provisions of Section 15A of the Act,[18] in general, and Section 15A(b)(5) of the Act,[19] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. The proposed rule change will result in a significant reduction in the fees paid by all ACT participants.

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

Nasdaq 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

Written comments were neither solicited nor received.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [20] and subparagraph (f)(2) of Rule 19b-4 thereunder,[21] because it establishes or changes a due, fee, or other charge imposed by Nasdaq. At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate 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. For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on June 19, 2003, when Amendment No. 3 was filed.[22]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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, as amended, 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 at 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 the File No. SR–NASD–2003–71 and should be submitted by August 4, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

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[18] 15 U.S.C. 78*o*–3.

[19] 15 U.S.C. 78*o*–3(5).

[20] 15 U.S.C. 78s(b)(3)(A)(ii).

[21] 17 CFR 240.19b–4(f)(2).

[22] *See* n. 5, *supra.*

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48131; File No. SR–NSCC–2003–08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Rule 4, Section 12, Clearing Fund and Pledges of Deposits

July 3, 2003.

I. Introduction

On May 6, 2003, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2003–08 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 May 21, 2003.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

Each NSCC member pays or receives the net debit or net credit balance in its NSCC money settlement account at the end of each day. NSCC's principal risk is the possible failure of one or more members to settle their net debit obligations. To assure that it is able to complete its settlement obligations each day, NSCC maintains liquidity resources, including a committed line of credit (maximum amount of $1.9 billion) with a consortium of banks. This committed line of credit is part of a combined syndicated facility with The Depository Trust Company (''DTC'').

The line of credit matures annually. As part of the negotiations to extend the facility for the year beginning May 27, 2003, the lenders requested that Section 12 of NSCC's Rule 4, ''Clearing Fund,'' be clarified.[3] Section 12 currently provides that for the purpose of securing loans to NSCC, NSCC may pledge and repledge and grant its lenders a security interest in (i) cash deposits in the clearing fund, (ii) all securities, repurchase agreements, or deposits in which such cash is invested, and (iii) qualified bonds pledged by a member or letters of credit issued on a member's behalf for NSCC's benefit to secure the member's open account indebtedness to NSCC. That section also provides that any such loan to NSCC may be on such terms as NSCC, in its discretion, may deem necessary or advisable and may be in amounts greater and extend for time periods longer than the obligations of any member in NSCC. Subject to the terms and conditions of such loan, NSCC remains obligated to its members to return any items of pledged collateral or permit substitutions and withdrawals thereof as provided in its rules.

It was always the intent and understanding of NSCC and its members that by virtue of Rule 4, Section 12, members had authorized NSCC to pledge to its lenders a member's actual deposits.[4] In order to accommodate NSCC's lenders, NSCC is modifying the language of Rule 4, Section 12, to make clear NSCC's right to pledge its members' actual deposits to one or more lenders for the purposes enumerated in the rule. In addition, NSCC is also adding language to the rule to make clear what is implicit in the current rule that while there remain any outstanding obligations under any such loan, no member may assert a claim against the lender for the return of any collateral pledged by NSCC as security therefore.[5]

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 47874 (May 15, 2003), 68 FR 27881.

[3] The lenders made a similar request of DTC which also resulted in the filing of a proposed rule change by DTC. Securities Exchange Act Release No. 47875 (May 15, 2003), 68 FR 27877 (May 21, 2003) [File No. DTC–2003–08].

[4] Securities Exchange Act Release No. 28784 (January 16, 1991), 56 FR 2575 (January 23, 1991) [File No. SR–NSCC–90–22].

[5] The new language states, ''No Member, Insurance Carrier Member or Fund Member shall have any right, claim or action against any secured Lender (or any collateral agent of such secured Lender) for the return, or otherwise in respect, of any such collateral Pledged by the Corporation to

Continued

to the foregoing and the terms of any such loan, the obligation of NSCC to return any items of pledged collateral to its members or to permit substitutions and withdrawals thereof remains unaffected.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.[6] By adding language, as requested by its lenders, to its rules to make clear the rights of NSCC, lenders, and members with respect to pledged deposits, the proposed rule change will help NSCC maintain adequate liquidity resources and therefore should help assure NSCC's ability to safeguard securities and funds.

