

This approval order is conditioned on the Exchange's adherence to these representations.

Exchanges that trade commodity-related securities generally have in place surveillance arrangements with markets that trade the underlying commodities. The Commission notes that the Exchange has indicated that it currently is in the process of entering into information-sharing agreements with the ICE Futures and the Kansas Board of Trade, as well as amending its current information sharing agreement with NYMEX. Although the Exchange has not finalized these agreements, the Commission believes nevertheless that the Exchange's proposal to trade the Covered Securities on a pilot basis is consistent with the Act in view of (1) the limited duration of the pilot period (three months), (2) the Exchange's representation that these information-sharing agreements would be complete "in the near future," and (3) the fact that the Exchange must submit a proposed rule change addressing each Covered Security, to continue trading the securities after the expiration of the pilot period.

The Commission finds good cause for approving this proposal before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of each of the Covered Securities by either NYSE or Amex is consistent with the Act. The Commission presently is not aware of any regulatory issue that should cause it to revisit those findings or would preclude the trading of the Covered Securities on the Exchange pursuant to UTP. Furthermore, accelerated approval of this proposal is necessary to facilitate compliance by certain OTC market makers with the 1% Rule. Market disruption could result if these OTC market makers have no venue where they can publish their quotations in the Covered Securities. For these reasons, the Commission finds good cause to approve the amended proposal on an accelerated basis.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>26</sup> that the proposed rule change (SR-NASDAQ-2007-016), be and it hereby is, approved on an accelerated basis for a three-month pilot period which will commence on March 5, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>27</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55393; File No. SR-NASD-2007-016]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend NASD Rules 4632C and 4632D To Reflect "As/Of" Trade Reporting and the Automated Reporting of Trade Cancellations to the NASD/NSX and NASD/BSE Trade Reporting Facilities

March 2, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on February 27, 2007, the National Association of Securities Dealers, Inc. ("NASD") 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 substantially by the NASD. The NASD has filed this proposal pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission.<sup>5</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The NASD proposes to amend NASD Rules 4632C, "Transaction Reporting," and 4632D, "Transaction Reporting," to reflect "as/of" (T+1) trade reporting and the automated reporting of trade cancellations to the NASD/NSX Trade Reporting Facility (the "NASD/NSX TRF") and the NASD/BSE Trade Reporting Facility (the "NASD/BSE TRF"), respectively. The proposed amendments are substantially identical

<sup>27</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The NASD has asked the Commission to waive the 30-day operative delay provided in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

to the current language of NASD Rule 4632, "Transaction Reporting," relating to the NASD/Nasdaq Trade Reporting Facility ("NASD/Nasdaq TRF"), which the Commission approved on June 30, 2006.<sup>6</sup> The text of the proposed rule change is available at the NASD, in the Commission's Public Reference Room, and at <http://www.nasd.com>.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD 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. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

##### 1. Purpose

The Commission approved the establishment of the NASD/NSX TRF<sup>7</sup> and the NASD/BSE TRF<sup>8</sup> on November 6, 2006, and December 13, 2006, respectively. The NASD/NSX TRF and NASD/BSE TRF provide members with additional mechanisms for reporting locked-in trades in exchange-listed securities executed otherwise than on an exchange.

Currently, the NASD/NSX TRF does not accept reports of trades on an "as/of" or next day (T+1) basis and the NASD/BSE TRF rules also do not contemplate the submission of "as/of" trade reports. The rules relating to the NASD/NSX TRF and the NASD/BSE TRF expressly provide that members must use an alternative electronic

<sup>6</sup> See Securities Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving File No. SR-NASD-2005-087).

<sup>7</sup> See Securities Exchange Act Release No. 54715 (November 6, 2006), 71 FR 66354 (November 14, 2006) (order approving File No. SR-NASD-2006-108). The NASD/NSX TRF commenced operation for the reporting of over-the-counter ("OTC") trades in Nasdaq-listed securities on November 27, 2006, and began accepting reports of OTC trades in non-Nasdaq exchange-listed securities on February 20, 2007.

<sup>8</sup> See Securities Exchange Act Release No. 54931 (December 13, 2006), 71 FR 76409 (December 20, 2006) (order approving File No. SR-NASD-2006-115). The NASD/BSE TRF will commence operation upon successful completion of system testing and certification (currently anticipated to be in the first quarter of 2007).

<sup>26</sup> 15 U.S.C. 78s(b)(2).

mechanism to report “as/of” trades to the NASD.<sup>9</sup>

In addition, members can only electronically report trade cancellations to the NASD/NSX TRF on trade date; members cannot electronically report cancellations on an “as/of” basis. The rules require that for trades that are cancelled after the day of the execution of the trade, members must contact NASD/NSX TRF Operations to report the trade cancellation.<sup>10</sup> With respect to the NASD/BSE TRF, members cannot electronically report any trade cancellations, irrespective of whether they occur on or after the trade date. The NASD/BSE TRF rules require members to contact NASD/BSE TRF Operations to report any cancellation of a trade previously submitted to the NASD/BSE TRF.<sup>11</sup>

The NASD proposes to amend NASD Rules 4632C and 4632D to reflect a change in the functionality of the NASD/NSX TRF and NASD/BSE TRF, respectively, to support the reporting of trades on an “as/of” (T+1) basis and the automated reporting of trade cancellations. The NASD believes that by providing for the reporting of “as/of” trades, the proposed rule change will enhance transparency and the integrity of the audit trail. Additionally, the NASD believes that by automating the reporting of trade cancellations, the proposed rule change will facilitate and streamline the correction of trades, as necessary.

