

believes that the proposed rule change will provide non-institutional customers, who may have margin accounts with NASD members, with a better understanding of the operation of a margin account and the risks associated with margin trading.

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

NASD Regulation 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.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 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 90 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 the self-regulatory organization 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. The Commission is specifically soliciting comments on whether the proposed disclosure is sufficient and non-misleading, or whether changes to the disclosure statement should be made. For example, the Commission is concerned that the proposed rule language would not require NASD member firms to disclose to customers that any and all assets, including securities or any other property the customer has on account at the member firm and any of its affiliates, whether carried individually or jointly with others, may, depending on the margin agreement, be used by the broker-dealer to satisfy a maintenance margin call. Should broker-dealer disclose this fact? Are other changes to the proposed disclosure merited? 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 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 File No. SR-NASD-00-55 and should be submitted by November 13, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-43447; File No. SR-NSCC-00-05]**

### **Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Related to Mutual Fund Services**

October 16, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 7, 2000, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change and on April 19, 2000, and May 8, 2000, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC.<sup>2</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

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

<sup>2</sup> A copy of NSCC's proposed rule change, the attached exhibits, and amendments are available at the Commission's Public Reference Section and the principal office of NSCC.

### **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 to permit additional types of investment products to be processed through NSCC's Mutual Fund Services.

### **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 these statements.<sup>3</sup>

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

##### **1. Purpose**

NSCC participants who utilize NSCC's Defined Contribution Clearance and Settlement Service of NSCC's Mutual Fund Services and who recognize the value of processing investment product transactions through NSCC have requested that NSCC permit additional types of investment products regulated under state insurance laws or federal or state banking laws to be eligible for processing through NSCC's Mutual Fund Services. Examples of "Investment Funds" include stable value funds, separate account group guaranteed investment contracts (which are regulated as group annuities), and collective bank investment trust. Asset classes of these types are typically included in defined contribution retirement plans and thus their inclusion in Mutual Fund Services will benefit third party administrator ("TPA") members and other participants by standardizing their processing of these Investment Funds in the same manner as mutual funds are now processed under NSCC's mutual fund services. Standardized processing will permit defined contribution plan administrators to provide Investment Fund products to defined contribution plan clients without the systems or manual processing infrastructure and related costs required by the current processing methods.

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

To accommodate their participants' request, NSCC proposes to create a new class of eligible securities, defined as Investment Funds, that may be processed through its mutual fund services. This rule filing will permit NSCC to: (1) Add such class of securities to those currently eligible for processing through mutual fund services; (2) make corresponding changes to the categories of entities eligible to process these transactions through the mutual fund services; (3) establish standards of financial responsibility and operational capability for those participants wishing to process such Investment Funds through NSCC's mutual fund services; and, (4) make technical conforming changes to the existing rules where necessary.

Investment Funds will be defined as any fund or investment entity that is subject to regulation under applicable federal and state banking and/or insurance laws. Investment Funds will include such things as bank collective investment trusts, separate account guaranteed investment contracts, and other similar pooled investment vehicles. All Investment Fund products will be subject to regulation under federal or state banking laws or state insurance laws. Only Investment Funds that have been assigned a CUSIP number would be eligible for processing through NSCC's mutual fund services.

For the purpose of processing transaction in Investment Funds, NSCC also proposes expanding the types of entities that may qualify as a Fund Member under Rule 51 of NSCC's Rules to permit insurance companies, banks, and trust companies as packagers and sponsors of such funds to apply to become a Fund Member. As with other entities seeking to become a Fund Member, an insurance company, bank, or trust company seeking to process Investment Fund transaction through NSCC's Mutual Fund Services will be required to enter into an agreement setting forth its rights and obligations as a Fund Member, including that it will limit its use of NSCC's services to use of Mutual Fund Services (or Insurance Processing Services, as the case may be), comply with NSCC's rules and procedures, and permit NSCC to inspect its books and records. Moreover, as with all other transactions in Mutual Fund Services, transactions involving Investment Funds will not be guaranteed by NSCC. As currently provided in NSCC's Rules, if one side fails to pay for a transaction, the contra side will be required to return to NSCC any funds received from NSCC.<sup>4</sup>

<sup>4</sup> Addendum D of NSCC's Rules and Procedures.

Under the proposed rule change, Rule 2 of NSCC's Rules and Procedures will be amended to permit an insurance company to become a mutual fund member or insurance services member in order to transmit Investment Fund purchases, exchanges, and redemption orders to a fund member and engage in other customer-related transactions with a fund member. In addition to the standards set forth in Addenda B and I of NSCC's Rules currently applicable to mutual fund and insurance services members and fund members respectively, entities seeking to process Investment Fund transactions through Mutual Fund Services would be required to meet the rating and capital requirements set forth in new Addendum V, Financial Standards for Applicants and Participants Processing Investment Funds Transactions Through Mutual Fund Services, of NSCC's Rules.

## 2. Statutory Basis

Since NSCC is proposing to make a new category of securities eligible for mutual fund services processing, the proposed rule change will also make technical conforming changes to certain existing rules in order to include a reference to Investment Funds as applicable.

NSCC believes the proposed rule change is consistent with Section 17A of the Act because it will make a new class of securities eligible for processing through NSCC's mutual fund services and thereby should facilitate the prompt and accurate clearance and settlement of these transactions.

### *(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*

The Commission received one comment letter which was subsequently withdrawn by the commenter.<sup>5</sup>

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal**

<sup>5</sup> Letter from Harold H. Morley, Chairman and Chief Executive Officer, Morley Financial Services, Inc., to Jonathan Katz, Secretary, Commission (May 16, 2000); and from Joan K. Hall, Senior Vice President and Director, Morley Financial Services, Inc., to Secretary of the Commission, Commission (August 18, 2000).

**Register** or within such longer period (i) as the Commission may designate up to 90 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 the self-regulatory organization 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 20549-0609. 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 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-00-05 and should be submitted by November 13, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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<sup>6</sup> 17 CFR 200.30-3(a)(12).