

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-36907; File No. SR-NSCC-96-01]

Self-Regulatory Organization; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Establishing Systemized, Standard Prices for Transfers of Non-Continuous Net Settlement Assets Through the Automated Customer Account Transfer Service

February 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 5, 1996, the 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. On February 8, and 20, 1996, NSCC filed amendments to the proposed rule change.² 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.

NSCC proposes modifying its rules to coincide with its practice of establishing systemized, standard default prices for non-Continuous Net Settlement ("CNS") assets submitted by a member for transfer through NSCC's Automated Customer Account Transfer Service ("ACATS"). Such prices are to be based on the type of asset being transferred.

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.³

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 modify NSCC's rules to coincide with its practice of establishing systemized, standard default prices based on asset type for assets not eligible for CNS submitted by Members for transfer through ACATS. NSCC, through ACATS, currently provides an automated and standardized service for the accurate and timely transfer of assets in a customer account from one brokerage firm to another.⁴

When a customer wants to transfer his or her account to a new broker-dealer ("receiving broker-dealer"), the receiving broker-dealer submits through NSCC a transfer initiation request form to the broker-dealer holding the customer's assets ("delivering broker-dealer"). Within three business days, the delivering broker-dealer must submit to NSCC a list of customer assets held at the delivering broker-dealer. The list must include prices assigned to the non-CNS eligible assets. Transfer of the account generally will take place four business days later.

On settlement date, NSCC automatically debits the delivering broker's settlement account at NSCC with the market value of the assets being transferred through ACATS and credits the receiving broker's settlement account with the same amount. The resulting settlement obligations will appear on the members' initial settlement statements issued in the afternoon. When the non-CNS-eligible assets are delivered through NSCC's envelope delivery service, NSCC will then credit the delivering broker's account at NSCC with the value of those assets and will debit a corresponding amount from the receiving broker's account.⁵ Thus, the delivering broker's initial settlement statement will reflect both the debit from the initial ACATS request and a corresponding credit from the delivery of assets resulting in no change to such member's overall settlement obligations. If the assets are not delivered, the delivering broker's

settlement bank will be debited the assigned value of the assets at the end-of-day settlement. These funds will be credited back to the delivering broker when such broker delivers the customer's assets.

CNS assets submitted for transfer through the ACATS system are systematically priced. However, an asset value needs to be assigned to any non-CNS assets (e.g., limited partnerships, mortgaged backed securities, zero coupon bonds, foreign securities, U.S. government and U.S. agency securities, and thinly traded municipal bonds) submitted for transfer through ACATS. NSCC will ascribe non-CNS assets a value by using a pricing service.⁶ If there is no price available from a pricing service, NSCC will assign a value based on the higher of (i) the price submitted by the delivering broker or (ii) the price indicated by an industry defined default price matrix. The default price matrix will employ security category indicators and will specify a default price for each identified security category. For example, domestic stock will be valued at \$1.00 per share, and municipal bonds will be valued at \$85 per \$100 principle amount. Once the default value is established, changes by participants are not permitted.

The pricing of additional assets being transferred through ACATS will provide ACATS users with standardized default pricing based on asset type. This method of pricing will decrease discrepancies with respect to asset valuation by reducing exposure to the delivering broker due to the overvaluation of assets and by reducing exposure to the receiving broker due to the undervaluation of assets.

NSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act⁷ and the rules and regulations thereunder because establishment of systemized standard default prices for non-CNS assets transferred through ACATS will facilitate the prompt and accurate clearance and settlement of

⁶ NSCC will use the following pricing services (listed in order of preference). Equities: The New York Stock Exchange, the American Stock Exchange, NASDAQ, Vancouver Stock Exchange, average OTC comparison system price, Interactive Data Financial Times information, previous day's system price, or last available price in system. Bonds: Average price in the Bond Comparison System for trades compared on T or T+1, average price in the Bond Comparison System for trades compared on T+2, average price in the Bond Comparison System for trades compared on T+3 or older, Interactive Data Financial Times information, previous day's system price, last available price in system, or for municipal bonds only, if such price is five days or older, the price obtained from J.J. Kenny S&P.

⁷ 15 U.S.C. § 78q-1 (1988).

³ The Commission has modified the text of the summaries prepared by NSCC.

⁴ For a complete description of ACATS, refer to Securities Exchange Act Release No. 34879 (October 21, 1994), 59 FR 54229 [File No. SR-NSCC-94-13] (order approving a proposed rule change modifying ACATS). See also NSCC Rule 50.

⁵ Assets delivered through NSCC's envelope delivery service must be submitted by 11:3 a.m.

³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Letters from Julie Beyers, Associate Counsel, NSCC, to Christine Sibille, Division of Market Regulation, Commission (February 7 and 15, 1996),

account transfers from one brokerage firm to another.

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

NSCC does not perceive 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 have been solicited or received. NSCC will notify the Commission of any written comments received.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. 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 N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-96-01 and should be submitted by March 27, 1996.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36904; File No. SR-NYSE-96-01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendment of Exchange Rule 460.10

February 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 5, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, and on February 26, 1996, filed Amendment No. 1 to the proposed rule change,² as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 amendments to Exchange Rule 460.10 to modify certain prohibitions on the ownership by specialists of securities in which they are registered ("specialty securities") and to modify the prohibition on business transactions specialists may have with the issuers of specialty securities.

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 self-regulatory organization 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 self-regulatory organization 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

The Exchange is proposing to amend Rule 460.10 to modify certain prohibitions on the ownership of specialty securities and business transactions specialists may have with the issuers of specialty securities.

a. Ownership Restrictions

NYSE Rule 460.10 prohibits a specialist³ from acquiring more than 10% of the outstanding shares of any equity security in which the specialist is registered. If a specialist acquires 5% or more of an equity issue in which he or she is registered, notice is required to be given to Market Surveillance, and the specialist may be directed to reduce the position below that level.

The restrictions on beneficial ownership codified in the rule are intended to ensure that specialists do not enter into a control relationship with an issuer in whose securities the specialist is registered, such that the specialist's status as a significant shareholder may create conflicts of interest with respect to the specialist's affirmative and negative obligations to maintain a fair and orderly market in the security.

The language of the rule refers specifically to "any equity security" in which the specialist is registered, although a specialist may be registered in a particular security where a position in excess of the 5% and 10% parameters would not give rise to the control relationship/potential conflict of interest issue noted above. For example, a specialist registered in both a warrant and the underlying common stock could convert a 10% position in the warrant into the common stock, but the resulting position in the common stock would not approach the 10% control relationship threshold. Other examples could be found in convertible securities, or American Depositary Receipts or Global Depositary Receipts, where conversion of the security would result in a small position in relation to the overall number of shares outstanding in the common stock. The proposed amendment would delete the 10% threshold for such convertible

⁸ 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. § 78s(b)(1).

² See Letter from Donald Siemer, Director, Market Surveillance, NYSE to Glen Barrentine, Team Leader, Division of Market Regulation, SEC, dated February 23, 1996.

³ By its terms, Rule 460.10 apply to the specialist, his or her member organization or any other member, allied member or approved person in such member organization or officer or employee thereof, individually or in the aggregate.