activities have a significant effect on the national securities markets, thereby making them appropriate candidates for federal registration under the conceptual framework established by the Coordination Act.[5]

8. Applicant states that the SEC also exempted from the prohibition on Federal registration pension consultants who provide investment advice to plans with assets having an aggregate value of at least $50 million. Applicant states that, like NRSROs, pension consultants do not exercise direct investment discretion over client portfolios, but their advice affects the management of billions of dollars of assets.[6] Applicant states that the SEC concluded that it would be inconsistent with the purposes of the Coordination Act for pension consultants to be regulated by the states rather than the federal government because of their effect on national markets.

9. Applicant also asserts that the states should have little or no interest in regulating applicant, which has a majority of institutional clients. Less than one-tenth of one percent of applicant's clients are individual investors. Applicant submits that the primary interest of the states is not in the protection of institutional clients.

10. Applicant states that, although the Coordination Act generally preempts state law with respect to SEC-registered advisers and their supervised persons, it does permit states to license, register or otherwise qualify any ''investment adviser representative'' who has a place of business within the state. Applicant asserts that the Commission, in defining investment adviser representative, determined that states should not regulate either those supervised persons who service a predominantly institutional clientele or those who render only impersonal services. Applicant believes that, by expanding the class of advisers who qualify for federal registration and restricting the class of supervised persons subject to state control, the SEC effectuated Congress' intent to limit state regulation to activities that have a primarily localized effect and that institutional advisory activities be regulated by the federal government.

[5] Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1601 (Dec. 20, 1996), 62 FR 68480 at Section II.D.1 (release proposing rules to implement amendments to the Advisers Act).

[6] *Id.* at Section II.D.2.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–32653 Filed 12–12–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39411; File No. SR–Amex–97–40]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Proposed Revisions to the Exchange's Policy Regarding the Use of Wireless Data Communications Devices

December 8, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 29, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') 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 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 Exchange is proposing to amend its policy regarding the use of wireless data communications devices on the trading floor. The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

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 has undertaken to build an infrastructure (''Infrastructure'') to support wireless data communications on the Trading Floor by members and Exchange staff. On September 26, 1996, the Commission approved various rule changes and a policy regarding the use of wireless data communications devices on the Trading Floor (the ''Wireless Communications Policy'').

The Exchange developed the Wireless Communications Policy based upon a design for the Infrastructure that called for all wireless data transmissions to pass through a gateway (''Gateway''). This would have permitted the Exchange to make a record of all wireless communications and to unilaterally ''throttle'' all, or selected, member communications in the event that such transmissions used a disproportionate amount of the available radio frequency or threatened to exceed available radio frequency capacity.

In late 1996, the Exchange reviewed the design of the Infrastructure. During this review, the Exchange determined that there was no immediate need for throttling and that it was unclear when it might become necessary. The Exchange concluded that since there was no need for throttling, there was no need for a Gateway and that, if and when necessary, throttling could be accomplished by the member firms without a Gateway. As a result of this review, the Exchange determined that since the Gateway was unnecessary, costly for both the Exchange and its members, and difficult to develop and implement, the Exchange would build the Infrastructure without a Gateway. The Exchange, accordingly, is now proposing to modify the Wireless Communications Policy to reflect the redesign of the Infrastructure to eliminate the Gateway.

As noted above, the Gateway would have permitted the Exchange to record all wireless communications. This would have created a data base at the Exchange that would have largely duplicated records already maintained by member firms pursuant to SEC and Exchange rules. The elimination of the Gateway will eliminate this duplicative data base. The revised Wireless Communications Policy, accordingly, will state that members that have developed wireless technology will be responsible for maintaining such records as may be required by Exchange

rules and policies and federal securities laws as in effect from time to time. The elimination of the record keeping capabilities of the Gateway will not cause any diminution of the Exchange's surveillance capabilities as the Exchange will retain the same access to member books and records that it currently possesses.

With respect to ''throttling,'' the Revised Wireless Communications Policy states that the Exchange's staff may request members to reduce radio traffic if and when required because a particular user is using more than its fair share of radio frequency capacity or overall usage in reaching its maximum. Members will be obligated to comply immediately with any such request and their ability to send wireless communications may be immediately terminated if they fail to comply with such a directive. The Exchange also proposes some further changes to the Wireless Communications Policy to enhance it in light of the Exchange's experience with wireless technology since the Policy was first adopted. These proposed changes include a requirement that members using wireless technology maintain a record of orders and quotes initiated on the Floor and transmitted to other markets, a statement that members do not acquire a property interest in their assigned band width, a requirement that affiliates be treated as a single entity for purposes of band width assignment and a reduction in the number of hand held terminals that the system is able to support in view of anticipated demand for this capacity.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [1] in general and furthers the objectives of Section 6(b)(5) [2] in particular in that it is designed to prevent fraudulent acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market, and, in general, protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

[2] 15 U.S.C. 78f(b)(5).

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

No written comments were either solicited or received.

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

Within 35 days of the 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 self-regulatory organization 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. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–97–40 and should be submitted by January 5, 1998.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–32650 Filed 12–12–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39416; File No. SR–NSCC–97–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Establishing a New Category of Fund Member for Investment Advisers in Mutual Fund Services

December 9, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 25, 1997, 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. 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 will establish a new category of fund member in NSCC's mutual fund services (''MFS'') for registered investment advisers.

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.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC's MFS is designed to enable NSCC members to process and to settle on an automated basis mutual fund purchase and redemption orders and to transmit registration instructions. Currently, NSCC's rules and procedures permit two categories of fund member in MFS: (1) principal underwriters

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

[2] The Commission has modified parts of these statements.