

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45560; File No. SR-NSCC-2001-18]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Permitting Data Services Only Members to Access Fund/Serv

March 14, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 26, 2001, 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 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 permits Data Services Only Members to access Fund/Serv to process non-NSCC settling mutual fund purchase and redemption transactions and related instructions.

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

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

Data Services Only Members are permitted access only to those services which are specifically enumerated under NSCC's Rules and which do not involve money settlement through NSCC's facilities. The proposed rule permits Data Services Only Members to access Fund/Serv, provided as part of NSCC's Mutual Fund Services, to process non-NSCC settling mutual fund purchase and redemption transactions and related instructions. The proposed rule also extends this processing only functionality to those Settling Members and Fund Members who wish to utilize it.

The ability of Data Services Only Members and Settling Members to utilize Fund/Serv for processing only is being added at the request of NSCC Fund Members and the Investment Company Institute ("ICI") in order to permit broker-dealers and their financial planner representatives to be able to transmit transaction data to funds in an automated format. Such transmissions are currently being handled manually which is extremely time-intensive.<sup>3</sup>

Accordingly, NSCC's Rule 52 (Mutual Fund Services), Section A (Fund/Serv) is being amended (1) to make Data Services Only Members eligible to utilize the service for the limited purpose of processing (but not settling through NSCC) transactions and related instructions and (2) to enable Settling Members to process transactions and related instructions through Fund/Serv that will settle outside of NSCC. Historically, Fund Members have always had the right to designate parameters within which their orders will be processed. Clarifying language is now being added to set forth this right explicitly. Accordingly, the functionality allowing Data Services Only Members and Settling Members to

input transactions for Fund/Serv processing that will settle outside of NSCC will be available to the extent those parameters are selected by Fund Members.

This rule change will increase automation of mutual fund transaction processing between Fund Members, broker-dealers, and other entities and thus facilitates the prompt and accurate clearance and settlement of securities transactions. The proposed rule change is therefore consistent with the requirements of the Act and the rules and regulations thereunder.

#### (B) Self-Regulatory Organization's Statement on Burden on Competition

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 relating to the proposed rule change have been solicited or received. NSCC has, however, worked closely with the ICI and a representative group of mutual fund industry participants in developing this functionality, and all concur with the proposed changes. 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>4</sup> and Rule 19b-4(f)(4)<sup>5</sup> promulgated thereunder because the proposal effects a change in an existing service of NSCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of NSCC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of NSCC or persons using the service because the proposed rule change will allow entities to process transactions on an automated basis that are currently processed manually and does not involve the settlement of funds through NSCC. At any time within sixty 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,

<sup>3</sup> Pursuant to Securities Exchange Act Release No. 44960 (October 19, 2001), 66 FR 56383 (October 25, 2001) [File No. SR-NSCC-2001-14], Data Services Only Members may utilize Mutual Fund Services' Networking in order to access and make inquiries regarding their customer accounts in an automated format. This inquiry functionality utilizes a communications-translation interface (in Extensible Markup Language or XML) that will also be used to transmit transaction data to Fund/Serv that will settle on a participant to participant basis. This functionality and the XML communications interface used to transmit transaction data to Fund/Serv will be collectively marketed to participants under the name Fund/SPEED. The proposed Fund/SPEED fees, as well as the fees for transactions submitted through Fund/Serv that settle on a participant to participant basis, will be the subject of a separate rule filing. Until such time, these services will be provided without charge.

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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(4).

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 NW, Washington, DC 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 NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NSCC. All submissions should refer to the File No. SR-NSCC-2001-18 and should be submitted by April 11, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45561; File No. SR-NSCC-2002-02]

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

March 14, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 25, 2002, 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 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 consists of revisions to 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 such 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 change is to (i) establish fees for the XML-based account inquiry feature of NSCC's Mutual Fund Services ("MFS"), (ii) establish fees for the XML-based communications interface that transmits fund transaction data to NSCC's Fund/SERV for processing, (iii) establish base participation fees for those Fund Members and Mutual Fund Processors<sup>3</sup> using these XML-communication interface features, and (iv) standardize the descriptions, under the name "Fund/SPEED," of such MFS features and communications in NSCC's fee schedule.

In addition to and in conjunction with these changes, the proposed rule change provides for Fund/SERV fees for Fund/SERV Processing Only transactions that will settle on a participant to participant basis outside of NSCC.

All of the proposed fees are payable by the applicable Fund Member or Mutual Fund Processor. Pursuant to this rule change, the Fund/SPEED fee for account inquiry will be \$0.005 per request and fund response ("Account Inquiry"). The Fund/SPEED fee for the XML-interface transmission of fund transaction data (other than a new

account transaction) to Fund/SERV will be \$.50 per item ("Subsequent Trade Transmission") and will be \$.75 per item for transmission of transaction data involving a new account ("New Account Trade Transmission.") All of these fees will be payable with respect to services provided from and after April 1, 2002.

In addition, participating Fund Members and Mutual Fund Processors will be charged a monthly membership fee to use these services determined as follows: \$250 per month for such members with less than twenty-five eligible mutual funds and/or eligible investment funds (identified by CUSIP) on Fund/SERV; \$1,000 per month for such members with between twenty five and ninety nine eligible mutual funds/investment funds on Fund/SERV; and \$2,500 per month for such members with one hundred or more eligible mutual funds/investment funds on Fund/SERV. These fees will be effective from and after February 1, 2002.

Finally, this rule change provides that the Fund/SERV fees payable with respect to Fund/SERV Processing Only transactions will be \$.175 per side, and the fee for both sides will be charged to and payable by the applicable Fund Member or Mutual Fund Processor, effective with respect to such services provided on and after April 1, 2002.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder, since 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 Competition

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 relating to the proposed rule change have been solicited or received. NSCC has notified participants who use MFS of the Fund/SPEED 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

Because the foregoing rule change establishes and changes fees imposed by NSCC, it has become effective pursuant

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>3</sup> As defined in NSCC's Rule 52, a Mutual Fund Processor is a settling member that is acting in the capacity of a Fund Member in connection with the issuance or redemption of fund shares.