to attract order flow. NASDAQ believes, however, that evidence not before the court clearly demonstrates that availability of data attracts order flow. For example, as of July 2010, 92 of the top 100 broker-dealers by shares executed on NASDAQ consumed NQDS and 80 of the top 100 broker-dealers consumed TotalView. During that month, the NQDS-users were responsible for 94.44% of the orders entered into NASDAQ and TotalView users were responsible for 92.98%.

Competition among platforms has driven NASDAQ continually to improve its platform data offerings and to cater to customers' data needs. For example, NASDAQ has developed and maintained multiple delivery mechanisms (IP, multi-cast, and compression) that enable customers to receive data in the form and manner they prefer and at the lowest cost to them. NASDAQ offers front end applications such as its "Bookviewer" to help customers utilize data. NASDAQ has created new products like TotalView Aggregate to complement TotalView ITCH and Level 2, because offering data in multiple formatting allows NASDAQ to better fit customer needs. NASDAQ offers data via multiple extranet providers, thereby helping to reduce network and total cost for its data products. NASDAQ has developed an online administrative system to provide customers transparency into their data feed requests and streamline data usage reporting. NASDAQ has also expanded its Enterprise License options that reduce the administrative burden and costs to firms that purchase market data.

Despite these enhancements and a dramatic increase in message traffic, NASDAQ's fees for market data have remained flat. In fact, as a percent of total customer costs, NASDAQ data fees have fallen relative to other data usage costs—including bandwidth, programming, and infrastructure—that have risen. The same holds true for execution services; despite numerous enhancements to NASDAQ's trading platform, absolute and relative trading costs have declined. Platform competition has intensified as new entrants have emerged, constraining prices for both executions and for data.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend 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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

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.* Please include File Number SR–NASDAQ–2010–110 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–NASDAQ–2010–110. 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 Web site viewing and printing in the Commission's Public Reference Room, 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 Exchange. 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–NASDAQ–2010–110 and should be submitted on or before October 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23385 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(a)(ii).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62882; File No. SR–NSCC–2010–09]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Regarding the Creation of a Universal Trade Capture Application and Automated Special Representative Facility

September 10, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on August 30, 2010, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on September 9, 2010, amended the proposed rule change described in Items I and II below, which Items have been prepared primarily by NSCC. 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 proposed rule change would modify NSCC's rules and procedures regarding the creation of a Universal Trade Capture application and an automated Special Representative facility.

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

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.

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

1. Universal Trade Capture ("UTC")

i. Background

Since the 1970s, NSCC has provided a framework for the clearance and settlement of transactions executed on national securities exchanges and in the over-the-counter ("OTC") market through its "Comparison and Trade Recording Operation." [2] A Regional Interface Operation (the "Interregional Interface Service" or "RIO") was established in 1974 through National Clearing Corporation (one of NSCC's predecessor organizations) that permitted participating registered clearing corporations to provide for settlement of transactions in listed securities in the OTC market.[3] Due to efforts to promote straight-through processing, markets have assumed responsibility for trade comparison (*i.e.,* matching the buy and sell side of a securities transaction) at the point of trade and submit the compared transaction to NSCC for trade recording purposes (*i.e.,* the transaction details have already been compared and the transaction is submitted to NSCC on a "locked-in" basis).

ii. Trade Comparison and Recording Operation

Transaction data is for the compared trades submitted to NSCC on a locked-in basis by self-regulatory organizations ("SROs") and Qualified Special Representatives ("QSRs") on behalf of their members for the purpose of trade recording with purchaser and seller trade details compared by the SRO or QSR prior to submitting the information to NSCC. NSCC validates and records the transaction and reports the details back to the SRO, QSR, and member, as appropriate. NSCC also provides a Comparison Operation for its members whereby the purchasering and selling members may submit transactions that NSCC validates, compares, and reports back to the members. Compared and recorded trades are subsequently routed to the Continuous Net Settlement ("CNS") Accounting Operation, the Balance Order Accounting Operation, or the Foreign Security Accounting Operation, as applicable. NSCC makes transaction details available to members, SROs, and QSRs on either a real-time, intra-day, or end-of-day basis.

