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. 34–41477; File No. SR–NSCC–99–04]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding NSCC's Annuities Processing Service

June 4, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 30, 1999, 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 amends NSCC's Annuities Processing Service (''APS'') to change the name of the service to ''Insurance Processing Service.'' In addition, the rule change makes corresponding name and clarification changes to reflect that NSCC's members may use the service to submit data, information, and settle payments for life insurance products as well as for annuity products.

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. 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 September 19, 1997, the Commission approved NSCC's rule filing to establish APS,[3] which provides a centralized communication link connecting participating insurance carriers with their multiple distribution channels, including broker-dealers, banks, and the broker-dealers' or banks' affiliated insurance agencies (''distributors'') where appropriate. Phase one of the APS system provided NSCC participants with the ability to send and receive daily information regarding annuity contract positions, the value of the contract's underlying assets, and the settlement of commission monies.

The Commission approved phase two of APS on December 16, 1998,[4] which provides distributors with the ability to transmit to insurance carriers information regarding annuity applications and subsequent premium payments and to settle initial and subsequent premiums. In addition, phase two enables insurance carriers to transmit to distributors information about transactions and events that have occurred with respect to existing annuity contracts.

On October 8, 1998,[5] the Commission approved a rule change to permit NSCC to transmit data and information and to settle payments regarding life insurance products as well as annuity products. At that time, no changes were made to the rules which referred only to annuities processing. Thus, the purpose of the proposed rule change is to change the name of the APS service and make corresponding name and clarification changes to the related provisions of NSCC's rules and procedures to reflect the nature of the insurance processing services available to NSCC's members.[6]

NSCC believes that the proposed rule change is consistent with Section 17A of the Act[7] and the rules and regulations thereunder because it clarifies NSCC's rules and procedures to more accurately reflect the nature of its annuity and insurance processing system, which facilitates the prompt and accurate clearance and settlement of securities transactions by providing centralized communication between insurance carriers and broker-dealers, banks, and their affiliated insurance agencies.

(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.

(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 the Commission of any written comments received by NSCC.

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)(i) of the Act[8] and pursuant to Rule 19b–4(f)(1)[9] promulgated thereunder because the proposal constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of such 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 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

[7] 17 CFR 200.30–3(a)(12).

[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. 39096 (September 19, 1997), 62 FR 50416, for a detailed description of APS.

[4] Securities Exchange Act Release No. 40799 (December 16, 1998), 63 FR 71175.

[5] Securities Exchange Act Release No. 40634 (November 4, 1998), 63 FR 63096.

[6] Under the rule change, NSCC is also deleting the provisions of Section I.B of Addendum Q which were originally included by mistake.

[7] 15 U.S.C. 78q–1

[8] 15 U.S.C. 78s(b)(3)(A)(i).

[9] 17 CFR 240.19b–4(f)(1).

provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 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–99–04 and should be submitted by July 2, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland

Deputy Secretary.

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41479; File No. SR–NYSE–98–32]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 Thereto Relating to Shareholder Approval of Stock Option Plans

June 4, 1999.

I. Introduction

On October 13, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's shareholder approval policy (''Policy'') with respect to stock option and similar plans. The proposed rule change was published for comment in the **Federal Register** on November 19, 1998.[3] The Exchange submitted an amendment to the filing on November 17, 1998.[4] On December 26, 1998, the Commission extended the comment period until January 25, 1999.[5] The Commission received 19 comments on the proposal in response to both the regular and extended comment periods.[6] On March 12, 1999, the Exchange submitted Amendment No. 2.[7] This order approved the proposal, as amended, on a pilot basis until September 30, 2000.

II. Background

The Exchange proposes to amend paragraphs 312.01, 312.03, and 312.04 of the Listed Company Manual (''Manual''). The proposal amends the Exchange's Policy with respect to stock option and similar plans (''Plans'').

The Policy requires, as a prerequisite to listing, shareholder approval of Plans or any other arrangement pursuant to which either officers or directors acquire stock. There are, however, four exemptions from this requirement, one of which is an exemption for Plans that are ''broadly-based.'' Historically, the Exchange had not provided a definition of what constituted a ''broadly-based'' Plan other than to state that such a Plan must include employees other than officers and directors. The only example in the Policy of such a Plan was an employee stock option plan, or ''ESOP.''

In December 1997, the Exchange filed a proposed rule change amending the Policy. The proposal was amended on January 28, 1998 and was then published for public comment by the Commission (''Original Proposal'').[8] The Original Proposal codified, among other things, existing Exchange interpretations regarding ''broadly-based'' Plans. Specifically, the Original Proposal stated that the determination of whether a Plan was ''broadly-based'' required the review of a number of factors, including the number of persons included in the Plan, and the nature of the company's employees, such as whether there were separate compensation arrangements for salaried and hourly employees. The proposal also codified a non-exclusive safe harbor for Plans in which at least 20 percent of a company's employees were eligible, provided that the majority of those eligible were neither officers nor directors.[9] The Commission did not receive any comments on the proposal, and subsequently approved it, as amended, on April 8, 1998.[10]

Following the Commission's approval of the Original Proposal, the Exchange and the Commission received a significant number of inquiries and comments regarding the Original Proposal. Many of these inquiries and comments originated from the institutional investor community and focused on the definition of ''broadly-based.'' Commenters expressed general concern that, without shareholder approval, companies could dilute the value of existing shares by creating new Plans.

