

rule change is consistent with GSCC's obligations under the Act because the proposal permits GSCC to provide the benefits of centralized, automated settlement to a broader segment of repos involving government securities. Thus, the proposal should assist in the prompt and accurate clearance and settlement of securities transactions.

As discussed in the order approving GSCC's repo netting system, the Commission believes that GSCC has put into place adequate risk management procedures to limit the settlement risk associated with repo transactions.⁷ The Commission also believes that GSCC has adequately analyzed the application of these risk management procedures to the risks associated with longer term repo transactions and therefore will be able to adequately safeguard itself and its participants from the risk associated with the inclusion of longer term repo transactions in the netting system. Thus the proposal is consistent with GSCC's obligation to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

GSCC requests that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause exists for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing because accelerated approval will allow GSCC to immediately expand its netting services to include repos with terms between 360 calendar days and two years. This will permit more participants that conduct repo transactions to benefit from the positive effects of netting.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the file number SR-GSCC-97-08 and should be submitted by October 16, 1997.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-97-08) be and hereby is approved.

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. 34-39096; File No. SR-NSCC-96-21]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Establishment of the Annuities Processing Service

September 19, 1997.

On December 26, 1996, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NSCC-96-21) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ On February 27, 1997, and May 12, 1997, NSCC amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on August 6, 1997.² For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change amends NSCC's rules to establish the Annuities Processing Service ("APS"). APS will be a centralized communication link that connects participating insurance carriers with broker-dealers, banks, and the broker-dealers' or banks' affiliated life insurance agencies where

appropriate. Only those annuity plans³ that are purchased by individuals from insurance carriers through broker-dealers, banks, or their affiliated insurance agencies will be eligible for processing through APS.

NSCC will implement APS in phases. Phase I will provide NSCC's participants with the ability to send and receive daily information regarding annuity contract positions, the value of a contract's underlying assets, and settlement of commission monies.⁴ This information will be transmitted through the "position and valuation," and "commission and charge back" components of Phase I.

The position and valuation component will permit insurance carriers to transmit information regarding the value of individual annuity contracts and the value of the assets underlying the contracts to broker-dealers and insurance agencies. Insurance carriers will submit position and valuation information to NSCC, which NSCC will forward to the party designated as recipient by the insurance carrier.

The commission and charge back component will permit insurance carriers and agencies to communicate concerning periodic trail or asset-based compensation and transaction-based commission payments, each paid by an insurance carrier to an agency, as well as charge backs paid by an agency to an insurance carrier. Insurance carriers and agencies will settle these payments through NSCC's money settlement system.

Insurance carriers will be able to initiate commission and charge back transactions by submitting instructions to NSCC. On any day prior to settlement, an annuities agency or annuities carrier member may submit a cancel instruction if the member does not recognize the transaction or an exit instruction if the member recognizes the transaction but wants that transaction to be processed outside of APS.⁵ A

³ APS will process variable rate and fixed rate annuity products. Letter from Julie Beyers, Associate Counsel, NSCC (February 26, 1997).

⁴ NSCC intends to implement additional phases in the future to include the processing of annuity contract applications and the settlement of premium payments. In addition, the scope of information included in APS may be expanded beyond position and valuation information. NSCC will be required to make the appropriate rule filings with the Commission at such times as NSCC is ready to implement these additional components.

⁵ According to NSCC, this feature will not be available when the APS becomes operational; it will be added at a later date. Until the exit and cancel features are added, an annuities agency or annuities carrier member must go outside of APS to arrange for the reversal of a commission and charge back transaction that was erroneously entered into APS.

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 38889 (July 30, 1997), 62 FR 42274.

⁷ *Supra* note 3.

properly submitted exit or cancellation will cause the payment transaction to which it relates to be deleted from APS. Unless NSCC receives a cancellation or exit instruction, the commission and charge back transaction will settle in the three-day settlement cycle following their completion unless the parties have agreed that the transaction will settle on an extended basis. However, no transaction will be allowed to settle more than five business days after the day on which the last instruction pertaining to the transaction was submitted to NSCC.

NSCC will not be responsible for the completeness or accuracy of any APS data or for any errors, omissions, or delays that may occur relating to the APS data. The proposed rule change states that the processing of any transaction through APS will not relieve a party from its legal or regulatory rights or its obligations relating to a transaction.

The proposed rule change will amend NSCC's Rule 2 to permit a corporation, partnership, or agency, including a registered broker-dealer, bank, or trust company, that is licensed to sell insurance products and is subject to supervision or regulation pursuant to the provisions of state insurance laws to become a member of the NSCC. If the entity agrees to limit their activities to APS services only, the entity would be classified as an "annuities agency member."

