

3 and CNS fail positions. The provisions of Appendix 1 (Version 2 of Procedure XV and Version 2 of Addendum B) will be moved into the body of the rules in place of Version 1 of Procedure XV and Version 1 of Addendum B where they will appear in numerical order.

As part of these clarifications, Rule 4 (Clearing Fund) is also being corrected to make clear that participants may request a return of any excess clearing fund on any day that NSCC has determined that the participant's actual deposit exceeds its required deposit. Finally, certain technical corrections are being made to Rule 4 and to the clearing fund formula to provide consistent terminology and delete obsolete references.

### III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.<sup>9</sup> The Commission believes that NSCC's rule change is consistent with this Section because it will permit NSCC to better assure the safeguarding of funds and securities which are in its custody or control or for which it is responsible by allowing NSCC to more precisely identify the risks posed by a participant's unsettled portfolio and more quickly adjust and collect additional needed clearing fund collateral than it could using the old formula. As a result NSCC should be better protected from the risk associated with a participant's default because the clearing fund deposits it collects should more accurately reflect NSCC's exposure.

### IV. 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-2005-13) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5-6410 Filed 11-21-05; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52774; File No. SR-NSX-2005-07]

### Self-Regulatory Organizations; National Stock Exchange; Order Approving Proposed Rule Change, and Amendment Nos. 1, 2, and 3, Thereto, Relating to the Creation of a Regulatory Oversight Committee

November 15, 2005.

#### I. Introduction

On August 1, 2005, the National Stock Exchange<sup>SM</sup> ("NSX"<sup>SM</sup> or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to create a Regulatory Oversight Committee ("ROC"). Notice of the proposed rule change, as amended, was published for comment in the **Federal Register** on October 14, 2005.<sup>3</sup> No comments were received regarding the proposal. This order approves the proposed rule change, as amended.

#### II. Description of the Proposed Rule Change

NSX proposes to amend the text of Article VI, Section 1.1 of the Exchange's By-Laws to allow it to create, and specifically identify, a ROC that would be subject to the control and supervision of NSX's Board of Directors ("NSX Board"). The NSX also proposes to establish a Regulatory Oversight Committee Charter ("ROC Charter") that would set forth the functions, scope of responsibilities and composition of the ROC.

NSX filed the proposed rule change in accordance with undertakings made by it and as set forth in Section III.F.1. of the Order Instituting Administrative and Cease-And-Desist Proceedings Pursuant to Sections 19(b) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing

Sanctions entered May 19, 2005.<sup>4</sup> In its filing, NSX represented that the ROC Charter would include provisions that mirror the terms of its undertaking to the Commission and certification procedures that are consistent with the certification procedures contained in the Order.<sup>5</sup>

Pursuant to the ROC Charter, the ROC shall be responsible for overseeing all of NSX's regulatory functions and responsibilities and to advise regularly NSX's Board about NSX's regulatory matters.<sup>6</sup> Specifically, the ROC shall:<sup>7</sup> (i) Oversee NSX's regulatory functions to enforce compliance with the federal securities laws and NSX rules, including monitoring the design, implementation, and effectiveness of NSX's regulatory programs; (ii) recommend to the NSX Board an adequate operating budget for NSX's regulatory functions; (iii) approve the promulgation, filing, or issuance of new rules, rule amendments, rule interpretations, and regulatory circulars; (iv) take any other action necessary to fulfill its oversight and advisory responsibilities; and (v) adopt policies and procedures to ensure the independence of NSX's Chief Regulatory Officer (the "CRO"). The ROC shall also:

- Be authorized to retain, at NSX's expense, outside counsel and consultants as it deems appropriate to carry out its responsibilities;<sup>8</sup>
- On at least an annual basis, report to the NSX Board on the state of the Exchange's regulatory program; and<sup>9</sup>
- Create and maintain complete minutes of all of its meetings, and create and maintain records reflecting the ROC's recommendations or proposals made to NSX Board, and NSX Board's decision as to each such recommendation proposal.<sup>10</sup>

In the event that the ROC's recommended operating budget for NSX's regulatory functions either: (1) Is less than the previous year's budget by a material amount, (2) is rejected by the NSX Board, (3) is reduced by the NSX Board by a material amount, or (4) is altered by the NSX Board in a manner that, in the judgment of the ROC, materially impairs the ability of NSX to meet its regulatory obligations, then NSX shall, within fifteen (15) business

<sup>4</sup> See *In the Matter of National Stock Exchange and David Colker*, Securities Exchange Act Release No. 51715 (May 19, 2005) ("Administrative Order") at Section III.F.1.

<sup>5</sup> See Notice.

<sup>6</sup> Proposed ROC Charter.

<sup>7</sup> Proposed ROC Charter, Section A.

<sup>8</sup> Proposed ROC Charter, Section B.

