

Office Building, Washington, D.C.
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Dated: August 29, 1996.
Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 96-22934 Filed 9-6-96; 8:45 am]
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Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Schedule 13E-4; SEC File No. 270-190;
OMB Control No. 3235-0203

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for approval of extension on the following:

Schedule 13E-4 is filed pursuant to Section 13(e)(1) of the Securities Exchange Act of 1934 by issuers conducting a tender offer. This information is needed to provide full and fair disclosure to the investing public. Schedule 13E-4 takes approximately 232 hours to prepare and is filed by an estimate 121 respondents annually for a total of 28,072 burden hours.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: August 30, 1996.
Margaret H. McFarland,
Deputy Secretary.
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[Release No. 34-37631; File No. SR-NSCC-96-08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Modifying Rules and Procedures Relating to the New York Window System

September 3, 1996.

On April 3, 1996, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NSCC-96-08) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ to modify its rules and procedures relating to the New York Window ("NYW") service. Notice of the proposal was published on June 27, 1996, in the Federal Register to solicit comments on the proposed rule change.² No comment letters were received. On August 30, 1996, NSCC amended the proposal.³ For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

NSCC's proposed rule change modifies NSCC's rules and procedures regarding the NYW service (i) to allow members to use the NYW through their individual systems, (ii) to modify the terms and conditions under which NYW services are provided with respect to the use of the NYW through NSCC's proprietary system, and (iii) to clarify that members may elect to use all or some of the services offered under the NYW service.⁴

NSCC's NYW service provides for the processing of receives and deliveries of physical securities and for related services. The NYW service also provides custodial services and custodial related services. When NSCC sought permanent approval of the NYW service, it anticipated that members accessing the NYW through their own systems eventually would migrate to using NSCC's proprietary system. However, because of the number of industry initiatives currently underway and the resulting demand on members' technological resources, a number of

participants continue to access the NYW through their own systems. This proposed rule change clarifies NSCC's NYW rules to explicitly allow members to take advantage of the NYW through the use of their individual systems.⁵

Presently, reimbursement for losses related to the use of the NYW service is within the sole discretion of NSCC. In order to encourage members to use NSCC's proprietary system for the NYW service, NSCC will accept responsibility for certain categories of losses with respect to members who access the NYW service through NSCC's proprietary system. Under the proposed rule change, NSCC will be responsible for: (1) the replacement cost of certificates lost while in the care, custody, or control of NSCC employees or agents, (2) with respect to a lost security, the cost to carry the lost security from the date of the scheduled delivery or the redemption date until the date when replacement securities are delivered or presented,⁶ and (3) the cost to carry the lost security for the number of days that NSCC is unable to complete a scheduled delivery if such failure is due to circumstances other than those set forth in clause (1) above. However, with respect to the NSCC's obligations under clauses (2) and (3) above, NSCC will have no obligations unless (a) instructions regarding delivery and the subject securities are delivered to NSCC within time parameters established by NSCC from time to time, (b) the final delivery destination is within the New York City downtown financial district, and (c) other NYW services operational criteria, as established by NSCC from time to time, are met. Notwithstanding clauses (1), (2), and (3) above, NSCC will not be liable for (a) special, incidental, or consequential damages or any direct or indirect damages other than the cost to carry or (b) the cost to carry resulting from any failure or delay arising out of conditions beyond NSCC's reasonable control including, but not limited to, work stoppages, fire, civil disobedience, riots, rebellions, storms, electrical failures, acts of God, and similar occurrences. These revised terms will be offered to current users of NSCC's NYW services as well as prospective NYW service users that access the NYW service through NSCC's proprietary system.

NSCC is adding a section to Addendum K, Interpretation of the Board of Directors, Application of

¹ 15 U.S.C. 78s(b)(1) (1988).

² Securities Exchange Act Release No. 37347 (June 21, 1996), 61 FR 33565.

³ Letter from Julie Beyers, Associate Counsel, NSCC, to Jerry Carpenter, Commission (August 30, 1996). The Commission is not noticing the amendment because the change is technical in nature.

⁴ For a complete description of NYW services, refer to Securities Exchange Act Release No. 34629 (September 1, 1994), 59 FR 46680 [File No. SR-NSCC-94-12] (order granting permanent approval of the NYW service).

⁵ NSCC Rule 31, Section 1.

⁶ The cost to carry a security represents the interest costs associated with a participant's failure to receive timely payment.

Clearing Fund to Excess Losses and Losses Outside of a System, which will provide that if NSCC were to have an unsatisfied loss due to a member's use of the NYW service, the loss may be satisfied from the entire clearing fund.⁷

An additional purpose of the filing is to clarify that members may choose to use only some of the NYW services (e.g., custodial and custodial related services). Members may enter into agreement(s) with NSCC limiting their access to specified NYW services which they desire to access.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Sections 17A(b)(3) (A) and (F).⁸ Sections 17A(b)(3) (A) and (F) require that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to safeguard securities and funds in its custody or control or for which it is responsible.

