

The subject matter of the closed meeting scheduled for Wednesday, October 7, 1998, at 10:00 a.m., will be: Institution of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: October 1, 1998.

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-40487; File No. SR-NSCC-98-06)

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Modifying the Automated Customer Account Transfer Service

September 28, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 5, 1998, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on June 17, 1998, amended 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 will modify NSCC's rules and procedures regarding the automated customer account transfer service ("ACATS") to expand the types of eligible ACATS participants and the kinds of accounts that may be transferred.

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 include 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

ACATS enables members of NSCC to effect automated transfers of customer accounts among NSCC members.³ The proposed rule change will expand the types of eligible ACATS participants and the kinds of accounts that may be transferred. Additionally, it will permit NSCC to transmit data to clearing agencies in order to expand the automated settlement capabilities of ACATS.⁴

Users

Currently, only NSCC members, primarily broker-dealers, may participate in ACATS. The proposed rule change will permit a qualified securities depository ("QSD") to also effect customer account transfers on behalf of its participants in ACATS.⁵ Thus the proposed rule change will permit ACATS transfers between two participants of a QSD and between a QSD participant and a NSCC member.

Transfers

The proposed rule change will set forth three categories of ACATS transfers: (1) Receiving member⁶ initiated full account transfers; (2) delivering member⁷ initiated partial account transfers; and (3) receiving member initiated partial account

² The Commission has modified parts of these statements.

³ ACATS complements New York Stock Exchange ("NYSE") and National Association of Securities Dealers ("NASD") rules that require NYSE and NASD members to use automated clearing agency customers account transfer services and to effect customer account transfers within specified time frames.

⁴ NSCC stated that another reason for the redesign is to make the ACTS system Year 2000 compliant.

⁵ QSD is a defined term in NSCC's rules (see Rule 1). A QSD is a registered clearing agency, pursuant to Section 3(a)(23) of the Act, that has entered into an agreement with NSCC pursuant to which it will act as a securities depository for NSCC and will effect book-entry transfers of securities for NSCC with respect to NSCC's continuous net settlement system. The Depository Trust Company is the only registered clearing agency that has entered into such an agreement with NSCC.

⁶ The proposed rule change will define the receiving member as a NSCC member or QSD to whom a customer's full account is to be transferred.

⁷ The proposed rule change will define the delivering member as the NSCC member or QSD which currently has the account.

transfers. Categories one and two, while currently available, will be modified. Category three will be a new addition to ACATS.

Receiving member initiated full account transfers. Under the proposed rule filing, a receiving member will be required to submit transfer information to NSCC in automated format. The "transfer initiation request" paper form will no longer be accepted by NSCC.⁸

Upon submission of customer account asset data, the delivering member will be required to specify the quantity of mutual fund services eligible book share mutual fund assets ("mutual fund assets") to be processed, if any, and to indicate whether the transfer will be a full or a partial transfer. A full transfer will cause all mutual fund assets, whether greater or lesser than the quantity specified, to be transferred. A partial transfer will cause only the quantity specified or, if the account has less than such amount, such lesser amount to be transferred. Since the actual quantity registered on the records of the mutual fund may be adjusted between the time of the transfer request submission and settlement of the ACATS transfer (due for example to reinvested dividends or capital gains), this modification will provide ACATS participants with a means to transfer the quantity of assets available on settlement date. In addition, the rule filing states that if the transfer is not confirmed or rejected by the mutual fund processor or fund member within the time frame established by NSCC, it will be deleted from the Fund/Serv system⁹ by NSCC. As a result, such transfer requests will no longer pend in NSCC's systems for an indefinite period of time.

Currently, once a delivering member rejects a receiving member's transfer request, the receiving member is required to reinitiate the ACATS process. The rule filing will provide that in response to certain enumerated categories of delivering member rejections, the receiving member may make corrections to its customer account transfer request. This will allow a receiving member to adjust within one business day after notification of a delivering member's rejections its customer account transfer request by

⁸ A receiving member will be able to continue to utilize the facilities of NSCC to submit physical documentation that a delivering member may need in order to act upon the receiving member's request.

⁹ For a complete description of NSCC's Fund/SERV system refer to Securities Exchange Act Release No. 31937 (March 1, 1993), 58 FR 12609 [File No. SR-NSCC-92-14] (order approving proposed rule change regarding Fund/SERV system).

¹ 15 U.S.C. 78s(b)(1).

submitting corrections to NSCC. A delivering member must then either reject the adjusted transfer request by submitting a new rejection to NSCC or submit to NSCC detailed customer account asset data. If the delivering member fails to respond to the adjusted transfer request within the time frame established by NSCC, NSCC will delete the request from ACATS and will notify the receiving and delivering members.