<sup>9</sup> Proposed ROC Charter, Section C.

<sup>10</sup> Proposed ROC Charter, Section D.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>15</sup> U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 52573 (October 7, 2005), 70 FR 60113 ("Notice").

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

days of such NSX Board action, notify the Director of the Commission's Division of Market Regulation in writing, providing copies of all minutes and other records reflecting the ROC's budget proposal and the NSX Board's decision regarding such proposal.<sup>11</sup>

The CRO shall certify compliance with the required items of the Administrative Order to the ROC on a form and frequency basis set by the ROC, and shall have the authority to require such additional compliance certification from the staff as he deems appropriate and in such forms as he may prescribe.<sup>12</sup>

In accordance with the functions and responsibilities set forth above, the ROC shall perform certain oversight functions with respect to the CRO and other regulatory personnel. Specifically, NSX represented in its filing that the ROC shall:<sup>13</sup>

- Review with the Exchange's CRO and other appropriate regulatory personnel various aspects of the design, implementation, and effectiveness of NSX's regulatory programs;
- Review, revise, or approve the CRO's recommendation for a regulatory budget to formulate the ROC's recommendation of an adequate operating budget and staffing level for NSX's regulatory function to the Board;
- Review, evaluate, and, if appropriate, recommend to the Board the implementation of any and all actions recommended by the CRO and the Regulatory Services Division ("NSX Regulatory Division") to fulfill the NSX Regulatory Division's and the ROC's oversight and advisory responsibilities;
- Assess the performance of the CRO and review the CRO's assessment of the NSX Regulatory Division's staff in fulfilling their responsibilities and recommend compensation and personnel actions to the NSX Board; and
- Review, amend, approve or reject the CRO's recommendations respecting the promulgation, filing, or issuance of new rules, rule amendments, rule interpretations, and regulatory circulars, including the approval (or ratification) of all regulatory circulars issued by the NSX within thirty five days of the issuance of such regulatory circulars.

In addition, NSX represented that, on at least an annual basis, the ROC will review the structural protections that separate NSX's regulatory function from its commercial interests by reviewing the supervisory responsibilities of its Chief Executive Officer ("CEO") and CRO. Further, the ROC will take all

steps necessary to provide reasonable assurance that NSX is and remains in compliance with the Administrative Order and will take any other action necessary to fulfill its oversight and advisory responsibilities.<sup>14</sup>

The ROC shall be comprised of no less than three members, who have been appointed by NSX's Chairman with the approval of the NSX Board in a composition consistent with federal securities laws and NSX's By-Laws and Rules. At a minimum, the ROC members shall not be, nor have been during the preceding three years, employees of NSX or any NSX member firm. The ROC shall elect a Chairperson from among its members.<sup>15</sup>

### III. Discussion and Commission Findings

The Commission has reviewed the proposed rule change, as amended, and finds that it is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>16</sup> Specifically, the Commission finds that the proposed rule change, as amended, furthers the objectives of Section 6(b)(1)<sup>17</sup> of the Act, which requires the Exchange to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members, with the Act and the rules of the Exchange. In addition, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,<sup>18</sup> which requires, among other things, that the rules of a national securities exchange be 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.

An exchange's governance structure should be designed to assure that its regulatory function is strong, vigorous, and sufficiently independent and insulated from improper influence from management or any regulated entity. In the Commission's view, the proposal is designed to advance this goal. The proposed amendments provide for a ROC which will be composed of members that shall not be, nor have been during the preceding three years, employees of NSX or any NSX member

firm. The ROC will be responsible for oversight of all of NSX's regulatory functions and responsibilities, including, among other things, approving new NSX rules and adopting policies and procedures to ensure the independence of the NSX's CRO. Also, the ROC will review, on at least an annual basis, the structural protections that separate NSX's regulatory function from its commercial interests by reviewing the supervisory responsibilities of NSX's CEO and CRO.<sup>19</sup> The Commission believes that these proposed amendments to the NSX's governance structure will add a degree of independence that should serve to insulate NSX's regulatory activity from its economic interests. As noted above, the Commission notes that NSX filed the proposed rule change in accordance with its undertakings as set forth in the Administrative Order, and represented that the proposed rule change includes provisions that mirror the terms of the undertaking. The Commission believes that in this context, the Exchange's proposal is consistent with the statutory requirements under Section 6(b)(1) of the Act.<sup>20</sup> The Commission notes that it is in the process of reviewing a range of governance issues relating to self-regulatory organizations ("SROs"), including possible steps to strengthen the framework for the governance of SROs and ways to improve the transparency of the governance procedures for all SROs, and has proposed rules in furtherance of this goal, including proposed rules relating to an exchange's ROC.<sup>21</sup> Depending on the results of the proposed rules, NSX may be required to make further changes to strengthen its governance structure and ensure that its ROC continues to comply with federal securities laws.

### IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>22</sup> that the proposed rule change (File No. SR-NSX-2005-07) and Amendment Nos. 1, 2, and 3, thereto be, and hereby are, approved.

<sup>14</sup> *Id.*

<sup>15</sup> Proposed ROC Charter.

<sup>16</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>17</sup> 15 U.S.C. 78f(b)(1).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> See *supra* note 14 and accompanying text.

<sup>20</sup> 15 U.S.C. 78f(b)(1).

<sup>21</sup> See Securities Exchange Act Release No. 50699 (November 18, 2004), 69 FR 71126 (December 8, 2004).

<sup>22</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> Proposed ROC Charter, Section E.

<sup>12</sup> Proposed ROC Charter, Section A.

<sup>13</sup> See Notice.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>23</sup>

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. E5-6409 Filed 11-21-05; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

**DATES:** Submit comments on or before January 23, 2006.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Gail Hepler, Chief 504 Program Branch, Office of Financial Assistance, Small Business Administration, 409 3rd Street, SW., Suite 8300, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Gail Hepler, Chief, 504 Program Branch, 202-205-7530, [gail.hepler@sba.gov](mailto:gail.hepler@sba.gov). Curtis B. Rich, Management Analyst, 202-205-7030, [curtis.rich@sba.gov](mailto:curtis.rich@sba.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* "Gulf Coast Relief Financing Pilot Information Collection."

*Description of Respondents:* Small Businesses devastated by Hurricanes Katrina and Rita.

*Form No.'s:* 2276-Parts ABC, 2279, 2280, 2281 and 2282.

*Annual Responses:* 8,000.

*Annual Burden:* 8,000.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

[FR Doc. 05-23044 Filed 11-21-05; 8:45 am]

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## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request, Comment Request and Correction Request

The Social Security Administration (SSA) publishes a list of information

collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202-395-6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-965-6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

1. Application for Widow's or Widower's Insurance Benefits—20 CFR 404.335-.338—0960-0004. SSA uses the information collected on the Form SSA-10-BK to determine if the applicant meets the statutory and regulatory conditions for entitlement to widow(er)'s benefits. The respondents are applicants for Widow(er)'s benefits.

*Type of Request:* Extension of an OMB-approved information collection.

*Number of Respondents:* 288,580.

*Frequency of Response:* 1.

*Average Burden per Response:* 15 minutes.

*Estimated Annual Burden:* 72,145 hours.

2. Application for Parent's Insurance Benefits—20 CFR 404.370-404.374, 20 CFR 404.601-404.603—0960-0012.

Form SSA-7-F6 collects information to entitle an individual to his parent's insurance benefits. The respondents are individuals who wish to apply to receive their parent's insurance benefits.

*Type of Request:* Revision of an OMB-approved information collection.

*Number of Respondents:* 1,400.

*Frequency of Response:* 1.

*Average Burden per Response:* 15 minutes.

*Estimated Annual Burden:* 350 hours.

3. Statement of Marital Relationship (by One of the Parties)—20 CFR 404.726-0960-0038. SSA uses the information collected on Form SSA-754-F4 to determine whether the conditions for establishing a common-law marriage under State law are met. The respondents are applicants for spouse's benefits.

*Type of Request:* Extension of an OMB-approved information collection.

*Number of Respondents:* 30,000.

*Frequency of Response:* 1.

*Average Burden per Response:* 30 minutes.

*Estimated Annual Burden:* 15,000 hours.

4. Medical Source Statement of Ability To Do Work Related Activities (Physical and Mental)—20 CFR 404.1512-404.1514, 404.912-404.914, 404.1517, 416.917, 404.1519-404.1520, 416.919-416.920, 404.946, 416.946-0960-0662. The HA-1151 and HA-1152 are used to collect data that is required to determine the residual functional capacity (RFC) of individuals who are appealing denied claims for benefits based on disability. RFC must be determined to decide cases that cannot be decided based on current work activity or on medical facts alone. The respondents are medical sources who are paid by SSA to provide reports based either on existing medical evidence or on consultative examinations conducted for the purposes of the report.

*Type of Request:* Revision of an OMB-approved information collection.

*Number of Respondents:* 10,000.

*Frequency of Response:* 20.

*Average Burden per Response:* 15 minutes.

*Estimated Annual Burden:* 50,000 hours.

5. SSI-Quality Review Case analysis—0960-0133. The form SSA-8508 is used in a personal interview with a sample of Supplemental Security Income (SSI) recipients and covers all elements of SSI eligibility. The information is used to assess the effectiveness of SSI policies and procedures and to determine payment accuracy rates. The respondents are SSI recipients.

*Type of Request:* Extension of an OMB-approved information collection.

<sup>23</sup> 17 CFR 200.30-3(a)(12).