NSCC's rule change will provide participants with greater access to the NYW service by allowing participants to continue to access the service through their own systems which should facilitate the prompt and accurate clearance and settlement of securities transactions. Furthermore, when participants elect to access the NYW service via NSCC's proprietary system, NSCC will assume greater responsibility for certain losses resulting therefrom. In connection with assuming greater responsibility for certain losses, NSCC will apply its usual procedures to ensure the safeguarding of securities and funds processed through NSCC.

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 Sections 17A(b)(3) (A) and (F) 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-NSCC-96-08) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-22938 Filed 9-6-96; 8:45 am]

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[Release No. 34-37630; File No. SR-OCC-96-03]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Clearance and Settlement of Flexibly Structured Equity Options

September 3, 1996.

On April 30, 1996, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-96-03) under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ to enable OCC to clear and settle flexibly structured equity options. Notice of the proposal was published in the Federal Register on June 25, 1996.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

OCC is modifying its existing by-laws and rules to allow for the clearance and settlement of flexibly structured options on individual equity securities as proposed for trading by the American Stock Exchange, Inc. ("AMEX"), the Chicago Board Options Exchange, Incorporated ("CBOE"), the Philadelphia Stock Exchange, Inc. ("PHLX"), and the Pacific Stock Exchange, Inc. ("PSE")— (collectively, "Exchange" or "Exchanges").³ Flexibly structured equity options will allow the parties to each flexibly structured equity option trade to customize certain terms of the option within specified limits established by the Exchange. Specifically, for each flexibly structured equity option trade the parties may establish the exercise price, the exercise

style (i.e., American,⁴ European⁵ or capped)⁶ the cap interval in the case of a capped-style option, the expiration date, and the option type (i.e., put or call).⁷ In addition to customization, flexibly structured equity option trades will require a minimum transaction size of 250 contracts in opening trades in currently unopened series and 100 contracts in the case of opening and most closing trades in currently open series. Flexibly structured equity options thus will differ from existing Exchanged-traded equity options both in terms of customization and size.

From a clearance and settlement prospective, flexibility structured equity options will be treated and processed in virtually all respects like any other equity option. While Exchange rules permit a Request for Quotes⁸ to specify a quote either as a dollar amount or as a percentage of the underlying stock price, the option premium always will be expressed as a dollar amount when a trade is reported to OCC. Therefore, when a flexibly structured equity option trade is reported to OCC by one of the Exchanges, all of the terms of that option will have been established in the Exchange's report, and the terms will correspond to existing equity options term categories. As a result, on receipt of a matched trade report from an Exchange, OCC will establish long and short flexibility structured equity option positions in clearing member accounts in precisely the same way it does for existing equity options. Furthermore, flexibly structured equity option positions should exhibit virtually the

⁴ An American-style equity option may be exercised at any time prior to its expiration date.

⁵ A European-style equity option may be exercised only during a specified period before the option expires.

⁶ A capped-style equity option will be exercised automatically prior to expiration if the options market on which the option is trading determines that the value of the underlying interest at a specified time on a trading day "hits the cap price" for the option (i.e., when the cap price is less than or equal to the closing price of the underlying security for calls or when the cap price is greater than or equal to the closing price of the underlying security for puts).

⁷ Although the rules of the Exchanges provide for capped-style flexibly structured equity options, the Exchanges advised OCC that they do not intend to provide a market in capped-style equity options at the outset. Accordingly, this proposed rule change does not include the rules that would be required for the clearance and settlement of such options. The commencement of trading in capped-style flexibly structured equity options will require that OCC file and that the Commission approve another proposed rule change filed by OCC under Section 19(b)(1) of the Act.

⁸ A Request for Quotes is the initial request by an exchange member to initiate flexibly structured option bidding and offering.

¹ 15 U.S.C. 78(b)(1) (1988).

² Securities Exchange Act Release No. 37318 (June 18, 1996), 61 FR 32873.

³ For a complete description of flexibly structured equity options, refer to Securities Exchange Act Release Nos. 36841 (February 14, 1996), 61 FR 6666 [File Nos. SR-CBOE-95-43 and SR-PSE-95-24] (order approving the trading of flexibly structured equity options by the CBOE and PSE) and 37366 (June 19, 1996), 61 FR 33558 [File No. SR-AMEX-95-57] (order approving the trading of flexibly structured equity options by the AMEX). The PHLX filed and subsequently withdrew a proposed rule change regarding the trading of flexibly structured equity options. The Commission anticipates that the PHLX will refile in the near future.

⁷ Interpretation of the Board of Directors, Application of Clearing Fund, Addendum K, II, 2.

⁸ 15 U.S.C. 78q-1(b)(3) (A) and (F) (1988).

⁹ 17 CFR 200.30-3(a)(12) (1996).