To the extent that a receiving member determines that any information as reported on the transfer initiation request is inaccurate, the rule filing will provide that the receiving member may cause an adjustment to be made by submitting corrected data to NSCC. Similarly, if a delivering member determines that the account number of its customer as reported on the transfer initiation request is inaccurate, it may cause that adjustment to be made by submitting corrected data to NSCC.

The proposed rule change will permit a receiving member to accelerate the transfer of a customer account by accepting the report detailing the customer account asset data on the business day it receives the report from NSCC. However, under these new circumstances, if a delivering member submits a timely adjustment to an account for which an accelerated acceptance has been received by NSCC, it will cause such accelerated acceptance to be void.

To the extent an ACATS transfer is between two NSCC members, the proposed rule change will differentiate between the processing of continuous net settlement ("CNS") eligible and non-CNS eligible items that are otherwise eligible at The Depository Trust company ("DTC"). The rule filing will not change the processing of CNS eligible items. The proposed rule change provides that NSCC will produce ACATS instruction files for all non-CNS eligible items that are otherwise eligible at DTC. The instruction files will be similar to DTC deliver orders (*i.e.*, naming the receiving and delivering participants, the quality of the securities to be delivered, and the value for such delivery). Any such deliveries will be subject to the rules of DTC. If a delivering member does not want instruction files to be submitted to DTC, it may request, at the time the account asset details are submitted or pursuant to a standing instruction filed with NSCC, that separate receive and deliver instructions be produced. In such instances, it will be up to the delivering member to initiate the delivery of the asset.

Under the proposed rule change, foreign currency assets may be

transferred from a delivering member to a receiving member. ACATS will produce receive and deliver instructions but will not specify a value for such assets.

To the extent that either a receiving member or a delivering member (or both) is a participant of a QSD, such transfer will be processed in the same manner as the transfers described in the current rule, except as specified below:

1. For all DTC eligible assets, other than United States dollar cash balances ("cash"), assets covered by a standing instruction filed by a delivering member with NSCC, and assets for which a receive/deliver instruction request was received from a delivering member at the time asset details were submitted, NSCC will issue an instruction file to DTC specifying the quantity of each asset to be delivered with a deliver value of zero.

2. For all non-DTC eligible assets (other than assets available at other registered clearing agencies and cash), assets covered by standing instructions filed by a delivering member with NSCC and assets for which a receive/deliver instruction request was received from a delivering member at the time asset details were submitted, NSCC will produce receive and deliver instructions naming the receiving member and the delivering member. All such receive and deliver instructions will specify no value. Unlike a transfer between NSCC members, NSCC will not debit and credit the value of assets being transferred between participants of a QSD or between a participant of a QSD and a member of NSCC.¹⁰

3. If the account has a cash balance, NSCC will issue an instruction to DTC indicating the participants to be debited and credited and the corresponding amount.

Delivering member initiated partial account transfers. The proposed rule change will permit a delivering member to initiate additional types of partial account transfers. In addition to the transfer of residual credit positions, delivering members will be able to: Deliver a partial account (in the form of cash or securities); initiate the delivery of a position which was purchased by the delivering member for the benefit of a customer's account and which the customer wants to be custodied at the

receiving member; obtain the return of cash previously paid with respect to fail positions for which delivery is unable to be completed;¹¹ and obtain the return of cash or securities mistakenly delivered through ACATS other than mutual fund assets and positions eligible for processing at The Options Clearing Corporation ("OCC"), the Government Securities Clearing Corporation ("GSCC") or the Participants Trust Company ("PTC").¹²

NSCC proposes that a delivering member may initiate a transfer by submitting to NSCC those transfer details that are required by NSCC. NSCC will reject the transfer if the details contain an edit or format error. NSCC will notify the delivering member if a transfer is rejected in which case the delivering member must reinitiate the transfer as if it had never been previously submitted.

NSCC also proposes that a receiving member may reject the transfer by submitting information on the same day as the transfer request is received. No action will be required by the receiving member if it determines to accept the transfer. A receiving member may not submit corrections, and a delivering member may not make adjustments to such transfer request.

Settlement date will be one business day following the day NSCC receives the transfer request unless the request includes option assets which are eligible for processing at OCC in which case the settlement date for all assets shall be two business days following the day NSCC receives the transfer request.

