

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-59302; File No. SR-NSCC-2008-12]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Allow the Transfer and Reregistration of Fund/SERV Eligible Fund Positions to and From a Financial Intermediary and a Mutual Fund Company

January 27, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 23, 2008, 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 proposal pursuant to Section 19(b)(3)(A)(iii) of the Act² and Rule 19b-4(f)(4)³ thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

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

The purpose of the rule change is to allow for transfer and reregistration of Fund/SERV Eligible Fund positions to and from a financial intermediary and a mutual fund company.

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.⁴

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

Currently NSCC's rules permit the transfer of Fund/SERV eligible shares from one member to another member through NSCC's Automated Customer Account Transfer Service ("ACATS") or from one fund member to another fund member through the Transfer of Retirement Assets ("ToRA") service. In an effort to further standardize and automate the account transfer and reregistration process between members and mutual fund companies, NSCC is proposing to accommodate the transfer of customer mutual fund share registration: (i) Held by a customer directly at a mutual fund company to be reregistered in the name of a financial intermediary and (ii) held by a financial intermediary to be reregistered as a direct customer position at the mutual fund company. A member can request the transfer of registration in the capacity of the party receiving the reregistration or in the capacity of the party transferring the registration. The contra-side NSCC fund member must accept the reregistration request in order for NSCC to process it.

NSCC is also proposing that, unless the parties agree otherwise, the member and fund member will comply with certain legal responsibilities associated with the reregistration. The member will agree that in initiating the request it has obtained the requisite authorization from the account holder and that it will provide a copy of it to the fund member upon request. The member also will indemnify the fund member for any liabilities incurred in or associated with the request other than those relating to the negligence or misconduct of the fund member. In connection with reregistrations of IRA and other tax-deferred accounts, a member that makes the transfer request in its capacity as a successor custodian agrees that it is so qualified under the provisions of the Internal Revenue Code. NSCC is also proposing that the members will agree that any dispute between them relating to these provisions will be resolved directly between them and that NSCC is not a party to such dispute and has no responsibility with respect to the enforcement or satisfaction of such provisions. In addition, the submission or processing of a transfer transaction through NSCC will not extinguish or otherwise affect any of the participants'

legal rights arising out of the transaction.⁵

The proposed rule change is consistent with Section 17A of the Act,⁶ as amended, because it will reduce the likelihood of manual processing errors, will lower costs, and will reduce the time needed to complete the transfer of customer mutual fund share registrations, thereby promoting the prompt and accurate clearance and settlement of reregistration of mutual fund share positions processed through NSCC's Fund/SERV service.

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

NSCC 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. 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 proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and Rule 19b-4(f)(4)⁸ thereunder because the proposed rule change effects a change in an existing service of a registered clearing agency 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 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

⁵ Similar provisions are contained in NSCC rules relating to other mutual fund services. See, e.g., NSCC Rule 50, Section 17 and NSCC Rule 52, Section 46.

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(4).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(iii).

³ 17 CFR 240.19b-4(f)(4).

⁴ The Commission has modified the text of the summaries prepared by NSCC.

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. Please include File Number SR–NSCC–2008–12 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NSCC–2008–12. 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 such filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at http://www.dtcc.com/downloads/legal/rule_filings/2008/nscc/2008-12.pdf. 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–2008–12 and should be submitted on or before February 23, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–59270; File No. SR–NYSEArca–2009–01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NYSE Arca, Inc. Relating to Reduction of Annual Fee for Certain Issues Listed Under Rule 5.2(j)(6).

January 21, 2009.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that, on January 6, 2009, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “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, through its wholly owned subsidiary NYSE Arca Equities, Inc. (“NYSE Arca Equities”), is proposing to amend its Schedule of Fees and Charges for Exchange Services (“Fee Schedule”) to revise the Annual Fees applicable to securities listed in calendar year 2009 under Rule 5.2(j)(6) on NYSE Arca, LLC (“NYSE Arca Marketplace”), the equities facility of NYSE Arca Equities. The text of the proposed rule change is available on the Exchange's Web Site at <http://www.nyx.com>, at the Exchange's principal office, 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 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

NYSE Arca has determined to amend the Exchange's Fee Schedule to revise the Annual Fee applicable to securities listed on the NYSE Arca Marketplace in calendar year 2009 under Rule 5.2(j)(6) (Equity Index-Linked Securities, Commodity-Linked Securities, Currency-Linked Securities, Fixed Income Index-Linked Securities, Futures-Linked Securities and Multifactor Indexed-Linked Securities). Specifically, the Exchange proposes to add new footnote 10 to the Fee Schedule to state that, during 2009, the Annual Fee for an issue of securities listed under Rule 5.2(j)(6) of up to 500,000 shares outstanding will be \$5,000, pro-rated based on days remaining in 2009.

Under the current Fee Schedule for Structured Products, which include securities listed under Rule 5.2(j)(6), the Annual Fee ranges from \$10,000 to \$55,000, based on the total number of securities outstanding per listed issue. The current Annual Fee for issues with up to 6 million shares outstanding is \$10,000. The proposed reduced Annual Fee would apply for calendar year 2009 to issues newly listed on the NYSE Arca Marketplace beginning as of January 1, 2009, and would not apply to issues listed prior to or after calendar year 2009.

As an example of how the Annual Fee would apply to such issues, if an Equity Index-Linked Security lists on the NYSE Arca Marketplace on July 1, 2009 with 500,000 shares outstanding, such security would pay a pro-rated Annual Fee for 2009 of \$2500 ($\frac{1}{2} \times \$5,000$).

The Exchange believes that temporarily reducing the Annual Fee for newly listed securities listed under Rule 5.2(j)(6), which include Exchange Traded Notes or “ETNs”, will provide an incentive for issuers to introduce and list more such products on the NYSE Arca Marketplace in 2009, thereby increasing competition among such products.

⁹ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.