The proposed rule change permits broker-dealers to join NSCC as annuities agency members regardless of whether they conduct their insurance business in-house or through an affiliated or subsidiary insurance agency. The proposed rule change provides that NSCC may restrict the activities of the broker-dealers' insurance agency affiliates and subsidiaries that become annuities agency members and require them to enter into agreements for operational support services with an entity that is acceptable to NSCC. The entity can be, but is not required to be, another annuities agency member and cannot be replaced without the prior approval of NSCC. In addition, broker-dealers and banks that are not currently NSCC members that sell annuity products also will be permitted to join NSCC for the purpose of using APS.

The proposed rule change amends NSCC's rules to establish the annuities carrier member category. As proposed, NSCC Rule 2 will define annuities

carrier member as a company, partnership, limited liability corporation, or other organization or entity that is not a member of NSCC but is subject to the supervision or regulation pursuant to state insurance laws. Annuities carrier members will not be required to make a deposit to the clearing fund.⁶

The proposed rule change also will create NSCC Rule 56 to establish the financial and operational standards for annuities carrier members. Annuities carrier members will be required to have an A.M. Best rating of "A-." If rated by (i) Standard & Poor's, the annuities carrier member must have a claims paying ability rating of not less than "AAA;" (ii) Moody's the annuities carrier member must have a long-term debt rating of not less than "Aaa;" or (iii) Duff & Phelps, the annuities carrier member must have a long-term debt rating of not less than "A-." ⁷

Alternatively, if the annuities carrier member does not satisfy the above-mentioned criteria, Rule 56 will require that the annuities carrier member have an A.M. Best rating of not less than "B+." If rated by (i) Standard & Poor's, the annuities carrier member must have a claims-paying ability rating of not less than "BBB;" (ii) Moody's, the annuities carrier member must have a long-term debt rating of not less than "A;" or (iii) Duff & Phelps, the annuities carrier member must have a long-term debt rating of not less than "BBB-." In this case, Rule 56 also will require that the annuities carrier member demonstrate to NSCC's Board of Directors that its business and capabilities are such that it could reasonably expect material benefit from access to APS, and NSCC must determine that the financial condition of such annuities carrier member does not pose an undue risk to NSCC or its members.

The proposed rule change will amend NSCC Rule 15 to require that all annuities agency members and annuities carrier members file certain financial information with NSCC. In addition to some of the financial information required of full NSCC

members, Rule 15 will require annuities agency members and annuities carrier members to file with NSCC reports filed with relevant state insurance departments as may be determined by NSCC from time to time.

The proposed rule change amends Addendum B of NSCC's rules (Standards of Financial Responsibility & Operational Capability) to include membership standards for applicants that will use only APS. The proposed rule change will require a broker-dealer whose membership is limited to the use of APS to have \$25,000 in excess net capital over the minimum net capital requirement imposed by the Commission or such higher minimum capital requirement imposed by the broker-dealer's designated examining authority. In addition, the broker-dealer must have a capital ratio or percentage that would not require it to be placed on immediate surveillance at NSCC and must not be on "closer-than-normal" surveillance by its designated examining authority. If the applicant is a bank or trust company, it must have \$100,000 minimum excess capital over the capital requirement imposed by its state or federal regulatory authority. A bank or trust company must not be operating at a loss at the time of its application and must not have operated at a loss in any of its previous three fiscal quarters. All others which apply for use of APS must only have the operational capability for membership or have an agreement concerning the provision of operational support services to such applicant with an entity acceptable to NSCC and which may not be replaced without prior approval by NSCC and must agree to restrict its business activities as NSCC may require.

Addendum B also will require that all annuities agency members file certain prescribed information annually. Such information includes, among other things, general information concerning the member's corporate organizational structure and licensing, the nature of its business, bonding, pending investigations, and litigation.

The proposed rule change explicitly sets forth that, like NSCC's Mutual Fund Services and New York Window Service, APS will not be a guaranteed service. An additional paragraph has been added to Addendum K Interpretation of the Board of Directors—Application of Clearing Fund to make it clear that APS is not a guaranteed service.⁸

⁸ Furthermore, NSCC states that it has not yet determined the fees for APS. NSCC will make the appropriate rule filing pursuant to Section

Telephone conversation between Julie Beyers, Associate Counsel, NSCC, and Jeffrey Mooney, Attorney, Division of Market Regulation, Commission (September 8, 1997).

⁶ Although no clearing fund deposit will be required from annuities agency members and annuities carrier members, NSCC has amended Rule 4 of its rules to state that an annuities agency member or annuities carrier member may be required to make a deposit in the clearing fund in the event that in the future NSCC determines that a clearing fund deposit should be required.