Receiving member initiated partial account transfers. Under the proposed rule change, a receiving member may submit a request to initiate the transfer of a partial customer account. The request will be delivered by NSCC to the delivering member on the same day that it is received by NSCC. Each day NSCC will produce a report that indicates all of the requests received by NSCC that day. A delivering member may respond to a receiving member's request for a partial account transfer at any time by the delivering member initiating a partial account transfer, by following the procedure set forth in the delivering member initiated transfer section set forth above. No action will be required by the delivering member if it determines not to respond to a request and no transfer will occur.

Agreement with DTC. NSCC intends to enter into an agreement with DTC to

¹⁰ Under the current ACATS rule, the delivering firm is debited the current market value of the assets and the member receiving firm is credited the current market value of the assets. The member delivering firm recovers its money by making delivery of the assets. Under the proposed rule change, whenever a QSD participates in the ACATS process, the assets will be delivered on a no value basis.

¹¹ This service may only be initiated to the extent that the fail is between two NSCC members.

¹² This service may only be initiated to the extent that the delivery is between two NSCC members.

permit DTC to obtain access to ACATS on behalf of its participants.¹³ NSCC's agreement with DTC will permit ACATS to be used for the transfer of accounts between two DTC participants or between a DTC participant and an NSCC member.

Linkage Agreements. NSCC currently has an agreement in place with OCC regarding the transfer of options positions within customer accounts being transferred pursuant to ACATS. The agreement provides that NSCC may send instructions to OCC for the delivery and receipt of options positions on behalf of ACATS participants that are members of NSCC as well as of OCC.

In order to broaden the types of assets which can be transferred through ACATS based on instructions from NSCC, the proposed rule change will permit NSCC to establish links with other registered clearing agencies ("RCA"), such as DTC, PTC and GSCC. Once an agreement has been reached with the applicable RCA, to the extent a transfer involves an asset position eligible for delivery at such RCA and both the receiving member and delivering member have an account there, NSCC will issue instructions to the applicable RCA indicating the delivering or receiving participant and the quantity of assets to be delivered and received. Such instructions shall not specify a value unless the transfer is between two members of NSCC and the assets to be transferred are government securities (where a nominal value shall be specified)¹⁴ or mortgage-backed securities. If the assets are mortgage-backed securities, on settlement date NSCC will debit the deliverer the value and credit the receiver the value of the assets.

Indemnification Provision

The proposed rule change will include indemnification provisions similar to those currently in use by users of ACATS. While the revised rule will include such provisions, it will not preclude participants from entering into separate indemnification arrangements which are broader than those contained in the rule.

NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) because it will facilitate the prompt and accurate clearance and settlement of securities transactions

and, in general, protect investors and the public interest.¹⁵

(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

Written comments relating to the proposed rule change have not yet 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

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 rule filing or

(B) institute proceedings to determine whether the rule filing 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 N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statement with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing 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 in Washington, D.C. 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-98-06 and should be submitted by October 26, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-26530 Filed 10-2-98; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Region I Advisory Council; Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, Connecticut will hold a public meeting at 8:30 a.m., on Monday, October 19, 1998, Hartford, District Office, 330 Main Street, 2nd Floor, Hartford, Connecticut 06106, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

FOR FURTHER INFORMATION CONTACT: Marie A. Record, District Director, U.S. Small Business Administration, 330 Main Street, 2nd Floor, Hartford, Connecticut 06106, (860) 240-4700.

Shirl Thomas,

Director, External Affairs.

[FR Doc. 98-26549 Filed 10-2-98; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

Region V District Advisory Council; Public Meeting

The U.S. Small Business Administration Region V District Advisory Council, located in the geographical area of Minneapolis/St. Paul, Minnesota, will hold a public meeting on November 6, 1998 at 11:30 a.m., at the Federal Reserve Bank, 90 Hennepin Avenue, Minneapolis, Minnesota, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

FOR FURTHER INFORMATION CONTACT: Edward A. Daum, District Director, U.S. Small Business Administration, 610-C Butler Square, 100 North Sixth Street, Minneapolis, Minnesota 55403, (612) 370-2306.

Shirl Thomas,

Director, External Affairs.

[FR Doc. 98-26551 Filed 10-2-98; 8:45 am]

BILLING CODE 8025-01-P

¹³This agreement will be similar to the current agreement between NSCC and DTC regarding DTC's access to NSCC's mutual funds services.

¹⁴On June 17, 1998, NSCC amended the proposed rule change (File No. NSCC-98-06) to include the transfer of government securities where a nominal value is specified.

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

¹⁶ 17 CFR 200.30-3(a)(12).