

Office Building, Washington, D.C. 20503.

Dated: August 29, 1996.

Margaret H. McFarland,
Deputy Secretary.

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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

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).

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

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.