As NSCC's systems for receipt of input and generation of output have developed, depending upon the transaction and the originating entity, different reporting formats for both input and output may be utilized. There is currently no standard common record that is utilized by all market places or members.

iii. Regional Interface Operation

Originally, each participating clearing corporation had the opportunity to provide its own system for comparison. Inter-clearing corporation ("RIO") trades had to be compared by one of the two clearing corporations involved in the RIO transaction, and an inter-clearing corporation had to be one side to each RIO trade. Over time, as organizations discontinued providing clearance and settlement services for their members and as those members ultimately became direct NSCC members or entered into clearing arrangements with other NSCC members, the reporting and settlement of trades submitted to NSCC changed.

With the discontinuance of the RIO service, NSCC nevertheless continued to accept trade input from regional exchanges and other marketplaces using the RIO formats. The formats used by regional exchanges for the submission of transaction data to NSCC are generally the same as the formats that had been used for information processed through the interface operation and continue to commonly be referred to as "RIO." Consequently, references today to "RIO" are not in reference to services previously provided under the interface service but rather to information received by NSCC in connection with NSCC's trade recording and trade reporting.

iv. Proposed Changes

The proposed rule change will amend NSCC's rules to accommodate the UTC application, which will standardize, streamline, consolidate, and modernize NSCC's existing legacy trade capture applications (specifically, with respect to trade recording applications within NSCC's Trade Comparison and Recording Operation) to create a more efficient and centralized process. The UTC application will accept and process a common input record from all marketplaces and will provide for receipt and reporting of data in both real-time and intraday-batch submissions to and from members and SROs.

UTC will replace all current locked-in OTC and listed trade capture applications with one central real-time validation and reporting process. UTC will have the capability to accept or reject, validate, process, and send contract output to members in real-time. Members will only have to support one standardized input and output format.

As further described below, trade data will be received from markets in real-time and in batch. NSCC will convert the existing input format to the new UTC input record format, which will enable the UTC to provide members and SROs with their trade output in the format of their choice (new or old).[4]

As part of this effort, NSCC will also provide for enhancements to its Correspondent Clearing Service and QSR processing as further described below.

2. Automated Special Representative Facility for Special Representatives and Qualified Special Representatives

i. Background

NSCC's Correspondent Clearing Service is designed to provide an automated method by which a member acting as a Special Representative may move an obligation (a position) that is in the process of clearance at NSCC to the account of another member (its correspondent) on whose behalf the original trade was executed.[5]

ii. Proposed Changes

(a) Expanding Permitted Use of Service

Currently, NSCC's rules provide the Correspondent Clearing Service may only be used in the following situations: (a) To accommodate a member with

[2] On separate platforms, NSCC also provides services supporting mutual funds, alternative investments, and insurance products in addition to providing various other services.

[3] In 1983, the service was further expanded to facilitate the settlement of transactions that had been confirmed and affirmed through the facilities of a registered securities depository.

[4] *See* below, Section II.A.4. "Implementation Timeframe."

[5] The term "original trade" is used within Correspondent Clearing solely to distinguish between trades executed in the marketplace by the Special Representative and transactions booked for accounting purposes to accommodate the movement of positions between members as provided for in NSCC Procedure IV. Correspondent Clearing is not a mechanism for original trade submission.

multiple affiliate accounts that wishes to move a position resulting from an "original trade" in the process of clearance from one affiliate account to another and (b) to accommodate a member that relies on its Special Representative to execute a trade in a market that the member is precluded due to membership requirements (*e.g.,* membership requirement for access to markets) or applicable regulation in order to enable the resulting position to be moved from the Special Representative to that member.

Since it is not uncommon that members utilize the services of other broker-dealers to execute trades in markets where they are members in order to facilitate their trading strategies, NSCC proposes to modify its rules to provide that the Correspondent Clearing Service may be utilized by members to accommodate a member that relies on its Special Representative to execute a trade in any market regardless of whether that member maintains direct access to that market to enable the resulting position to be moved from the Special Representative to that member.

(b) Creation of an Automated Special Representative Facility

Historically, members participating in the Correspondent Clearing Service and those utilizing the services of a QSR for the submission of original, locked-in trade data have been required to complete and remit to NSCC specific agreements for each relationship established. For example, in Correspondent Clearing, one member completes documentation (commonly referred to as Form 9a—Application for Status as a Special Representative) by which it applies to NSCC for status as a Special Representative to submit transactions on behalf of a specified member, *i.e.,* the Correspondent. The Correspondent must also complete and submit to NSCC documentation (commonly referred to as a Form 9b—Special Representative Consent) by which it consents to the establishment of that relationship. For QSR relationships, members submit Forms 9a and Form 9b along with an additional form that is specific to the QSR system being utilized (commonly referred to as an "Attachment 1"). NSCC then establishes these relationships on its internal masterfile. NSCC subsequently terminates these relationships at the direction of either party.

