

C securities rebates.<sup>6</sup> Additionally, the Exchange proposes to clarify that the routing fee of \$0.003 continues to apply on a per share basis for all securities routed to another market center, including Tape B securities.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act<sup>7</sup> that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(2)<sup>9</sup> thereunder. At any time within 60 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. Comments may be submitted by any of the following methods:

<sup>6</sup> Equity EAMs receive a rebate of \$0.0035 per share in Tape A and Tape C securities for the maker shares exceeding the monthly ADV of 5 million. The first 5 million shares per day will continue to receive a rebate of \$0.0032 per share.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 19b-4(f)(2).

### *Electronic Comments*

- Use the Commission's Internet comment form <http://www.sec.gov/rules/sro.shtml>; or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2008-53 on the subject line.

### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-ISE-2008-53. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2008-53 and should be submitted on or before August 8, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Acting Secretary.*

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**BILLING CODE 8010-01-P**

<sup>10</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58123; File No. SR-NSCC-2007-08]

### **Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend Membership Disqualification Criteria Rules**

July 9, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 30, 2007, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on February 7, 2008, and on March 18, 2008, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared 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**

NSCC is seeking to amend its membership disqualification criteria rules in an effort to create more uniformity with the rules of the Fixed Income Clearing Corporation ("FICC") and The Depository Trust Company ("DTC").<sup>2</sup>

#### **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>3</sup>

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

The purpose of this filing is to amend the NSCC rules as they relate to

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

<sup>2</sup> DTC and FICC have filed proposed rule changes seeking to harmonize their membership disqualification criteria rules with each other and with NSCC.

<sup>3</sup> The Commission has modified the text of the summaries prepared by NSCC.

membership disqualification criteria in an effort to create more uniformity between the rules of NSCC and the rules of NSCC's affiliates, FICC and DTC.

Currently, Addendum S of the rules sets forth NSCC's policy as to standards relating to competence for membership. The Addendum includes both objective and subjective factors that may be considered by NSCC in its evaluation of an applicant or the continued membership of a particular member. Going forward, NSCC is proposing to amend its rules to only include those disqualification criteria that can be objectively monitored by Risk Management staff. For example, NSCC proposes to delete from its rules specific references to criteria that may not be reported in a regulatory background check, such as an entity being subject to "heightened supervision" by a regulatory body. NSCC is proposing to include in its rules a general provision to permit consideration of events with respect to an applicant or member that may not be expressly mentioned but that may impact a member's suitability as a member.

In addition, pursuant to NSCC's current disqualification criteria, NSCC can consider the criteria with respect to a person or entity that has "significant managerial responsibility" over the applicant or member. Because it is not easily ascertainable as to what entities or individuals have "significant managerial responsibility" over a particular entity, NSCC is proposing to amend these provisions in the rules so that they are consistent with internal surveillance procedures. Going forward, NSCC will extend the reach of certain disqualification criteria to persons and entities acting as "controlling management," which will include those officers of the entity that are currently screened by Risk Management staff pursuant to internal procedures.

Specifically, NSCC's disqualification criteria will now include:

(i) An applicant or member being subject to statutory disqualification as defined in Section 3(a)(39) of that Act.<sup>4</sup> While this provision currently exists in the rules, it will be moved within the rules and will be grouped with all other disqualification criteria.

(ii) An applicant, member, or its controlling management making a misstatement of material facts; committing fraudulent acts; or being convicted of any of the crimes listed in the rule.

(iii) An applicant, member, or its controlling management being permanently or temporarily enjoined from acting on behalf of a financial institution such as a broker-dealer.

(iv) An applicant or member's suspension or termination from participation in a national securities association, exchange registered under the Exchange Act, a self-regulatory organization, clearing agency, or securities depository.

Pursuant to the proposed change, NSCC would also continue to be able to cease to act for a member when any of the factors in sections (i) through (iv) above are present. Addendum S would be struck entirely from the rules, and the listed disqualification criteria would be included in NSCC's proposed Rule 2A "Initial Membership Requirements."<sup>5</sup>

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>6</sup> and the rules and regulations thereunder applicable to NSCC because it will remove impediments to the perfection of a national system for the prompt and accurate clearance and settlement of securities transactions and is not designed to permit unfair discrimination in the admission of participants or among participants in the use of NSCC by refining NSCC's rules and procedures with regard to applicants and members, and in general will protect investors and the public interest.

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

NSCC does not believe that the proposed rule change would impose any burden on competition.

