

among other things, that a registered national securities association's rules must be designed to promote just and equitable principles of trades, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. Nasdaq believes that the proposed rule change, as amended, is consistent with these requirements because it would facilitate transactions in securities, remove impediments to a free and open market, and protect investors by improving the transparency and efficiency of transactions.

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

Nasdaq does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2003-137 and should be submitted by November 7, 2003.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.⁸ In particular, the Commission finds that the proposed rule change is consistent with section 15A(b)(6) of the Act, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.⁹

The Commission believes that an extension of the Pilot for an additional six months, retroactive to September 1, 2003, may allow market participants more time to utilize the Pilot. The Commission believes that the continued Pilot may benefit investors by increasing transparency and liquidity of trading interest in SuperMontage. The Commission also believes that the extension of the Pilot should enable Nasdaq to further evaluate the Pilot.

The Commission notes that Nasdaq has represented that it, in conjunction with NASD, has developed procedures to maintain surveillance and member compliance with NASD and Commission rules. Furthermore, the Commission notes that Nasdaq represents that a firm's Secondary MMID would be withdrawn for all purposes and for all securities if it were to be determined that the firm was using the Secondary MMID improperly.

Nasdaq has requested that the Commission find good cause for approving the proposed rule change and Amendment No. 1 thereto prior to the thirtieth day after publication of notice thereof in the **Federal Register**. The Commission believes that granting accelerated approval to extend the Pilot for an additional six months, and making such extension retroactive to September 1, 2003, will allow Nasdaq to continue, without interruption, the existing operation of the Pilot. Accordingly, the Commission finds

⁸ In approving this proposal, as amended, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78o-3(b)(6).

good cause, pursuant to section 19(b)(2) of the Act,¹⁰ for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-NASD-2003-137), and Amendment No. 1 thereto, are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 03-26257 Filed 10-16-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48614; File Nos. SR-NSCC-2003-19 and SR-DTC-2003-11]

Self-Regulatory Organizations; National Securities Clearing Corporation; The Depository Trust Company; Notice of Filing of Proposed Rule Changes Relating to the Consolidation of Settlement Processing Operations and to the Use of the Federal Reserve Banks' Net Settlement Service

October 9, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 26, 2003, the National Securities Clearing Corporation ("NSCC") and The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes (File Nos. SR-NSCC-2003-19 and SR-DTC-2003-11). The proposed rule changes are described in Items I, II, and III below, which items have been prepared primarily by NSCC and DTC. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested parties.

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

The NSCC proposed rule change proposes that NSCC require all its settling banks to use the Federal Reserve

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

Banks' ("FRBs") Net Settlement Service ("NSS") to satisfy their end-of-day settlement obligations.² The NSCC and DTC proposed rule changes propose that NSCC and DTC consolidate their settlement processing operations.

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

In their filings with the Commission, NSCC and DTC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. NSCC and DTC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.³

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

1. Consolidated Settlement Processing Operation

Currently, DTC and NSCC settlements are run on two separate systems each of which is fed throughout the day with debit and credit data generated by participant/member activities. At the end of the processing day, the data is summarized and reported by product category (*e.g.*, in the case of NSCC, continuous net settlement, mutual funds, envelope services, *etc.* and in the case of DTC, delivery orders, stock loans, dividends, redemptions, *etc.*) on the Participant Terminal System ("PTS") via separate DTC and NSCC screens. The data is netted separately at DTC and at NSCC to produce an aggregate debit or credit at each clearing agency.

Following the determination of final net numbers for each participant/member for each clearing agency, a participant/member's credit balance at one clearing agency is netted against any debit balance at the other ("cross-endorsement"). The settling banks subsequently authorize settlement for their participant customers in an "acknowledgement" process and then transmit or receive funds to or from DTC's account and to or from NSCC subaccount at the Federal Reserve Bank of New York ("FRBNY").

In order to promote operating efficiencies, improve risk management, and lower transaction processing costs, DTC and NSCC are seeking to introduce a consolidated settlement processing operation. A consolidated settlement processing operation will provide participants/members with consolidated NSCC and DTC settlement reporting, a single point of access for both NSCC and DTC settlement information, and reduced settlement risk. This consolidation is intended to be operational only. It is not intended to affect the legal relationship that participants/members and their settling banks have with NSCC or DTC.

The new consolidated settlement processing operation will provide DTC and NSCC participants/members and their settling banks with a single set of enhanced PTS functions. Each participant/member will be able to view its DTC and NSCC settlement activity and will be provided a consolidated end-of-day netted DTC/NSCC settlement obligation. A participant/member's debits and credits at DTC and at NSCC will be separately summarized in one consolidated activity statement which will show the final DTC and NSCC balances and the netted amount for each participant/member.

2. Net Settlement Service

To reduce settlement risk and to permit settling banks to settle their net-net debits at NSCC and at DTC with a single payment, NSCC is amending its procedures to require that NSCC settling banks satisfy their daily net-net debit balances at NSCC through the use of NSS.