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

[2] 17 CFR 240.19b–4.

[3] /Securities Exchange Act Release No. 40679 (November 13, 1998), 63 FR 64304.

[4] Letter from James E. Buck, Senior Vice President and Secretary, NYSE to Richard C. Strasser, Assistant Director, Division of Market Regulation, SEC, dated November 25, 1998 (''Amendment No. 1''). In Amendment No. 1, the Exchange clarified the reason why its proposed ''broadly-based'' definition is limited to ''exempt employees'' under the Fair Labor Standards Act of 1938 in the eligibility part of the definition but not in the participation part.

[5] In response to the solicitation of comments, the Commission received a request to extend the comment period. Letter from Sarah Teslik, Council of Institutional Investors, to Jonathan G. Katz, Secretary, SEC, dated November 20, 1998 (''CII Comment Period Extension Request''). As originally noticed, the comment period expired on December 10, 1998.

[6] Letters from Aldo Del Nou to Commissioner (sic) Arthur Levitt, SEC, dated October 17, 1998; CII Comment Period Extension Request; Kurt N. Schacht, Chief Legal Officer, State of Wisconsin Investment Board to Jonathan G. Katz, Secretary, SEC, dated November 30, 1998; Nell Minow, Lens Investment Management, LLC, to Jonathan G. Katz, Secretary, SEC, dated December 1, 1998; Sarah Teslik, Council of Institutional Investors, to Jonathan G. Katz, Secretary, SEC, dated November 30, 1998 (''CII–I''); Howard D. Sherman, President, Institutional Shareholder Services, to Jonathan G. Katz, Secretary, SEC, dated December 2, 1998; James E. Heard, Chairman and Chief Executive Officer, Proxy Monitor, to Jonathan G. Katz, Secretary, SEC, dated December 4, 1998; Richard Ferlauto, Managing Director, Proxy Voter Services, to Jonathan G. Katz, Secretary, SEC, dated December 8, 1998; Linda S. Selbach, Barclays Gloval Investors, to Jonathan G. Katz, Secretary, SEC, dated December 7, 1998; Lewis A. Sanders, Sanford C. Bernstein & Co., Inc. to Jonathan G. Katz, Secretary, SEC, dated December 9, 1998; Kay R.H. Evans, Executive Director, Maine State Retirement System, to Jonathan G. Katz, Secretary, SEC, dated December 10, 1998; Jack M. Marco, The Marco Consulting Group, to Jonathan G. Katz, Secretary, SEC, dated December 9, 1998; George M. Philip, Executive Director, New York State Teachers' Retirement System, to Jonathan G. Katz, Secretary, SEC, dated December 9, 1998; Kayla J. Gillan, General Counsel, California Public Employees' Retirement System, to Jonathan G. Katz, Secretary, SEC, dated December 9, 1998 (''Cal PERS''); John J. Sweeney, President, American Federation of Labor and Congress of Industrial Organizations, to Jonathan G. Katz, Secretary, SEC, dated December 10, 1998 (''AFL–CIO''); Bart Naylor, Director, Corporate Affairs, International Brotherhood of Teamsters, to Jonathan G. Katz, Secretary, SEC, dated December 10, 1998; Amy B.R. Lancellotta, Senior Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC, dated December 10, 1998; Michelle Edkins, Corporate Governance Executive, Hermes Investment Management Limited, to Jonathan G. Katz, Secretary, SEC, dated January 18, 1999; Sarah Teslik, Council of Institutional Investors, to Jonathan G. Katz, Secretary, SEC, dated April 14, 1999 (''CII–II'').

[7] Letter from James E. Buck, Senior Vice President and Secretary, NYSE to Jonathan G. Katz, Secretary, SEC, dated March 11, 1999 (''Amendment No. 2''). In Amendment No. 2, the Exchange submitted a sunset provision pursuant to which the proposed rule change will expire on September 30, 2000. Amendment No. 2 also contained the Exchange's response to the comment letters.

[8] Securities Exchange Act Release No. 39659 (February 12, 1998), 63 FR 9036 (February 23, 1998).

[9] According to the NYSE, the 20% test was based upon the ''rule of thumb'' the Exchange had historically used in determining whether a Plan was ''broadly-based.'' *See Request for Comment on NYSE Shareholder Approval Requirement for Broadly-Based Stock Option Plans* at 2 (''Request for Comment'').

[10] Securities Exchange Act Release No. 39839, 63 FR 18481 (April 15, 1998).