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

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received. 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**

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 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 change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2007-08 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSCC-2007-08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 am and 3 pm. Copies of such filing also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at [http://www.dtcc.com/downloads/legal/rule\\_filings/2007/nscc/2007-08.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2007/nscc/2007-08.pdf). All comments received will be posted

<sup>4</sup> The NSCC rules will also provide that applicants and members must notify NSCC if any member of its controlling management is or becomes subject to a statutory disqualification, as defined in Section 3(a)(39) of the Act.

<sup>5</sup> NSCC has also filed proposed rule change SR-NSCC-2006-17 which seeks to reorganize NSCC's rules related to membership standards and membership requirements.

<sup>6</sup> 15 U.S.C. 78q-1.

without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2007–08 and should be submitted on or before August 8, 2008.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8–16400 Filed 7–17–08; 8:45 am]

BILLING CODE 8010–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–58130; File No. SR–NYSEArca–2008–72]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Exchange's Quarterly Options Series Pilot Program

July 9, 2008.

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> notice is hereby given that on July 2, 2008, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange has designated this proposal as non-controversial under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b–4(f)(6) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. 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

NYSE Arca proposes to amend its rules to (i) extend the Quarterly Options Series pilot program (“Pilot Program”) until July 10, 2009, (ii) add provisions to the Pilot Program regarding the addition of new strike prices and the delisting of inactive series and, (iii)

make minor technical changes. The text of the proposed rule change is available on the Exchange's Web site at (<http://www.nyse.com>), at the Exchange's principal office, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange 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. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

###### 1. Purpose

On July 12, 2006 the Exchange filed with the Commission a proposal to list and trade Quarterly Options Series on a pilot basis (“Pilot Program”) through July 10, 2007. The rule change was effective upon filing.<sup>5</sup> The original Pilot Program was subsequently extended and is now due to expire on July 10, 2008.<sup>6</sup> The Exchange now proposes to extend the Pilot Program for another year, so that it will now expire on July 10, 2009; to amend the Pilot Program in certain respects; and make minor technical changes.

###### Pilot Extension

The Exchange stated that it would submit, in connection with any proposed extension of the Pilot Program, a Pilot Program Report (“Report”) that would provide an analysis of the Pilot Program covering the entire period which the program was in effect. The Report was to include: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Options Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity on the Exchange, OPRA and on market data

vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist the Commission in assessing the operation of the Pilot Program. The Exchange has submitted the Report.

The Exchange represents that the Report supports its belief that extension of the Pilot Program is proper. Among other things, the Report shows the strength of the Pilot Program as reflected by the overall volume and open interest of Quarterly Options Series traded on NYSE Arca and other national options exchanges. The Report shows that the Pilot Program has not created, and in the future should not create, any capacity, operational or regulatory problems attributable to Quarterly Options Series. Finally, NYSE Arca represents that the Exchange has the necessary system capacity to support any additional series listed as part of the Pilot Program.

##### *Proposal Related to the Listing and Delisting of Strikes*

On August 7, 2007, the Chicago Board Options Exchange (“CBOE”) filed a proposal to revise the terms of its Quarterly Options Series pilot program. As part of this filing, CBOE proposed to implement new policies related to the listing and delisting of additional strike prices for Quarterly Options Series. The proposal, as amended, was approved by the Commission on March 3, 2008.<sup>7</sup> NYSE Arca proposes to adopt the revised terms of the CBOE's pilot program, for use in its own Pilot Program.

Specifically, NYSE Arca proposes to amend Rule 6.4, Commentary .08 to permit the Exchange to list additional strike prices for Quarterly Options Series in exchange traded fund (“ETF”) options that fall within a percentage range (30%) above and below the price of the underlying ETF.<sup>8</sup>

Additionally, upon demonstrated customer interest, the Exchange also will be permitted to open additional strike prices of Quarterly Options Series

<sup>7</sup> See Securities Exchange Act Release No. 57410 (March 3, 2008), 73 FR 12483 (March 7, 2008) (SR–CBOE–2007–96).

<sup>8</sup> Pursuant to the existing Pilot Program, the Exchange is presently limited to listing new strike prices on Quarterly Options Series that fall within a \$5 range from the closing price of the underlying security on the preceding day.

<sup>7</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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b–4(f)(6).

<sup>5</sup> See Securities Exchange Act Release No. 54166 (July 18, 2006), 71 FR 42151 (July 25, 2006) (SR–NYSEArca–2006–45).

<sup>6</sup> See Securities Exchange Act Release No. 56119 (July 24, 2007), 72 FR 41563 (July 30, 2007) (SR–NYSEArca–2007–70).