

disciplinary rule and procedures. These changes are intended to reflect and facilitate the "hybrid" regulatory scheme resulting from the ISE's regulatory services agreement with NASD Regulation, Inc. ("NASDR") pursuant to which, among other things, NASDR provides services related to conducting regulatory investigations and disciplinary actions.

The proposed rule change was published for comment in the **Federal Register** on May 29, 2001.³ The Commission received no comments on the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange⁴ and, in particular, the requirements of Section 6 of the Act⁵ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Sections 6(b)(6) and 6(b)(7) of the Act, respectively,⁶ in that the proposed rule change satisfies the requirements that an Exchange's rule: (1) Provide that its members and persons associated with its members shall be appropriately disciplined for violation of the Exchange Act, the rules and regulations thereunder, or the rules of the exchange; and (2) provides a fair procedure for the disciplinary of members and persons associated with members.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-ISE-2001-04) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44550; File No. SR-NSCC-2001-08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Processing Commission Payments

July 12, 2001.

On April 27, 2001, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NSCC-2001-08) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ Notice of the proposal was published in the **Federal Register** on May 29, 2001.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The purpose of the filing is to further standardize and automate NSCC's processing of commission payments to non-clearing members. In accordance with NSCC Rule 16, NSCC's Commission Bill Service currently permits non-clearing members entitled to a credit to receive their monthly commission bill payments either electronically by Automated Clearing House ("ACH") wire transfer or manually by check. At present, slightly less than 50% of NSCC's approximate 350 non-clearing members receive their commission bill payments by check. Such manual distributions are made on the floors of the New York Stock Exchange ("NYSE") and the American Stock Exchange ("AMEX"). The proposed rule change will require all non-clearing members to execute appropriate ACH documentation and to receive their credit payments by ACH wire transfer.

In the event a non-clearing member does not pay an amount it owes to NSCC, the rule is being changed to explicitly permit NSCC to set-off any future commission bill credits to which the non-clearing member is entitled.

Subject to Commission approval, NSCC will implement the proposed rule changes on July 13, 2001. Any non-clearing member that has not executed the appropriate ACH wire transfer documentation will not receive any credit payments until it does.

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 44330 (May 29, 2001), 66 FR 29192.

II. Discussion

Section 17A(b)(3)(F)³ of the Act requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system. The proposed rule change allows NSCC to require non-clearing members to receive their monthly commission payments by wire transfer rather than by check. By electronically transferring such funds, NSCC can further standardize and automate its processing systems which is consistent with NSCC's obligation to remove impediments to and perfect the mechanism of the national system for clearance and settlement. Therefore, the Commission finds that NSCC's proposed rule change is consistent with its obligations under section 17A(b)(3)(F) of the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A 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-2001-08) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44539; No. SR-NYSE-2001-14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend Rule 13 on XPress Quote Parameters

July 11, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 13, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the

³ 15 U.S.C. 78q-1(b)(3)(F).

⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 44327 (May 18, 2001), 66 FR 29188.

⁴ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(6)-(7).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 an amendment to NYSE Rule 13.30 to decrease the minimum number of shares for XPress order and quotes and to decrease the time that a published bid or offer must remain at the same price to be XPress eligible. The text of the proposed rule change is set forth below. Additions are in italics. Deletions are in brackets.

Rule 13 Definitions of Orders

Supplementary Material

* * * * *

.30 The minimum number of shares for an XPress order is [25,000] *15,000* shares. The published bid or offer must be at the same price for no less than [25,000] *15,000* shares for at least [30] *15* seconds in order to be indicated as an XPress Quote.

* * * * *

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

As part of its continuing efforts to enhance participation in its auction market, the Exchange created a new type of order, known as an XPress Order, which was approved by the Commission in December 2000.³ The Exchange believes that this order type responds to the needs of market

participants for "clean executions when entering large-size orders in response to bids and offers which have been displayed for a minimum time period.

An XPress order is defined as an order of a specified minimum size which is to be executed against a displayed XPress quote, or at an improved price, if obtainable. In order to be indicated as an XPress quote, a published bid or offer must be for no less than the specified minimum share size at the same price for no less than 30 seconds. The minimum size for XPress orders and XPress quotes initially has been set at 25,000 shares.

In filing SR-NYSE-99-24, the Exchange discussed decreasing the minimum size and time thresholds for XPress orders and quotations within six months after the initial implementation of the XPress product. At this time, and in accordance with this previously expressed intention, the Exchange proposes to amend NYSE Rule 13.30 to:

- (i) Reduce the minimum size of an XPress quote from 25,000 shares to 15,000 shares;
- (ii) Reduce the time period for designation as an XPress quote from 30 seconds to 15 seconds; and
- (iii) Reduce the minimum size of an XPress order from 25,000 shares to 15,000 shares.

The Exchange believes that these reductions in the size and time thresholds are appropriate in order to expand the availability of the XPress product.

2. Statutory Basis

The Exchange believes the basis for this proposed rule change is the requirement under Section 6(b)(5) of the Act⁴ that an Exchange have rules that are designed to promote just and equitable principles of trade, 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. In addition, the Exchange believes that the XPress system is consistent with Section 11A(a)(1)(C)(i) of the Act⁵ in that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the economically efficient execution of securities transactions.

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

The Exchange does not believe that the proposed rule change will 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 or received written comments on the proposed rule change.

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

Within 35 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 90 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 Exchange consents, the Commission will:

A. By order approve the 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 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 such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR-NYSE-2001-14 and should be submitted by August 8, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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³ See Securities Exchange Act Release No. 43763 (December 21, 2000) 65 FR 83120 (December 29, 2000).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78k-1(a)(1)(C)(i).

⁶ 17 CFR 200.30-3(a)(12).