The NASD anticipates that system testing and certification will be completed before the end of the first quarter of 2007. The NASD will announce the date that the system changes will be implemented on its Web site.

## 2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>12</sup> which requires, among other things, that the NASD’s rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change will enhance investor protection

by increasing transparency and the integrity of the audit trail.

### B. Self-Regulatory Organization’s Statement on Burden on Competition

The NASD 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 NASD has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. In addition, as required under Rule 19b–4(f)(6)(iii),<sup>13</sup> the NASD provided the Commission with written notice of its intention to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to filing the proposal with the Commission. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b–4(f)(6) thereunder.<sup>15</sup>

Pursuant to Rule 19b–4(f)(6)(iii) under the Act, a proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The NASD has asked the Commission to waive the 30-day operative delay to allow the proposed rule changes to be operative when the system changes for “as/of” trade reporting and the automated reporting of trade cancellations have been completed. The NASD believes that these system changes may be completed prior to the end of the 30-day operative delay period, and that it is crucial for a complete and accurate audit trail and market transparency that the NASD/NSX TRF and the NASD/BSE TRF be

able to process and report trade corrections as quickly as possible. The NASD believes that a delay in the implementation of this functionality would not be in the interests of investors.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed changes could enhance the accuracy and integrity of the audit trail and facilitate the reporting of “as/of” trades and trade cancellations.<sup>16</sup> The Commission also notes that the proposed changes are substantially identical to the current language of NASD Rule 4632 relating to the NASD/Nasdaq TRF, which was subject to notice and comment.<sup>17</sup> Accordingly, the Commission waives the 30-day operative delay and designates that the proposal become operative immediately.

At any time within 60 days of 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.

## 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–NASD–2007–016 on the subject line.

### Paper Comments

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

All submissions should refer to File No. SR–NASD–2007–016. 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

<sup>9</sup> See NASD Rule 4632C(a)(2)(B) and (D), relating to the NASD/NSX TRF, and NASD Rule 4632D(a)(2)(B) and (D), relating to the NASD/BSE TRF.

<sup>10</sup> See NASD Rule 4632C(f)(2)(B), (C), (E), and (F).

<sup>11</sup> See NASD Rule 4632D(g)(2)(A), (B), (C), (D), (E), and (F).

<sup>12</sup> 15 U.S.C. 78o–3(b)(6).

<sup>13</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b–4(f)(6).

<sup>16</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>17</sup> See *supra* note 6.

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 Room. Copies of the filing also will be available for inspection and copying at the principal office of the 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 File No. SR-NASD-2007-016 and should be submitted on or before March 30, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55391; File No. SR-NSCC-2007-04]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Collateral Management Service

March 2, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on February 22, 2007, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4)<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 proposed rule change from interested persons.

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

Under the proposed rule change, NSCC will eliminate references to the Collateral Management Service ("CMS") in its rules and procedures.

#### 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.

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

NSCC has offered CMS to its members since 1995.<sup>4</sup> CMS was created to provide NSCC members with access on a daily basis to information regarding their clearing fund, margin, and other similar requirements and deposits ("CMS data") at NSCC, other participating clearing agencies registered with the Commission, and clearing organizations recognized by the Commodity Futures Trading Commission (collectively, "Participating Clearing Entities"<sup>5</sup>). The information included such things as excess or deficit amounts and data on underlying collateral. The CMS service also permitted Participating Clearing Entities to receive CMS data with respect to their participants.

However, few NSCC members elected to use CMS because they can obtain access to CMS data by other means

<sup>4</sup> Securities Exchange Act Release No. 36091 (Aug. 10, 1995), 60 FR 42931 (Aug. 17, 1995) [File No. SR-NSCC-95-6]. See also Securities Exchange Act Release Nos. 38283 (Feb. 13, 1997), 62 FR 38283 (Feb. 21, 1997) [File No. SR-NSCC-96-19], and 40740 (Dec. 3, 1998), 63 FR 67962 (Dec. 9, 1998) [File No. SR-NSCC-98-10].

<sup>5</sup> The original Participating Clearing Entities were: Participants Trust Company, Philadelphia Depository Trust Company, Stock Clearing Corporation of Philadelphia, Boston Stock Exchange Clearing Corporation, The Depository Trust Company, The Options Clearing Corporation, MBS Clearing Corporation, and Government Securities Clearing Corporation.

provided by NSCC. In addition, by the end of 2004, the Participating Clearing Entities had long ceased transmitting CMS data to NSCC, and the service had become dormant. Accordingly, NSCC will delete Rule 53 and Procedure XVI (Collateral Management Service), will delete all references to CMS from Rule 4, Section 9 (Clearing Fund), and will amend Rule 49 (Release of Clearing Data) to preserve NSCC's right to share clearing fund data with appropriate regulatory and self-regulatory organizations.

NSCC believes that the proposed rule change is consistent with Section 17A of the Act<sup>6</sup> and the rules and regulations thereunder because by eliminating rules pertaining to an obsolete and dormant service, while preserving its right to share clearing fund data with appropriate regulatory bodies, NSCC's rules will more accurately reflect the services it provides to its members.

##### 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.

##### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has discussed the proposed rule change with Participating Clearing Entities but has not solicited or received written comments relating to the proposed rule change. NSCC will notify the Commission of any written comments it receives.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>7</sup> and Rule 19b-4(f)(4)<sup>8</sup> thereunder because it effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within 60 days of 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

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>8</sup> 17 CFR 240.19b-4(f)(4).

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

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

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