charges applicable to the Separate Account or Other Account will be assessed against the entire amount held in the Separate Account or Other Account, including the Value Credit, during the free look period and the recapture periods. As a result, during such periods, the aggregate asset-based charges assessed against an owner's Contract value will be higher than if no Value Credit had been added. The Insurance Company Applicants nonetheless represent that the Contract's fees and charges, in the aggregate, are, or will be, reasonable within the meaning of section 26(e) of the 1940 Act.

6. Applicants represent that the Value Credit will be attractive to and in the interest of investors because it will permit owners to put 102% of their purchase payments in the first Contract year to work for them in the selected Subaccounts and to receive an additional 2% credit on all Contract value (even earnings) on every fifth contract anniversary thereafter. In addition, the owner will retain any earnings attributable to the Value Credits recaptured, as well as the principal of the Value credit once vested.

7. Applicants submit that the provisions for recapture of any Value Credit under the Contracts do not, and any Future Contract provisions will not, violate sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act. Sections 26(e) and 27(i) were added to the 1940 ACt to implement the purposes of the National Securities Markets Improvement Act of 1996 and Congressional intent. The application of Value Credits under the Contracts should not raise any questions about the Insurance Company Applicants' compliance with the provisions of section 27(i). However, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from sections 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Value Credit under the circumstances described in the Application with respect to Contracts and Future Contracts, without the loss of relief from section 27 provided by section 27(i).

8. Rule 22c–1 under the 1940 Act prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

9. It is possible that someone might view the Insurance Company Applicants' recapture of the Value Credit as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Account. Applicants contend, however, that the recapture of the Value Credit does not violate Rule 22c–1. The recapture of all or part of the Value Credit does not involve either of the evils that Rule 22c–1 was intended to eliminate or reduce as far as reasonably practicable, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or repurchase at a price above it, and (ii) other unfair results, including speculative trading practices. To effect a recapture of a Value Credit, the issuing Insurance Company Applicant will redeem interests in a Contract at a price determined on the basis of the current accumulation unit value(s) of the Subaccount(s) to which the owner's Contract value is allocated. The amount recaptured will equal the amount of the Value Credit that the issuing Insurance Company Applicant paid out of its general account assets. Although the owner will retain any investment gain attributable to the Value Credit or bear any loss attributable to that Value Credit, the amount of that gain or loss will be determined on the basis of the current accumulation unit values of the applicable Subaccounts. Thus, no dilution will occur upon the recapture of the Value Credit. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Value Credit. Because neither of the harms that Rule 22c–1 was meant to address is found in the recapture of the Value Credit, Rule 22c–1 should not apply to any Value Credit. However, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from the provisions Rule 22c–1 to the extent deemed necessary to permit them to recapture the Value Credit under the Contracts and Future Contracts.

Conclusion

Applicants submit that their request for an order that applies to the Separate Account and any Other Accounts established by the Insurance Company Applicants, in connection with the recapture of Value Credits applied under the Contract and Future Contracts, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the 1940 Act that has not already been addressed in this Application. Having Applicants file additional applications would impair Applicants' ability to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressee in this Application, investors would not receive any benefit or additional protection thereby.

Applicants submit, for the reasons summarized above, that their exemptive request meets the standards set out in section 6(c) of the 1940 Act, namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45039; File No. SR–NSCC–2001–16]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Schedules

November 7, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], notice is hereby given that on October 1, 2001, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the

[1] 15 U.S.C. 78s(b)(1).

proposed rule change as described in Items I, II, and III below, which items have been prepared primarily 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

The proposed rule change would revise NSCC's fee schedule as it relates to NSCC's Insurance Processing Service.

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.[2]

(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 (1) establish fees for the Licensing and Appointments (''L&A'') feature of NSCC's Insurance Processing Service (''IPS'') effective as to services provided on and after October 1, 2001; (2) adjust the fees that NSCC charges for the Initial Application Information (''APP'') feature of IPS effective as to services provided on and after January 1, 2001; and (3) standardize the descriptions of IPS transmissions in NSCC's fee schedule.

Pursuant to this rule change, the transaction fee for L&S will be as follows: for each transmission of L&A information designated as a periodic reconciliation, $0.15 per item; for each other transmission of L&S information referred to as L&A transactions, $0.35 per item. No file fee will be applied to files that contain L&A transmissions.

The transaction fee for APP is $7.50 per transmission or receipt. Each transmission and receipt is considered an ''item.'' This rule change sets the transaction fee for APP as follows: from 0 to 249 items per month, $7.50 per item; from 250 to 999 items per month, $4.00 per item; from 1,000 to 2,499 items per month, $2.00 per item; and for more than 2,499 items per month, $1.00 per item. The file fee of $15.00 per file per day will continue to apply to APP.

Finally, this rule change standardizes the terminology in NSCC's fee schedule so that all transmissions of information through IPS are referred to as items and makes certain other clarifying changes.

The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder applicable to NSCC because it provides for the equitable allocation of dues, fees, and other charges among NSCC's participants.

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

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

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

No written comments relating to the proposed rule change have been solicited or received. NSCC has notified participants who use IPS of the fee changes. 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 Act

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2)[4] thereunder because the proposed rule change is changing a due, fee, or charge imposed by NSCC. At any time within sixty days of the filing of such 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. 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–2001–16 and should be submitted by December 5, 2001.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

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[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] 15 U.S.C. 78s(b)(3)(A)(ii)

[4] 17 CFR 240.19b–4(f)(2).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45028; File No. SR–OCC–2001–13]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Establishing a Clearing Fee

November 6, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 26, 2001, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') 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 establishes a license fee and other fees that OCC will charge clearing members for the use of a new risk management software package called OCC–TIMS.

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

In its filing with the Commission, OCC included statements concerning

[1] 15 U.S.C. 78s(b)(1).