The change being sought is consistent with DTC's requirement that its settling banks utilize NSS.⁴

As more fully described below, NSS will permit DTC, as NSCC's settlement agent, to submit instructions to have the FRB accounts of the NSCC settling banks charged for their NSCC net-net debit balance. By centralizing DTC and NSCC's settlement processing and by adopting NSS as the payment mechanism, each settling bank's balance at NSCC (whether a net-net debit or a net-net credit) will also be aggregated or netted with its settlement balance at DTC resulting in only a single debit or single credit having to be made to the settling bank's FRB account. Utilization of NSS by NSCC members and their settling banks will eliminate the need for a settling bank to initiate a wire transfer in satisfaction of a net-net debit balance, which should reduce the risk a settling bank may incur a late payment

fee due to a delay in wiring settlement funds and will permit the aggregation or netting of such amounts with its DTC balance.⁵

NSCC is proposing certain technical corrections to assure that defined terms and other provisions are used consistently. Accordingly, NSCC's Rule 1 (Definitions and Descriptions) is being amended to (1) include a new definition of "Settlement Agent" as DTC will act as NSCC's settlement agent in collecting and paying out settlement monies and (2) set forth the definition for "Net Credit Balance" which is currently used in Rule 12 (Settlement) and elsewhere in the Rules.

NSCC Rule 12 and Rule 55 (Settling Banks) are being amended to make clear that in those instances where NSCC permits a Settling Member, Insurance Carrier Member, or Fund Member to settle other than through a settling bank, it will be deemed to have failed to settle if it fails to pay its Net Debit Balance.⁶ In addition, rule language is being modified to make clear that settlement of monies will be effected in the manner provided for in NSCC's Procedures.

NSCC Procedure VIII (Money Settlement Service) is being amended to reflect the requirement that settling banks use NSS and to provide the procedures whereby settling banks that act as such for both NSCC and DTC ("common settling banks") will have their settlement balances at both clearing agencies aggregated or netted into a single payment or credit amount.

Prior to using NSS, settling banks will be required to sign a Settler Agreement with an FRB which incorporates a requirement that the settling bank agrees to the terms of the FRB's Operating Circular No. 12. Under Section 6.4 of Operating Circular No. 12, the settlement agent (*i.e.*, DTC acts as settlement agent for NSCC) has certain responsibilities regarding allocation among settling banks of a claim for indemnity by the FRB. The allocation of any such claim among NSCC's members will be as described in NSCC Procedure VIII, Section 4(iv). The signed Settler Agreement must be on the settling bank's letterhead, signed by an authorized signer recognized by the FRB, and submitted to the FRB through DTC as NSCC's settlement agent.

⁵ Should NSS not be available for any reason, then Settling Banks will be obligated to settle their NSCC and DTC obligations by wire transfer.

⁶ Net Debit Balance for a business day as used with respect to a Member, Insurance Carrier Member, or Fund Member means the amount by which the Member's, Insurance Carrier Member, or Fund Member's gross debit balance for such business day exceeds its gross credit balance on such business day.

² On September 2, 2003, DTC implemented the requirement that all DTC settling banks use NSS. Securities Exchange Act Release No. 48089 (June 25, 2003), 68 FR 40314 (July 7, 2003) [File No. SR-DTC-2002-06].

³ The Commission has modified the text of the summaries prepared by NSCC and DTC.

⁴ *Supra* note 2.

Settling banks that also act as settling banks for DTC participants have to sign a Settler Agreement with the FRB designating DTC as their NSS settlement agent. Accordingly, these settling banks will not be required to sign new Settler Agreements to cover NSCC's NSS settlement. Instead, as provided in NSCC Procedure VIII, the Settler Agreements they provide to DTC for delivery to the FRB designating DTC as their NSS settlement agent will, upon the approval and effectiveness of NSCC's proposed rule change, be deemed to include the settling bank's NSCC settlement obligations as well as its DTC settlement obligations.

As is currently required, each settling bank will be required to acknowledge its NSCC net-net balance at the end of the day. However, any settling bank that is a Member and settles solely for its own account may elect to not acknowledge its net-net settlement balance at the end of the day.⁷ This option will not be made available to settling banks that settle for others because the acknowledgement process includes the option to refuse to pay for a participant for whom the settling bank provides settlement services. Unless a settling bank has elected not to acknowledge its net-net settlement balance as provided above, DTC will not send a settling bank's net-net debit balance to a FRB for collection until the settling bank has acknowledged its balance.

As NSCC's settlement agent, DTC will send a "preadvice" to each settling bank, notifying the settling bank that DTC is about to send its NSS transmission to the FRB. If a settling bank does not have sufficient funds in its FRB account to enable DTC, as settlement agent, to debit the full amount of its settlement balance or should NSS not be available to a settling bank for any reason, the settling bank will be obligated to wire all such amounts to DTC prior to the designated cut-off time.⁸

A new item 4 in NSCC Procedure VIII sets forth the netting and payment obligations among common settling banks, NSCC, and DTC. For each common settling bank, DTC, as

settlement agent, will aggregate or net the net-net debit or net-net credit as applicable due by or due to such bank from or to NSCC and DTC. If the common settling bank owes a settlement debit to both clearing agencies, DTC will debit the FRB account the sum of the debit amounts. If the bank is owed a settlement credit from both, DTC will wire the bank the sum of the credit amounts.

