is consistent with NSCC's interpretation as it serves the MSRB's regulatory purposes, namely to provide transparency in the municipal securities market and to assist compliance by participants with the MSRB's rules.

NSCC believes the proposed rule change is consistent with Section 17A(b)(3)(F)[4] of the Act because provision of interdealer and customer municipal securities transaction data to the MSRB will help foster cooperation and coordination with persons engaged in the clearance and settlement of security transactions and in general will help 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 impact or impose a burden on competition.

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] NSCC does not intend to edit, to validate, or otherwise to alter the information to be received from dealers and transmitted to the MSRB.

[4] 15 U.S.C. 78q–1(b)(3)(F).