

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-66399; File No. SR-NSCC-2012-01)

February 15, 2012

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make a Technical Correction With Respect to the Excess Capital Premium as Set Forth in Procedure XV (Clearing Fund Formula) of NSCC's Rules and Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 1, 2012, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II below, which Items have been prepared primarily by NSCC. NSCC filed the proposal pursuant to Section 19(b)(3)(A) (i) of the Act<sup>2</sup> and Rule 19b-4(f)(1)<sup>3</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

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

The purpose of this filing is to make a technical correction with respect to the Excess Capital Premium as set forth in Procedure XV (Clearing Fund Formula) of NSCC's Rules and Procedures.

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>3</sup> 17 CFR 240.19b-4(f)(1).

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>4</sup>

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

The purpose of this filing is to make a technical correction with respect to the Excess Capital Premium as set forth in Procedure XV (Clearing Fund Formula) of NSCC's Rules and Procedures.

Members are required to make deposits to the Clearing Fund with the amount of each Member's required deposit being fixed by NSCC in accordance with Procedure XV. The Clearing Fund Formula includes an Excess Capital Premium ("Premium"), which may be added to a Member's deposit requirement when a Member's Clearing Fund requirement exceeds its regulatory excess capital. Certain components of the Clearing Fund Formula are excluded from the calculation of the Premium, including: (a) a charge applicable to "Market Makers" and (b) a "special charge" based on the price fluctuations, volatility, or lack of liquidity of any security.<sup>5</sup> These components are excluded with respect to the computation of the Premium for both CNS transactions and Balance Order transactions. At the time of the rule change to implement the

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<sup>4</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>5</sup> The Premium also excludes any amount collected pursuant to Rule 15 (Assurances of Financial Responsibility and Operational Capability).

Premium, the applicable components for (a) and (b) above as they relate to CNS transactions were listed under Subsections I.(A)(1)(c) and I.(A)(1)(d) of Procedure XV.<sup>6</sup> A subsequent rule change submitted to the Commission (relating to NSCC's ID Net service) created an additional Clearing Fund component applicable to CNS transactions that was designated as Subsection I.(A)(1)(c).<sup>7</sup> This caused the references for the components described in (a) and (b) above to be changed to I.(A)(1)(d) and I.(A)(1)(e) respectively. However, the cross-references to those Subsections were inadvertently not revised in the description of the Premium. Therefore, NSCC is making a technical modification to the description of the Premium as set forth in Procedure XV to reflect the changes which were inadvertently omitted from the latter rule change as described above.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>8</sup> and the rules and regulations thereunder applicable to NSCC because it makes a technical correction to a rule which allows NSCC to effectively manage risk. As such, it assures the safeguarding of securities and funds, which are in the custody or control of NSCC or for which it is responsible.

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

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

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<sup>6</sup> Securities Exchange Act Release No. 34-54457 (September 15, 2006), 71 FR 55239 (September 21, 2006).

<sup>7</sup> Securities Exchange Act Release No. 34-57901 (June 2, 2008), 73 FR 32373 (June 6, 2008). This change did not apply to Balance Order transactions.

<sup>8</sup> 15 U.S.C. 78q-1.

(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 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 proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act<sup>9</sup> and Rule 19b-4(f)(1)<sup>10</sup> thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of NSCC. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>10</sup> 17 CFR 240.19b-4(f)(1).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2012-01 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSCC-2012-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's website at [http://dtcc.com/downloads/legal/rule\\_filings/2012/nsc/2012-01.pdf](http://dtcc.com/downloads/legal/rule_filings/2012/nsc/2012-01.pdf).

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to

make available publicly. All submissions should refer to File Number SR-NSCC-2012-01 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Kevin O'Neill  
Deputy Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).