IV. 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–2003–08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

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such secured Lender (or its collateral agent), so long as any loans made by such Lender to the Corporation or other obligations, secured by such collateral, are unpaid and outstanding.''

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48133; File No. SR–NYSE–98–14]

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 1, 2, and 3 to a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Margin Requirements

July 7, 2003.

On April 28, 1998, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend NYSE Rule 431, ''Margin Requirements.'' The proposed rule change was published for comment in the **Federal Register** on August 5, 1998.[3] The Commission received one comment regarding the proposal.[4] The NYSE filed Amendment Nos. 1, 2, and 3 to the proposal on January 5, 1999, November 6, 2002, and May 12, 2003, respectively. In addition, on March 6, 2000, the NYSE filed an Information Memo (''NYSE Information Memo'') that sets forth the general requirements for the written risk analysis methodology that members would be required to maintain in connection with good faith securities transactions in exempt accounts (which are discussed more fully below). The Commission is publishing this notice of Amendment Nos. 1 and 2 and the NYSE Information Memo to solicit comments on the proposed rule change, as amended, from interested persons.

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

Consolidated changes made to the proposed rule text as a result of Amendment Nos. 1, 2, and 3 appear below. The base text is taken from the proposal that the Commission published for comment in 1998. Additional language proposed by the NYSE in Amendment Nos. 1, 2, and 3 is italicized; language deleted by Amendment Nos. 1, 2, and 3 is in brackets.

Rule 431

Margin Requirements

Rule 431(a)(1) through (a)(2) unchanged.

(a)(3) The term ''designated account'' means the account of (i) a bank (as defined in section 3(a)(6) of the Securities Exchange Act of 1934), (ii) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), the deposits of which are insured by the Federal Deposit Insurance Corporation, (iii) an insurance company (as defined in section 2(a)(17) of the Investment Company Act of 1940, (iv) an investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, (v) a sate or a political subdivision thereof, or (vi) a pension or profit sharing plan subject to ERISA or of an agency of the United States or of a state or a political subdivision thereof.

(a)(4) through (a)(8) unchanged.

(a)(9) The term ''highly rated foreign sovereign debt securities'' means any debt securities (including major foreign sovereign debt securities) issued or guaranteed by the government of a foreign country, its provinces, states or cities, or a supranational entity, if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in one of the top two rating categories by at least one nationally recognized statistical rating organization.

(a)(10) The term ''investment grade debt securities'' means any debt securities (including those issued by the government of a foreign country, its provinces, states or cities, or a supranational entity), if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in one of the top four rating categories by at least one nationally recognized statistical rating organization.

(a)(11) The term ''major foreign sovereign debt securities'' means any debt securities issued or guaranteed by the government of a foreign country or a supranational entity, if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in the top rating category by at least one nationally recognized statistical rating organization.

(a)(12) The term ''mortgage related securities'' means securities falling within the definition in section 3(a)(41) of the Securities Exchange Act of 1934.

(a)(13) The term ''exempt account'' means

(A) A member organization, non-member broker-dealer *registered as a broker or dealer pursuant to the Securities Exchange Act of 1934, a* ''designated account'' or

(B) Any person *that*

(i) Has net worth of at least forty-five million dollars and financial assets of at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 40278 (July 29, 1998), 63 FR 41882 (''1998 Notice'').

[4] *See* letter from Paul Saltzman, Senior Vice President and General Counsel, The Bond Market Association (''TBMA'') and Patricia Brigantic, Vice President and Senior Associate General Counsel, TBMA, to Jonathan Katz, Secretary, Commission, dated August 26, 1998 (''TBMA Letter'').