

submissions should refer to the File No. SR-ISE-00-12 and should be submitted by January 8, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43701; File No. SR-NASD-00-64]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Allow In-Firm Delivery of the Regulatory Element of the Continuing Education Requirements

December 11, 2000.

I. Introduction

On October 25, 2000, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly owned subsidiary, NASD Regulation, Inc. ("NASD Regulation"), filed with the Securities and Exchange Commission ("Commission" or "SEC"), 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 that would permit the in-firm delivery of the Regulatory Element of the Continuing Education Requirements. Notice of the proposed rule change appeared in the **Federal Register** on November 6, 2000.³ The Commission received one comment on the proposed rule change.⁴ This order approves the proposed rule change.

II. Description of the Proposal

NASD Regulation proposes to amend NASD Rule 1120(a) to permit the in-firm delivery of the Regulatory Element of the Continuing Education Requirements. Currently, this computer-based training program can be administered to registered persons only at the location of an outside vendor.

The Regulatory Element is a 3½ hour computer-based training program. NASD Rule 1120(a) requires that each

registered person, who is not exempt from the Rule, complete the Regulatory Element on the occurrence of his or her second registration anniversary and every three years thereafter. On each occasion, the training must be completed within 120 days after the registered person's anniversary date. A registered person who has not completed the Regulatory Element within the prescribed time period is deemed to be inactive until the Regulatory Element has been fulfilled, and may not conduct, or be compensated for, activities requiring a securities registration.

The Securities Industry/Regulatory Council on Continuing Education ("Council") is responsible for the oversight of the continuing education program for the securities industry. The Council's duties include recommending and helping to develop specific content and questions for the Regulatory Element, and minimum core curricula for the Firm Element. The Council is comprised of representatives from a broad cross section of broker/dealers, and six self-regulatory organizations, including the NASD. The Council, working with representatives from the North American Securities Administrators Association has developed a model under which broker/dealers may deliver the Regulatory Element computer-based training on firm premises. The model requires that the broker/dealer meet certain conditions for in-firm delivery relating to computer hardware and to the security of the training delivery environment. The proposed amendments to Rule 1120(a) encapsulate the delivery requirements as specified by the Council. Firms of any size may take advantage of the in-firm delivery procedures.

III. Summary of Comments

The ICI expressed its support for the proposal, stating that the proposed changes may facilitate the ability of ICI's members to comply with the Regulatory Element requirements.⁵ Additionally, the ICI believes the proposed amendment will reduce the time and any related travel costs that registered representatives spend to take the Regulatory Element.⁶ Finally, the ICI believes that the conditions proposed in the amendment regarding in-firm delivery adequately balance the interest of NASD Regulation in protecting the integrity of the Regulatory Element with the interest of member firms in not being unduly burdened when exercising

this option.⁷ For these reasons, the ICI expressed its support of the proposed amendments to NASD Rule 1120.

IV. Discussion

The Commission has reviewed carefully the proposed rule change, and finds that it is consistent with the Act and the rules and regulations promulgated thereunder.⁸ Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 15A(b)(6)⁹ of the Act.

Section 15A(b)(6)¹⁰ requires that the rules of a registered national securities association be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, protect investors and the public interest. The Commission believes that the proposal should facilitate compliance with the Regulatory Element of the Continuing Education Requirements by making the program easily accessible to registered persons via in-firm delivery, as opposed to requiring that it be administered at the location of an outside vendor, and by allowing firms of any size to partake of the in-firm delivery procedures. The Commission is satisfied that the proposal provides reasonable safeguards to uphold the integrity of the program, as well as delineating proper conditions for in-firm delivery relating to computer hardware, consistent with the requirements specified by the Council. Finally, the Commission believes the proposal establishes reasonable requirements with regard to the security of the training delivery environment, as specified by the Council.

V. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with Section 15A(b)(6),¹¹ in particular.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,¹² that the

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 43492 (October 27, 2000), 65 FR 66576.

⁴ See November 22, 2000 letter from Tamara K. Reed, Associate Counsel, Investment Company Institute ("ICI") to Jonathan G. Katz, Secretary, SEC ("ICI Letter").

⁵ See ICI Letter at p. 1.

⁶ *Id.*

⁷ See ICI Letter at p. 2.

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

⁹ 15 U.S.C. 78o-3(b)(6).

¹⁰ *Id.*

¹¹ *Id.*

¹² 15 U.S.C. 78s(b)(2).

proposed rule change (SR-NASD-00-64), be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43699; File No. SR-NSCC-00-10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Certain Securities Undergoing Reorganization

December 11, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 10, 2000, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission 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 persons.

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

The proposed rule change would modify NSCC's procedures to permit the processing of securities subject to certain voluntary corporate action in NSCC's continuous net settlement ("CNS") system.

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.²

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

The purpose of the proposed rule filing is to modify NSCC's Rules and Procedures to permit securities that are subject to certain voluntary corporate action which would normally cause them to be exited from NSCC's CNS system to continue to be processed in CNS.³ From time to time a security may become subject to an offer that has a feature which would normally require it to be exited from CNS. Consistent with the industry's goal to increase automated transaction processing, NSCC has been working to enhance the CNS system to enable it to process securities with reorganization events that have a wider and more varied range of features. The proposed rule change would provide that when NSCC determines that it has the operational capability to continue to process such an issue, the issue would continue to be CNS eligible, and NSCC would establish procedures necessary for NSCC to accommodate the issue in CNS. NSCC would issue an Important Notice to its members detailing how the security would be processed.

NSCC's Rules and Procedures permit NSCC to continue to process certain securities undergoing corporate reorganizations and specify how NSCC shall handle those issues. For example, currently NSCC's Procedure VII provides for the processing in CNS of securities subject to tender offers with protect periods of three or more days. Securities subject to tender offers with protect periods of less than three days cannot currently be processed in CNS, and NSCC would normally exit such securities from the CNS system. In that case, NSCC would issue receive/deliver instructions to participants with long or short positions in the subject security. The proposed rule change would allow securities subject to tender offers with no protect periods or protect periods of less than three days to be processed in CNS.

Another example, would be issues subject to multiple tender offers. Currently, NSCC's Rules and Procedures provide for the establishment of up to two CNS reorganization subaccounts for issues subject to two tender offers. Under NSCC's proposal, it could, provided it has the operation capability to do so, establish multiple CNS

subaccounts for issues subject to multiple tender offers.

In addition, in order to eliminate the possibility of error which arises from manual processing, NSCC has determined not to continue providing certain features which were processed on a manual basis. For example, the rule would no longer permit new input on the last day of the protect period.

NSCC intends to implement these changes, subject to SEC approval, on or about February 9, 2001.

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, NSCC believes that because the proposed rule change would allow additional corporate actions to be processed in a CNS environment, it would facilitate the prompt and accurate clearance and settlement of such securities transactions.

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

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

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

No written comments have been solicited or received. However, NSCC has worked closely with the Securities Industry Association's Corporate Action division in developing the proposed CNS modifications, and they concur with the proposed changes. 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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NSCC consents, the Commission will:

- (a) By order approve the proposed rule change or
- (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

³ As a part of its filing, NSCC is proposing to modify its Rules and Procedures to refer to reorganization events as voluntary and mandatory instead of as voluntary and involuntary.