Where the common settling bank owes a debit to one clearing agency and is owed a credit from the other, the common settling bank will be obligated to pay the net amount of that sum (if a net debit) or be entitled to receive the net amount (if a net credit). The clearing agency which prenet owes the settlement credit to the common settling bank will pay the net credit difference to the other clearing agency if the other clearing agency has a prenet debit.⁹ NSCC will implement its failure to settle procedures if any common settling bank that had a net-net debit to NSCC before aggregation or netting of such amounts with the common settling bank's DTC settlement balance fails to pay its aggregate NSCC/DTC net debit amount, referred to as the "consolidated settlement debit amount," in full by the time specified in NSCC and DTC's procedures.

NSCC and DTC believe that the proposed rule changes are consistent with the requirements of section 17A of the Act¹⁰ and the rules and regulations thereunder applicable to NSCC and DTC because they are designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agencies or for which they are responsible by reducing the risk that the completion of settlement will be delayed because a settling bank is late or is unable to wire funds to DTC or NSCC in settlement of its obligations.

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

NSCC and DTC do not believe that the proposed rule changes will have an impact on or impose a burden on competition.

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

NSCC and DTC have discussed this proposal with various participants and industry groups, a number of whom

have worked closely with NSCC and DTC in developing the proposed consolidated settlement system. NSCC and DTC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Changes 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 the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes or

(B) Institute proceedings to determine whether the proposed rule changes 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 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. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File Nos. SR-NSCC-2003-19 and SR-DTC-2003-11. These file numbers should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 also will be available for inspection and copying at the principal offices of NSCC and DTC.

All submissions should refer to File Nos. SR-NSCC-2003-19 and SR-DTC-2003-11 and should be submitted by November 3, 2003.

⁷ Settling banks electing not to acknowledge their settlement balance will be required to sign an Acknowledgement Option Form. A common settling bank may not elect to opt out of acknowledging its balances unless it settles solely for its own account at both DTC and NSCC in which case that election will cover both the bank's NSCC and DTC net settlement balances.

⁸ If a settling bank is experiencing extenuating circumstances and as a result needs to opt out of NSS for one business day and send its wire directly to DTC's FRBNY account for its debit balance, that settling bank must notify NSCC/DTC prior to acknowledging its settlement balance.

⁹ For example, if NSCC owes the common settling bank \$5 million, and DTC is owed \$2 million by the common settling bank, NSCC will pay DTC \$3 million dollars which DTC will pay to the common settling bank using NSS.

¹⁰ 15 U.S.C. 78q-1.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-26258 Filed 10-16-03; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3545]

State of North Carolina; Amendment #3

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective October 8, 2003, the above numbered declaration is hereby amended to include Bladen, Columbus, Cumberland, Davidson, Duplin, Durham, Harnett, Johnston, Robeson, Sampson and Wake Counties as disaster areas due to damages caused by Hurricane Isabel occurring on September 18, 2003 and continuing through September 26, 2003.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Chatham, Davie, Forsyth, Guilford, Hoke, Lee, Montgomery, Moore, Randolph, Rowan, Scotland and Stanly in the State of North Carolina; and Dillon and Marlboro Counties in the State of South Carolina may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 17, 2003, and for economic injury the deadline is June 18, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 9, 2003.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 03-26287 Filed 10-16-03; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 4282]

Notice of Meeting; United States International Telecommunication Advisory Committee; Information Meeting on the World Summit on the Information Society and the U.S. Preparatory Process

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee (ITAC). The purpose of the Committee is to advise the Department on matters related to telecommunication and information policy matters in preparation for international meetings pertaining to telecommunication and information issues.

The ITAC will meet to discuss the matters related to the World Summit on the Information Society (WSIS), which will take place in December 2003, including U.S. preparations for the WSIS. The meeting will take place on November 6, 2003 from 10:30 a.m. to 12 p.m. at the Historic National Academy of Science Building. The National Academy of Sciences is located at 2100 C St., NW., Washington, DC.

Members of the public are welcome to participate and may join in the discussions, subject to the discretion of the Chair. Persons planning to attend this meeting should send the following data by fax to (202) 647-7407 or e-mail to worsleydm@state.gov not later than 24 hours before the meeting: (1) Name of the meeting, (2) your name, and (3) organizational affiliation. A valid photo ID must be presented to gain entrance to the National Academy of Sciences Building. Directions to the meeting location may be obtained by calling the ITAC Secretariat at (202) 647-2592 or email to worsleydm@state.gov.

Dated: October 7, 2003.

Anne Jillson,

Foreign Affairs Officer, Department of State.

[FR Doc. 03-26301 Filed 10-16-03; 8:45 am]

BILLING CODE 4710-07-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2003-58]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 6, 2003.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA-200X-XXXXX] by any of the following methods:

- Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267-8033, Sandy Buchanan-Sumter (202) 267-7271, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

¹¹ 17 CFR 200.30-3(a)(12).