

incorporated by this filing into the Guide match those currently included in the agreements thereby affording both DTC and its participants the same rights and responsibilities as those afforded by the agreements.

DTC believes that the proposed rule change is consistent with the requirements of the Act, as amended, and the rules and regulations thereunder because it incorporates existing terms of DTC participant agreements into DTC's Guide and thus facilitates the safeguarding of securities in DTC's custody or control.

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

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition.

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

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>9</sup> and Rule 19b-4(f)(4)<sup>10</sup> thereunder because the proposed rule effects a change in an existing service of DTC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of the proposed 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. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-DTC-2006-09 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-DTC-2006-09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at <http://www.dtc.org>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2006-09 and should be submitted on or before September 22, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Nancy M. Morris,**  
Secretary.

[FR Doc. E6-14552 Filed 8-31-06; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54366; File No. SR-NSCC-2006-07]

**Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Clarifying and Technical Changes to NSCC's Rules Regarding Its Fund/Serv Mutual Fund Processing System**

August 25, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 5, 2006, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4) thereunder<sup>3</sup> so that the proposal was effective upon filing with the Commission. 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 make clarifying and technical changes to NSCC's Rules principally as they relate to funds which are eligible for processing on Fund/Serv, NSCC's mutual fund processing system.

**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.<sup>4</sup>

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>3</sup> 17 CFR 240.19b-4(f)(4).

<sup>4</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>10</sup> 17 CFR 240.19b-4(f)(4).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

*(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 make clarifying and technical changes to NSCC's Rules, principally as they relate to funds which are eligible for processing on Fund/Serv, NSCC's mutual fund processing system.

Rule 52 of NSCC Rules addresses NSCC's mutual fund services. The types of funds which are eligible for NSCC's mutual fund services, including the processing on Fund/Serv, are referenced in Section 1 of Rule 52 with supplemental references in Rules 1 and 3.<sup>5</sup>

Funds that are eligible for NSCC's mutual fund services currently include investment companies regulated under the Investment Company Act of 1940, as amended;<sup>6</sup> bank and insurance funds such as guaranteed investment contracts, bank collective investments, and stable value funds; and certain offshore funds which are established under regulatory frameworks similar to the Investment Company Act (*e.g.*, offshore funds established under the Undertaking for Collective Investment in Transferable Securities). Some of these fund types are explicitly mentioned in NSCC's Rules (*e.g.*, funds defined as "management companies" under section 4(3) of the Investment Company Act and funds regulated under bank and insurance law). Others have been added under NSCC's general authority regarding the designation of "Eligible Mutual Funds" under Rule 3, Section 7 (*e.g.*, unit investment trusts regulated under the Investment Company Act and certain offshore funds domiciled outside the United States.)

The proposed changes to NSCC's Rules will clarify the types of investment vehicles that are eligible for Fund/Serv processing, consolidate the operative provisions in Rule 3, and make technical changes to other rule provisions. The proposed amendment to Rule 3 establishes the defined term "Fund/Serv Eligible Fund" that includes any fund or other pooled investment entity that is eligible for NSCC's mutual fund services, including processing on Fund/Serv, under Rule 3, Section 7. (The defined terms "Eligible Investment Fund" and "Eligible Mutual Fund" are being deleted.) The term is analogous to the term "Cleared Securities" under Rule 3 which is applicable to securities that are eligible for NSCC's clearance services. Rule 3 is

also amended to include a description of the current criteria used by NSCC in determining eligibility for "Fund/Serv Eligible Funds" and NSCC's authority to establish additional criteria for eligibility from time to time using language consistent with that used for "Cleared Securities" in Rule 3.

NSCC's current membership requirements applicable to Fund Members admitted under Rule 51 and Addendum I will continue to apply without change. The NSCC Fund Member is the entity that is responsible for settlement of NSCC transactions on behalf of the fund.

