

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

1. Purpose

The purpose of this proposed rule change is to amend the ISE's cancellation fee. The Exchange currently has a cancellation fee of \$1.50 that applies to Electronic Access Members ("EAMs") that cancelled at least 500 orders in a month, for each order cancellation in excess of the total number of orders such member executed that month. All orders from the same clearing EAM executed in the same series on the same side of the market at the same price within a 30 second period are aggregated and counted as one executed order for purposes of this fee. Further, this fee is currently charged only to customer orders. Broker-dealer orders, including non-member market maker orders, are excluded from this fee. The Exchange notes that the level of activity in the cancellation of orders continues to remain quite large. The fee currently charged by the Exchange is insufficient to offset the cost of administering and processing the large number of cancellations on a monthly basis. The Exchange, therefore, proposes to increase its cancellation fee from \$1.50 to \$1.75. This fee increase will enable the ISE to recoup some of the costs of administering and processing cancelled orders.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act<sup>5</sup> that an exchange have an equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

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

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Because the foregoing proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> thereunder. At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such proposed 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-ISE-2008-23 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-ISE-2008-23. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the ISE. 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-ISE-2008-23 and should be submitted on or before April 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-57463; File No. SR-MSRB-2008-01]

**Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendment to Rule G-8, on Books and Records, To Delete Requirement To Maintain Copies of Form G-40**

March 11, 2008.

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> notice is hereby given that on February 19, 2008, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been substantially prepared by the MSRB. The MSRB has filed the proposal as a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>8</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.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 19b-4(f)(2).

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing with the Commission a proposed rule change consisting of an amendment to Rule G-8, on books and records, to delete the requirement that brokers, dealers and municipal securities dealers maintain copies of Form G-40 and any amended forms as required by Rule G-40, on e-mail contacts. The MSRB proposes that the amendment become effective on March 21, 2008. The text of the proposed rule change is available on the MSRB's Web site (<http://www.msrb.org>), at the MSRB, and at the Commission's Public Reference Room.

## 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 MSRB 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 MSRB 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

Subparagraph (a)(xxii) under Rule G-8, on books and records, requires that brokers, dealers and municipal securities dealers ("dealers") keep records reflecting copies of Form G-40 and any amended forms as required by Rule G-40, on e-mail contacts. Rule G-40 provides for electronic communication between the MSRB and dealers by imposing certain requirements on dealers.<sup>5</sup> When the rule was first adopted in 2002, dealers were required to submit their initial forms by mail. The rule was subsequently amended in 2005 to require that all G-40 submissions—both initial forms and

<sup>5</sup> Dealers are required to use Form G-40 to appoint a "Primary Contact" who must be either a Series 53-registered municipal securities principal or a Series 51-registered municipal fund securities limited principal. The rule also requires each dealer to maintain an Internet e-mail account, and to review and, if necessary, update its Primary Contact information within 17 business days of each calendar year. The rule is based on similar FINRA requirements; the Board attempts, whenever possible, to adopt rule provisions and language similar to FINRA rules in order to ensure a coordinated regulatory approach in areas of mutual regulation.

any subsequent amendments—be submitted electronically to the MSRB. Dealers accomplish this through their individual electronic G-40 accounts. Because dealers are no longer required to provide any paper submissions in connection with Rule G-40, there is no reason to retain the current requirement under Rule G-8(a)(xxii) that dealers maintain copies of Form G-40 and any amended forms.<sup>6</sup> Accordingly, the proposed rule change would delete this requirement.

#### 2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,<sup>7</sup> which provides that the MSRB's rules shall:

be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The Board believes that by deleting the obsolete requirement to maintain copies of Form G-40 and any amended forms, the proposed rule change will facilitate dealer understanding and compliance with Rules G-8 and G-40, as well as the inspection and enforcement thereof.

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

The Board does not believe that the proposed rule change will result in any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers.

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

Written comments were neither solicited nor received.

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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any

<sup>6</sup> In addition to certain quarterly reports provided to FINRA and the bank regulatory agencies, the MSRB provides FINRA examiners with secure, on-line access to each dealer's current G-40 information to assist in inspecting for dealer compliance with Rule G-40.

