

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-50085; File No. SR-NSCC-2003-05)

July 26, 2004

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Permitting Elimination of All Hard Copies of Important Notices

I. Introduction

On March 14, 2003, the National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-NSCC-2003-05 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).¹ Notice of the proposal was published in the Federal Register on January 23, 2004.² One comment letter was received.³ For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

NSCC currently distributes notices to its members in a hard copy form using U.S. mail for members outside of the New York area, the Direct Drop Boxes for each member with a New York presence, and using fax when necessary. The proposed rule change modifies NSCC’s Rule 45 to allow NSCC to post notices on its website and to have these postings satisfy NSCC’s notification obligations. The rule change would require members to access that website throughout the day. The proposed rule change also modifies NSCC’s Rule 45 to allow NSCC to

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 49094 (January 16, 2004), 69 FR 3418.

³ Letter from Richard Eustice, Vice President, Dimensional Fund Advisors (April 25, 2003).

serve notices on interested persons as defined in Rule 37 by emailing the notices to an interested person's email address.

NSCC believes that the proposed rule change would facilitate the timely dissemination of information necessary for participation in NSCC and therefore is consistent with the requirements of the Act and the rules and regulations thereunder.

III. Comment

The Commission received one comment letter.⁴ The commenter, which is an NSCC member, objects to the proposed rule change because it believes that the requirement under the proposed rule change to check NSCC's website on a daily basis for notices would require it to allocate special staffing to monitor the website and would be an inefficient use of its resources.

IV. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.⁵ The timely dissemination of information to clearing corporation members is an important factor in the operation of a clearing agency. By allowing NSCC to post notices on its website instead of having to mail, put into a drop box, or fax, the proposed rule change should help to ensure that NSCC's members receive information from NSCC as quickly as possible and in a manner that is easily accessible. Furthermore, elimination of paper notices should reduce the possibility of nonreceipt of notices by members and should add efficiencies to NSCC's operations. Accordingly, the proposed rule change should help to promote the prompt and

⁴ Supra note 3.

⁵ 15 U.S.C. 78q-1(b)(3)(F).

accurate clearance and settlement of securities transactions.

In response to the comment letter, the Commission appreciates that the proposed rule change imposes a new burden on NSCC's members to periodically look for notices on NSCC's website instead of receiving them in physical form; however, the Commission believes this burden is small given the minimal amount of time it should take each NSCC member to review NSCC's website for notices. Furthermore, the Commission believes that any inconvenience or expense that may be incurred by NSCC's members as a result of the proposed rule change is outweighed by the benefit of having the notices be quickly and readily available to NSCC's members.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular 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-NSCC-2003-05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland
Deputy Secretary

⁶ 17 CFR 200.30-3(a)(12).