Additional, unrelated technical changes are made to several definitions in Rule 1. First, the definitions of "TPA" (*i.e.*, third-party administrator) and "TPA Member" are amended to clarify that a "TPA Member" may act as an administrator for retirement and other benefit plans in general and not just with respect to plans which are structured as defined contribution plans under the Internal Revenue Code (*i.e.*, defined benefit plans and nonqualified plans). Second, the definitions of "Insurance Entity" and "Fund Member" are amended to clarify that an individual cannot qualify, and only entities organized as a corporation, partnership, or other legal entity are covered by the definitions.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>7</sup> and the rules thereunder because clarifying the types of funds which are eligible for processing on NSCC's Fund/Serv system will further facilitate the accurate clearance and settlement of Fund/Serv transactions.

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

NSCC does not believe that the proposed rule change would impose any burden on competition.

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

Written comments relating to the proposed rule change have not yet been solicited or received. 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 Action**

The foregoing rule change has become effective upon filing pursuant to Section

19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(4)<sup>9</sup> thereunder because the proposed rule effects a change in an existing service of NSCC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. 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. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2006-07 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSCC-2006-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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

<sup>5</sup> Settlement of Fund/Serv transactions is not guaranteed by NSCC.

<sup>6</sup> 15 U.S.C. 80a.

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(4).

the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at <http://www.nsc.com>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NSCC-2006-07 and should be submitted on or before September 22, 2006.

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

Nancy M. Morris,  
Secretary.

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BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54362; File No. SR-NYSE-2006-07]

### Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto To Amend Exchange Rule 104 Regarding the Requirement That Specialists Obtain Floor Official Approval for Destabilizing Dealer Account Transactions That Match the National Best Bid or Offer

August 25, 2006.

#### I. Introduction

On February 16, 2006, the New York Stock Exchange LLC ("NYSE" 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 amend NYSE Rule 104 (Dealings by Specialists) to permit specialists to effect destabilizing dealer account transactions when matching the national best bid or offer without requiring that they obtain Floor Official approval. On April 27, 2006, NYSE filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment

in the **Federal Register** on May 16, 2006.<sup>3</sup> The Commission received one comment letter<sup>4</sup> and a letter from NYSE that responded to the issues raised by the commenter.<sup>5</sup> On August 17, 2006, NYSE filed Amendment No. 2 to the proposed rule change.<sup>6</sup> This order approves the proposed rule change, as amended by Amendment No. 1. Simultaneously, the Commission is providing notice of filing of Amendment No. 2 and granting accelerated approval of Amendment No. 2.

#### II. Description of the Proposal

NYSE Rule 104 governs specialists' dealings in their specialty stocks. In particular, NYSE Rules 104.10(5) and (6) describe certain types of transactions that are not to be effected unless they are reasonably necessary to render the specialist's position adequate to the needs of the market. In effect, these restrictions generally require specialists' transactions for their own accounts to be "stabilizing" (*i.e.*, against the trend of the market) and prohibit specialists from making transactions that are "destabilizing" (*i.e.*, with the market trend by buying on plus ticks and selling on minus ticks), except with the approval of a Floor Official. The Exchange proposes to allow specialists to effect proprietary transactions on a destabilizing basis for their own account when such trades are effected at a price that matches the current national best bid or offer ("NBBO") displayed by another market center.

#### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-NYSE-2006-07 on the subject line.

<sup>3</sup> See Securities Exchange Act Release No. 53782 (May 10, 2006), 71 FR 28399.

<sup>4</sup> See e-mail from George Rutherford to the Commission, dated April 24, 2006 ("Rutherford Letter").

<sup>5</sup> Letter to Nancy M. Morris, Secretary, Commission, from Mary Yeager, Assistant Secretary, NYSE, dated July 20, 2006 ("NYSE Response Letter").

<sup>6</sup> Amendment No. 2 clarifies that a specialist's ability to effect destabilizing dealer account transactions when matching the national best bid or offer applies when the national best bid or offer is established by another market center.

##### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090.s

All submissions should refer to File Number SR-NYSE-2006-07. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2006-07 and should be submitted on or before September 22, 2006.

#### IV. Discussion

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>7</sup> and, in particular, the requirements of Section 6 of the Act.<sup>8</sup> Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>9</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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information

<sup>7</sup> In approving this proposed rule change, as amended, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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

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

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