

*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. 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) of the Act<sup>14</sup> and Rule 19b-4(f)(5) thereunder<sup>15</sup> in that it effects a change to an order-entry or trading system that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. As such, this proposed rule change is effective upon the Commission's receipt of this filing.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the 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:

*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-NASDAQ-2009-023 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.
- All submissions should refer to File Number SR-NASDAQ-2009-023. 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 Nasdaq. 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-NASDAQ-2009-023 and should be submitted on or before April 16, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-59607; File No. SR-NSCC-2009-02]

**Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Tiered Trade Netting Fee**

March 19, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 27, 2009, 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. NSCC filed the proposed rule change

pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>2</sup> and Rule 19b-4(f)(2)<sup>3</sup> thereunder so that the proposal was 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**

The proposed rule change amends the methodology of the calculation of NSCC's tiered trade netting fee from being computed on the basis of daily average volume to a monthly volume basis.

**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>4</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 amend NSCC's fee structure as set forth in Addendum A to NSCC's Rules to change the methodology of the calculation of NSCC's tiered trade netting fee from being calculated on the basis of daily average volume to the basis of monthly volume. The current tiered structure for the netting fee became effective on January 2, 2009;<sup>5</sup> however, that calculation methodology caused systems difficulties that will be remedied by computing the charge on the basis of monthly volume. This change will not have a material impact on the total fee amounts charged members on their monthly billing statements. NSCC will commence use of the revised methodology for billing statements reflecting February 2009 activity.

The proposed rule change is consistent with the requirements of the Act and the rules and regulations

<sup>2</sup> 15 U.S.C. 78s-1(b)(3)(A)(ii).

<sup>3</sup> 17 CFR 240.19b-4(f)(2).

<sup>4</sup> The Commission has modified parts of these statements.

<sup>5</sup> Securities Exchange Act Release No. 59285 (January 23, 2009), 74 FR 5875 (February 2, 2009) (File No. SR-NSCC-2008-13).

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(5).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

thereunder because it updates NSCC's fee schedule. As such, it provides for the equitable allocation of fees among its participants.

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

NSCC does not believe that the proposed rule change will have any impact or 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 relating to the proposed rule change have not yet 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) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> promulgated thereunder because the proposal changes a due, fee, or other charge applicable only to a member. 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, 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:

*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-2009-02 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-NSCC-2009-02. 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 NSCC. 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-NSCC-2009-02 and should be submitted on or before April 16, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon,

Deputy Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-59606; File No. SR-NYSE-2009-04]

**Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change To Establish Fees for NYSE Trades**

March 19, 2009.

**I. Introduction**

On January 27, 2009, the New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("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 introduce its NYSE Trades service, a new NYSE-only market data service that allows a vendor to redistribute on a real-time basis the same last sale information that NYSE reports to the Consolidated Tape Association ("CTA") for inclusion in the CTA's consolidated data stream and certain other related data elements ("NYSE Last Sale Information"), and to establish fees for that service. The proposed rule change was published for comment in the **Federal Register** on February 4, 2009.<sup>3</sup> The Commission received no comment letters on the proposal. This order approves the proposed rule change.

**II. Description of the Proposal**

The Exchange proposes to introduce NYSE Trades, a new service pursuant to which it will allow vendors, broker-dealers, and others ("NYSE-Only Vendors") to make available NYSE Last Sale Information on a real-time basis. NYSE Last Sale Information would include last sale information for all securities that are traded on the Exchange. The Exchange will make NYSE Last Sale Information available through its new NYSE Trades service at the same time as it provides last sale information to the processor under the CTA Plan. In addition to the information that the Exchange provides to CTA, NYSE Last Sale Information will also include a unique sequence number that the Exchange assigns to each trade and that allows an investor to track the context of the trade through other Exchange market data products, such as NYSE OpenBook<sup>®</sup> and NYSE Info Tools<sup>®</sup>.

The Exchange proposes to charge \$1500 per month for the receipt of access to all of the datafeeds of NYSE Last Sale Information that the Exchange will make available.<sup>4</sup> In addition, the Exchange proposes to charge each subscriber to an NYSE-Only Vendor's NYSE Trades service \$15 per month per display device for the receipt and use of NYSE Last Sale Information.<sup>5</sup>

NYSE represents that no investors or broker-dealers are required to subscribe to the product, as they can find the same NYSE last sale prices either in the

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 59309 (January 28, 2009), 74 FR 5955 (February 4, 2009).

<sup>4</sup> Currently, the Exchange trades only Network A securities. The Exchange does not propose to impose any program classification charges for the use of NYSE Trades.

<sup>5</sup> The Exchange proposes to use the revised unit of count methodology to determine the device fees payable by data recipients applicable to NYSE OpenBook<sup>®</sup> products. See Securities Exchange Act Release No. 59544 (March 9, 2009), 74 FR 11162 (March 16, 2009) (SR-NYSE-2008-131).

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

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

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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