⁷ It should be noted that applicants will not be required to be rated by any rating agency other than A.M. Best in order to qualify as annuities carrier members. The standards set forth for the other rating agencies apply only if a annuities carrier member determines to utilize a rating agency in addition to A.M. Best.

The proposed rule change amends NSCC's Rule 3 (Lists to be Maintained) to indicate that NSCC will maintain a list of annuity plans that may be the subject of orders processed through APS. The proposed rule change amends NSCC's Rule 57 (Annuities Processing Service) to clarify what governs these Phase I aspects of APS.

The proposed rule change also makes technical amendments to the following NSCC rules to accommodate the APS service, annuities agency members, and annuities carrier members: Rule 1 (Definitions and Descriptions), Rule 5 (General Provisions), Rule 6 (Distribution Facilities), Rule 12 (Settlement), Rule 17 (Fine Payments), Rule 18 (Procedures For When the Corporation Declines or Ceases to Act), Rule 20 (Insolvency), Rule 22 (Suspension of Rules), Rule 24 (Charges for Services Rendered), Rule 26 (Bills Rendered), Rule 27 (Admission to Premises of the Corporation—Powers of Attorney, Etc.), Rule 29 (Qualified Securities Depositories), Rule 32 (Facsimile Signatures), Rule 33 (Procedures), Rule 34 (Insurance), Rule 35 (Financial Reports), Rule 36 (Rule Changes), Rule 37 (Hearing Procedures), Rule 39 (Special Representative/Index Receipt Agent), Rule 45 (Notices), Rule 46 (Restrictions on Access to Services), Rule 48 (Disciplinary Proceedings), Rule 55 (Settling Banks), Procedure VIII (Money Settlement Service), Procedure XV (Clearing Fund Formula and Others Matters), Addendum D (Statement of Policy—Envelope Settlement Service), and Addendum F (Statement of Policy—In Relation to Same Day Funds Settlement).⁹

II. Discussion

Section 17A(b)(3)(F)¹⁰ of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes that NSCC's proposed rule change is consistent with its obligations under the Act because APS will provide centralized communication between insurance carriers and broker-dealers, banks, and their affiliated insurance agencies. APS also permits commission and charge back transactions to be processed in a standardized and automated

environment. Because the activities will be handled through NSCC, the time and cost associated with processing should be reduced. Thus, the proposal promotes the prompt and accurate clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal 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.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-96-21) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39088; International Series Release No. 1102; File No. SR-OCC-97-10]

Self-Regulatory Organizations, the Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Seeking Approval to Issue, Clear, and Settle Flexibly Structured Options on the Mexican Peso

September 17, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 24, 1997, The Options Clearing Corp. ("OCC") 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 OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval, conditioned as described below, of the proposal.

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

The proposed rule change will allow OCC to issue, clear, and settle option

transactions where the Mexican peso is either the trading currency or the underlying currency.

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

In its filing with the Commission, OCC 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. OCC 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

Under the proposed rule change, OCC will issue, clear, and settle flexibly structured option contracts where the Mexican peso is either the trading currency or the underlying currency. The Philadelphia Stock Exchange ("PHLX") has proposed to list and trade such foreign currency options through its customized options facility.³ The PHLX rule filing proposes to enable its members to trade customized contracts between the peso and United States dollar. The PHLX rule filing further proposed to offer cross-rate contracts for the Mexican peso against the Canadian dollar.

Currently, OCC has approval to list and clear flexibly structured option contracts on any combination of the following currencies: (1) Australian dollars, (2) British pounds, (3) Canadian dollars, (4) German deutsche marks, (5) European Economic Community currency units, (6) French francs, (7) Italian lire, (8) Japanese yen, (9) Spanish pesetas, (10) Swiss francs, and (11) United States dollars. OCC is now proposing to add the Mexican peso to that list of approved currencies.

Options on the peso will be cleared and settled in accordance with the clearance and settlement mechanisms already in place for flexibly structured foreign currency options and for cross-rate foreign currency options. In addition, options on the peso will be

19(b)(3)(A) of the Act at such time as NSCC determines the fees to be charged for APS services.

⁹ The full text of each of these technical rule changes is set forth in Exhibit A of NSCC's filing and subsequent amendments thereto, each of which is available for inspection and copying at the Commission's Public Reference Room or through NSCC.

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

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

³ For a discussion of the PHLX proposal, refer to Securities Exchange Act Release No. 38867 (May 22, 1997), 62 FR 29385 [File No. SR-PHLX-97-22] (notice of proposed rule change to list and trade options on the Mexican peso). The PHLX proposal has not received final approval from the Commission.