

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-61215; File No. SR-NSCC-2009-10)

December 22, 2009

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Regarding National Securities Clearing Corporation's Board of Directors Election Process and Delegation Authority

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 16, 2009, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant approval on an accelerated basis.

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

NSCC's parent company, The Depository Trust & Clearing Corporation ("DTCC") intends in the future to consider nominating for election to its Board of Directors candidates that are not participants of its clearing agency subsidiaries ("non-participant candidates").<sup>2</sup> Because certain of DTCC's organizational documents mandate that the directors of DTCC shall be the same as the directors of NSCC, in the future NSCC's Board of Directors may include directors who are not employees of its participants ("non-participant directors").

In addition, the rules of NSCC are being revised to allow the Board to delegate certain responsibilities.

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

<sup>2</sup> DTCC's clearing corporation subsidiary participants include The Depository Trust Company, National Securities Clearing Corporation, and Fixed Income Clearing Corporation.

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 such statements.<sup>3</sup>

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

DTCC has in the past nominated for election to its Board of Directors employees of its clearing corporation subsidiaries' participants. In the future, DTCC intends to consider nominating for election to its Board of Directors people who are not employees of its clearing corporation subsidiaries' participants ("non-participant candidates"). Because certain of DTCC's organizational documents mandate that the directors of DTCC shall be the same as the directors of NSCC, in the future NSCC's Board may include directors who are not employees of its participants ("non-participant directors"). NSCC believes that non-participant directors may bring additional skills and expertise and introduce different perspectives to its Board.

In addition, the rules of NSCC currently assign to its Board certain responsibilities such as, for example, responsibilities related to approving membership applications and other related matters. NSCC is revising its rules to allow its Board to delegate such responsibilities.<sup>4</sup>

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<sup>3</sup> The Commission has modified parts of these statements.

<sup>4</sup> The text of the proposed rule change can be found at [http://www.dtcc.com/downloads/legal/rule\\_filings/2009/nsc/2009-10.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2009/nsc/2009-10.pdf).

These changes will conform NSCC's rules and practices to the rules and practices of DTCC's other clearing corporation subsidiaries - The Depository Trust Company and Fixed Income Clearing Corporation.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to NSCC because NSCC's rules will continue to provide for a fair representation of its participants in the selection of its directors and in the administration of its affairs and will enable NSCC to act in a more expedient manner and therefore, to better promote the prompt and accurate clearing and settlement of securities transactions.

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

NSCC does not believe that the proposed rule change would have any impact on or impose any 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

Section 17A(b)(3)(C) of the Act requires that the rules of a clearing agency assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs. The Commission has previously found that NSCC's participants are fairly represented in the selection of its Board and in the administration of its

affairs.<sup>5</sup> This rule change should not have any adverse effect on NSCC's participants' representation in the selection of NSCC's Board or in the administration of NSCC's affairs. The Commission also recognizes that it may benefit NSCC to have non-participants directors on its Board because such directors may provide skills or perspectives not possessed by participant directors. Therefore, the Commission finds that NSCC's proposed rule change to have non-participant directors serve on its Board should provide benefits while continuing to provide for the fair representation of NSCC's participants in the selection of its directors and administration of its affairs.

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency are designed to promote the prompt and accurate clearing and settlement of securities transactions. The Commission finds that by providing its Board with additional authority to delegate certain of its responsibilities, such as, for example, responsibilities related to approving membership applications and other related matters, NSCC will be able to act in a more expedient manner and therefore, better able to promote the prompt and accurate clearing and settlement of securities transactions.

NSCC has requested that the Commission approve this rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because by so approving NSCC will be able to implement the rule change in time to include non-participant directors on its Board for the 2010 Board term.

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<sup>5</sup> See, e.g., Securities Exchange Act Release No. 52922 (December 7, 2005), 70 FR 74070 (December 14, 2005) (File Nos. SR-DTC-2005-16, SR FICC-2005-19, and SR-NSCC-2005-14).

#### 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
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2009-10 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-2009-10. 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 Web site (<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 inspection and copying in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at

[http://www.dtcc.com/downloads/legal/rule\\_filings/2009/nsc/2009-10.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2009/nsc/2009-10.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-2009-10 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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 with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable.<sup>6</sup>

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-2009-10) be, and hereby is, approved on an accelerated basis.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>6</sup> In approving the proposed rule changes, the Commission considered the proposals' impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 17 CFR 200.30-3(a)(12).