

accelerating approval of Amendment No. 2.²⁶

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether the amendment 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. Please include File Number SR-NASD-2004-125 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File No. SR-NASD-2004-125. 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 amendment that are filed with the Commission, and all written communications relating to the amendment 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD.

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 the File Number SR-NASD-2004-125 and should be submitted on or before September 23, 2005.

²⁶ The Commission further notes that both the rule filing and the amendments thereto have been available since their respective filing dates on NASD's Web site <http://www.nasd.com>.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁷ that the proposed rule change, as amended, (SR-NASD-2004-125) is approved, and that Amendment No. 2 to the proposed rule change be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52352; File No. SR-NASD-2005-58]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Relating to the Reporting of Data to Clearing Firms by Correspondent Firms

August 26, 2005.

I. Introduction

On May 2, 2005, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend NASD Rule 3150 and Rule 3230 governing the reporting of data to clearing firms by correspondent firms. On July 14, 2005, NASD filed Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, was published for comment in the **Federal Register** on July 26, 2005.⁴ The Commission received one comment letter on the proposed rule change.⁵ This order approves the proposed rule change, as amended.

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1, which replaced and superseded the original filing in its entirety, clarifies which piggybacking arrangements will be subject to the rule and modifies certain rule language to conform with other terms used in NASD rules.

⁴ Securities Exchange Act Release No. 52059 (July 19, 2005), 70 FR 43204 (July 26, 2005).

⁵ See letter from James Rogan, Chairman, SIA Clearing Firms Committee, Securities Industry Association ("SIA"), to Jonathan G. Katz, Secretary, Commission, dated August 12, 2005 ("SIA letter").

II. Description

NASD proposes to amend NASD Rule 3150 (governing reporting requirements for clearing firms) and NASD Rule 3230 (governing clearing agreements) to permit regulators and clearing firms to distinguish between data belonging to an introducing firm and data belonging to its "piggybacking" firm(s). Broker-dealers that contract for clearing services with an introducing firm are often referred to as "piggybacking" firms, or "piggybackers." Under this arrangement, only the introducing firm has a contractual arrangement with the clearing firm, which clears for both the introducing firm and the introducing firm's piggybacking firms. The proposed rule change would require clearing firms to report data to NASD about each piggybacking firm separately from the introducing firm's own customer and proprietary data. The proposed rule change would apply only if the piggybacking relationship with the introducing firm is established on or after the effective date of the proposed rule change.

III. Comment Received

The commenter discussed a concern that the SIA Clearing Firms Committee had with a prior version of the proposed rule change relating to which intermediary account relationships would be subject to the proposed rule change.⁶ Specifically, the SIA letter stated that "we are pleased to see that subsection (b) has now been modified so that Rule 3150 will only apply to intermediary clearing arrangements which are actually established after the effective date of the rule."⁷

IV. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association⁸ and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder.⁹ The Commission finds specifically that the proposed rule change is consistent with the provisions of Section 15A(b)(6)¹⁰ of the Act, which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to

⁶ See SIA letter supra note 5.

⁷ *Id.*

⁸ In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78o-3.

¹⁰ 15 U.S.C. 78o-3(b)(6).

promote just and equitable principles of trade, and in general, to protect investors and the public interest. The Commission notes that the NASD proposal, as amended, will allow regulators and clearing firms to determine whether data being reported to clearing firms belongs to an introducing firm or a piggybacking firm. The Commission believes that this ability will enhance the surveillance component of NASD's National Examination Program and may facilitate any future Securities Investor Protection Corporation ("SIPC") liquidations of a broker-dealer.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (File No. SR-NASD-2005-58), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E5-4828 Filed 9-1-05; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52343; File No. SR-NSCC-2005-09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Changes to Insurance Processing Service and Revisions to Fee Schedule

August 26, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 10, 2005, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change and on August 22, 2005, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The purpose of the proposed rule change is to expand the types of Insurance Processing Service ("IPS") data that may be transmitted through NSCC pursuant to Rule 57 ("Insurance Processing Service") and to amend Addendum A ("Fee Schedule") of NSCC's Rules & Procedures to establish additional IPS fees.

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.²

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

On May 27, 2005, the Commission approved NSCC rule filing SR-NSCC-2005-02,³ which enhanced NSCC's Automated Customer Account Transfer Service ("ACATS") and IPS rules to provide for Inforce Transactions ("IFT"), a new IPS service. The enhancements permit delivering and receiving broker-dealers to communicate changes relating to the broker-dealer of record for applicable insurance products using ACATS. The information is transmitted through a link from ACATS to IFT, which conveys the information to the insurance company that issued the eligible insurance product. IFT also communicates to ACATS whether the insurance company has confirmed the change, has rejected the change, or has requested a modification to the request.

In addition to establishing fees for the IFT service, the proposed rule change provides for additional IFT administrative account maintenance capabilities that may be used outside of ACATS to perform changes that do not require firm-to-firm account transfers. Initially these functions will allow changing the registered representatives

and changing the brokerage account number associated with an applicable insurance product. NSCC intends to make additional account maintenance capabilities available to its members through IFT.⁴

These fees and functions are as follows:

(1) Customer Account Transfer Output ("CAT Output"), which provides ACATS generated insurance registration information to insurance carriers. (\$0.95 per transaction, charged to the insurance carrier only);

(2) Customer Account Transfer Confirm ("CAT Confirm"), which allows insurance carriers to confirm back to the broker-dealers insurance registration changes received. (\$0.40 per transaction, charged to both the insurance carrier and the receiving broker-dealer);

(3) Time Expired Transaction ("TEX"), which is utilized if either the insurance carrier or broker-dealer has not completed its transaction within 20 business days. In such cases, IPS will generate a TEX transaction to inform both sides that the ACATS transaction has expired. (\$0.95 per transaction, charged to both the insurance carrier and the receiving broker-dealer);

(4) Beneficiary Update Request ("BEN Request"), which allows broker-dealers to provide beneficiary information on an insurance policy when the policy contains multiple beneficiaries. (No charge);

(5) Beneficiary Confirm ("BEN Confirm"), which allows the insurance carrier to confirm BEN Request transactions back to the broker-dealer. (No charge);

(6) Registered Representative Change Request ("REP Request"), which allows broker-dealers to change the registered representative on an insurance policy. (\$0.70 per transaction, charged to both the insurance carrier and the broker-dealer);

(7) Registered Representative Change Confirm ("REP Confirm"), which allows insurance carriers to confirm back to the broker-dealers REP Request transactions. (\$0.30 per transaction, charged to both the insurance carrier and the broker-dealer);⁵

(8) Brokerage Identification Number Change Request ("BIN Request"), which allows broker-dealer to change the brokerage account number affiliated with an insurance policy held at an insurance carrier. (\$0.50 per transaction,

² The Commission has modified the text of the summaries prepared by NSCC.

³ Securities Exchange Act Release No. 51753 (May 27, 2005), 70 FR 32859 (June 6, 2005) [SR-NSCC-2005-02].

⁴ NSCC will file with the Commission a proposed rule change before implementing further changes to IPS.

⁵ The REP Request and REP Confirm functions may be used both in conjunction with ACATS and as a stand-alone IPS/IFT function.

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).