

(File No. SR-MBSCC-99-8), and on November 8, 1999, amended the proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on February 11, 2000.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

## I. Description

Revised Article VIII, Rule 1, Section 3(d) of MBSCC's Electronic Pool Notification ("EPN") Rules requires EPN users to utilize the EPN service for all messages relating to EPN eligible securities unless MBSCC's procedures specifically exempt the message or both parties agree not to send the message through the EPN service. The rule change makes it explicit that in the event of an EPN system disruption and an extension of the cut-off times for communicating pool allocation information pursuant to The Bond Market Association ("BMA") Guidelines, EPN users will be relieved of their obligation to process messages through the EPN service until the beginning of the next business day after the EPN system has been recovered.

The proposed rule change also will:

- Amends Article VIII, Rule 2 to require MBSCC members to give MBSCC written notice ten days, instead of thirty days, prior to termination of an EPN account or withdrawal as an EPN user.
- Delete references in the cover page and in Article VI, Rule 1 to the "EPN Division" because while EPN is a separate service from the comparison and clearing service, it is not a separately constituted division.
- Replace references in Article VI, Rule 1 to "Federal National Mortgage Association" with "Fannie Mae" to reflect the name change of such organization.
- Renumbers the rules contained in Article IX and makes corresponding changes to cross-references to such rules and to the table of contents.
- Add Managing Director to Article X, Rules 1 and 3 as a person who may take certain actions with respect to certain actions taken by MBSCC.
- Repaginates with consecutive page numbers throughout rather than page numbers by article for ease of reference.

## II. Discussion

Section 17A(b)(3)(F)<sup>3</sup> of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. As set forth below, the Commission finds that MBSCC's proposed rule change is consistent with MBSCC's obligations under the Act because the rule change provides explicit guidance to MBSCC's members on their obligations when there is an EPN system disruption and an extension of the cut-off times for communicating pool allocation information pursuant to the BMA guidelines. Further, expressly stating that MBSCC's members may use other communication methods, presumably the telephone and the fax machine, until the next business day after the EPN system has been recovered should reduce any confusion or uncertainty that could arise among MBSCC's members.

The Commission finds that reducing the time period to provide MBSCC with written notification of withdrawal from the EPN service from thirty to ten days still provides MBSCC with sufficient time to process the withdrawal. The Commission also finds that the other amendments contained in the rule change are technical and do not raise substantive issues. Accordingly, the Commission finds that the rule change 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-MBSCC-99-8) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42724; File No. SR-NSCC-00-01]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Revising Fee Schedule

April 26, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 23, 2000, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, 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 proposed rule change revises NSCC's fee schedule.

#### 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.<sup>2</sup>

##### (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 reduce the fees for certain NSCC services, Trade Recording, Trade Clearance, and ACATSTIF.<sup>3</sup> Currently, the trade recording fee for each side of each stock, warrant, or right item entered for settlement, but not for comparison by NSCC, is \$.006 per 100 shares with a minimum fee of \$.024 and a maximum fee of \$.36. Under the proposed rule change, NSCC will reduce

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>3</sup> Automated Customer Account Transfer Service Initiation Form.

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> Securities Exchange Act Release No. 42390 (February 7, 2000), 65 FR 7078.

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>4</sup> 17 CFR 200.30-3(a)(12).

the fee for each side entered to \$.005 per 100 shares with a minimum fee of \$.020 and a maximum fee of \$.30.

The Trade Clearance fee<sup>4</sup> for receipts from Continuous Net Settlement ("CNS") to satisfy a long valued position currently is \$.40 per issue received. The proposed rule change reduces the fee for such items to \$.35 per issue received.

The Trade Clearance fee for deliveries to CNS in the night processing cycle to cover a short valued position currently is \$.40 per delivery. The proposed rule change reduces the fee for these items to \$.35 per delivery.

The Trade Clearance fee for deliveries to CNS in the day processing cycle to cover a short valued position currently is \$1.00 per delivery. The proposed rule change reduces the fee for these items to \$.75 per delivery.

The Trade Clearance fee for fails to deliver to CNS (Short-in-CNS) currently is \$.35 per item. The proposed rule change reduces the fee for these items to \$.25 per delivery.

The Trade Clearance fee for trade clearance (netting) currently is \$.03 per side. The proposed rule change reduces the fee for these items to \$.025 per side.

The Trade Clearance fee for designated valued deliveries (transaction Processing) entered into the clearance system through special representation procedures currently is \$.10 per side. The proposed rule change reduces the fee for these items to \$.075 per side.

The ACATSTIF fee represents the fee charged by NSCC's enabling members and Qualified Securities Depositories ("The Depository Trust Company") to transfer accounts of their customers between themselves on an automated basis through the Automated Customer Account Transfer Service. The ACATSTIF fee currently is \$1.00 per submission. The proposed rule change reduces the fee for such items to \$.85 per submission.

NSCC intends to give members the benefit of these fee changes effective as of January 1, 2000. The necessary adjustments to accommodate these reductions will be reflected in billing statements transmitted in February 2000.

NSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>5</sup> and the rules and regulations thereunder applicable to NSCC and in

particular with Section 17A(b)(3)(F) of the Act because it provides for the equitable allocation of dues, fees, and other charges among NSCC's participants.

*(B) Self-Regulatory Organization's Statement on Burden on Composition*

NSCC does not believe that the proposed rule change will impact 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. 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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)<sup>6</sup> of the Act and Rule 19b-4(f)(2)<sup>7</sup> promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by NSCC. At any time within sixty days of the filing of such 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549-0609.

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 Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such

filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SRO-NSCC-00-01 and should be submitted by May 24, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-42708; File No. SR-PCX-99-37]

**Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Authorizing the PCX ITS Coordinator To Accept Inbound Commitments on Behalf of Other PCX Specialists**

April 20, 2000.

**I. Introduction**

On October 5, 1999, the Pacific Exchange, Inc. ("PCX" 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 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to authorize the PCX Intermarket Trading System ("ITS") Coordinator<sup>3</sup> ("ITS Coordinator") to accept inbound commitments on behalf of other PCX specialists. PCX filed an amendment on November 2, 1999 ("Amendment No. 1"),<sup>4</sup> and an amendment on December 7, 1999 ("Amendment No. 2"),<sup>5</sup> The

<sup>8</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> "ITS Coordinator" is used interchangeably with the term "PCX Coordinating Specialist" as defined in new PCX Rule 5.20(a)(xi).

<sup>4</sup> See November 1, 1999 letter from Michael Pierson, Director, Regulatory Policy, PCX, to Marla Chidsey, Law Clerk, Division of Market Regulation, Commission ("Amendment No. 1"). Amendment No. 1 clarifies that the ITS coordinator need not confirm with other PCX specialists executions made on behalf of those other PCX specialists before executions occur. Also, Amendment No. 1 explains that when an ITS inbound commitment is received on the PCX, and the commitment would match against multiple specialists' bids or offers, every specialist in that issue will receive a "shadow" notification of the ITS commitment.

<sup>5</sup> See December 6, 1999 letter from Michael Pierson, Director, Regulatory Policy, PCX to Marla Chidsey, Law Clerk, Division of Market Regulation, Commission ("Amendment No. 2"). Amendment No. 2 adds PCX 5.20(a)(xi) defining the term "PCX Coordinating Specialist" as the specialist responsible for coordinating the acceptance of inbound ITS commitments.

<sup>4</sup> The Trade Clearance fees represent fees for netting, issuing instructions to receive or deliver; effecting book-entry deliveries, and related activities.

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).