<sup>7</sup> 15 U.S.C. 78o-4(b)(2)(C).

significant burden on competition; and (iii) does not become operative for 30 days from February 19, 2008, the date on which it was filed, and the MSRB provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6) thereunder.<sup>9</sup>

At any time within 60 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.<sup>10</sup>

## 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-MSRB-2008-01 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-MSRB-2008-01. 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

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

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> See Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. 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-MSRB-2008-01 and should be submitted on or before April 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-57461; File No. SR-NSCC-2007-12]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change To Provide a New Alternative Investments Products Service

March 10, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on July 17, 2007, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on February 19, 2008, amended the proposed rule change 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 from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NSCC is proposing to establish a new Alternative Investment Products service ("AIP Service"), which would be a processing platform for alternative investment products such as hedge funds, funds of hedge funds, commodities pools, managed futures,

and real estate investment trusts ("REITs").

#### 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>2</sup>

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

The purpose of this rule filing is to amend NSCC's Rules in order that NSCC may provide its proposed AIP Service, which would be a processing platform for alternative investment products such as hedge funds, funds of hedge funds, commodities pools, managed futures, and REITs. Such products are more fully described below in the section titled "Alternative Investment Products."

##### (1) Summary of AIP Service

The AIP Service would provide for processing of information relating to transactions in alternative investment products and for settlement of related payments ("AIP Payments"). It would facilitate, among other things, processing activities such as subscriptions and redemptions, distributions, position reporting, and account maintenance. Activities that would be supported by the AIP Service are more fully described below in the section titled "Scope of AIP Service."

Settlement of AIP Payments through NSCC would be done on a prefunded basis. NSCC would simply pass-through AIP Payments from AIP members to their respective contraside AIP members without netting or without guarantying payment in the event of contraside default. NSCC would not be liable to make payment to an AIP member in the event of a default in payment by the contraside AIP member. Settlement of AIP Payments ("AIP Settlement") would be segregated from all other money settlements at NSCC. NSCC would have no exposure to credit risk as a result of the operation of the AIP Settlement. AIP Settlement is more fully described

below in the section titled "AIP Settlement."

Participation in the AIP Service would be governed by NSCC's Rules and procedures applicable to the AIP Service. Each user of the AIP Service ("AIP Member") would be required to enter into an AIP membership agreement with NSCC that would govern its use of the AIP Service. Entities eligible for membership would include entities subject to regulation under U.S. federal or state laws such as registered broker-dealers, investment advisers, banks, and insurance companies. Because of the unique processing and distribution features of alternative investment products and because NSCC would have no exposure to the credit risk of AIP Members and would have no liability to make payments in the event of an AIP Member's AIP Settlement default, entities that are not required to register under applicable U.S. federal or state law and entities organized under applicable law outside of the U.S. may also be eligible to become AIP Members. Membership in the AIP Service is more fully described below in the section titled "AIP Members."

NSCC developed the concept and functionality for the AIP Service at the request of and in consultation with industry participants, many of which were NSCC members in different capacities using other NSCC services. Some of these interested parties committed to become pilot subscribers to the proposed AIP Service and committed to assist NSCC in funding the launch of the AIP Service. These parties are more fully described below in the section titled "AIP Pilot Group."

##### (2) Alternative Investment Products

Alternative investment products are typically illiquid, pooled investment products that are exempt from registration under the Security Act of 1933 and the Investment Company Act of 1940 and that are offered through private placements to high net worth individuals and institutional investors such as pension funds.

Alternative investment products may be placed and held by an end investor through a direct relationship with the issuer or manufacturer of an alternative investment product or through an entity acting on behalf of an issuer or manufacturer (called the "AIP Manufacturer" for purposes of NSCC Rules). They may also be placed and held through a distribution channel such as a registered broker-dealer that facilitates transactions as a processing contraparty to the AIP Manufacturer (called the "AIP Distributor" for

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

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

<sup>2</sup> The Commission has modified the text of the summaries prepared by NSCC.