To assist members in controlling and monitoring their Special Representative and Qualified Special Representative relationships, NSCC proposes to create an automated, online, and secure facility by which members themselves may establish, monitor, and maintain these relationships. Both the Special Representative Member and the Correspondent Member would have to submit matching instructions within the facility in order for the relationship to be established. Either party could submit a single entry to retire the relationship.

Members will be reminded, through formatting within the facility, of their existing and unchanged obligations under NSCC's rules with respect to utilizing these services—namely, that by establishing the relationship within the facility both members continue to be bound by NSCC's rules, the Correspondent is bound by the details of all transactions submitted on their behalf by the Qualified Special Representative (or Special Representative as the case may be), and any errors or omissions or disputes relating to such relationships and related transactions must be resolved directly between the parties.

The establishment of relationships through the automated facility shall meet the written notice requirements for such services as otherwise set forth within NSCC's rules and procedures. Members will no longer be required to submit signed forms to NSCC for these processes.

3. Rule Modifications

As the UTC functionality will provide for processing of a common input or output record from or to all marketplaces (validating the transaction and providing for real-time message output to members and SROs), NSCC proposes to modify its rules to make conforming changes to reflect a single procedure or process for the submission and reporting of transaction data to and from SROs and members. References and provisions within the rules that pertained to the now obsolete RIO Service will be eliminated. In addition, NSCC will modify its rules to provide for an automated online functionality for the establishment and retirement of Special Representative and Qualified Special Representative relationships.

Accordingly, NSCC proposes to amend the following rules and procedures as set forth in Exhibit 5 to its filing: Rule 7 (Comparison and Trade Recording Operation); Rule 40 (Interregional Interface Service); Procedure II (Trade Comparison and Recording Service); Procedure III (Trade Recording Service—Interface Clearing Procedures); and Procedure IV (Special Representative Service).[6]

4. Implementation Time Frame

Subject to Commission approval, NSCC will implement the above changes by January 31, 2011.

With respect to UTC changes and to support the migration period, NSCC will provide a conversation process to support those markets that are not yet ready to submit transaction data in the new common input format (*i.e.,* NSCC will accept data in the old format and convert data into the new UTC format). The conversion process will enable NSCC to offer members and SROs the new output format regardless of whether the market has converted to the new standard. UTC will continue to support all existing interfaces with markets, members, and SROs with respect to trade input and output.

To support maximum flexibility in allowing firms to migrate to the new input and output formats according to their own schedules, NSCC will continue to support all existing interfaces with markets, Member's, SRO's and regulatory agencies for a period of time after UTC is implemented.

NSCC will establish a plan for the retirement of all legacy input and output formats and by the end of the first quarter of 2012 will reassess the status of those firms utilizing legacy formats. At that time, NSCC will work with any members, SROs, and regulatory agencies that have not yet converted from legacy reporting, thereby affording such firms sufficient lead time for migration.

NSCC states that the proposed rule change will provide for additional efficiencies to NSCC and its participants while maintaining safe and secure operation and that the proposed rule change facilitates the prompt and

[6] In addition, the following Rules and Procedures will be generally modified to make conforming changes: Procedure VII (CNS Accounting Operation)—modified to conform an existing rule cross reference to a renamed Procedure; Procedure X (Execution of Buy-Ins) modified to eliminate references to regional accounts; Procedure XIII (Definitions), modified to remove a defined and now obsolete term "Qualified Non-Participant;" Procedure V (Balance Order Accounting Operation); Procedure VI (Foreign Security Accounting Operation); Addendum A (Fee Schedule)—modified to delete obsolete regional/inter-clearing corporation references; Addendum J (Statement of Policy—Locked-In Data from Service Bureaus)—modified to correct a preexisting erroneous reference to Section 5 of Rule 7 where it should have referenced Section 6 of that Rule; Addendum K (Interpretation of the Board of Directors—Application of Clearing Fund)- modified to reflect specific reference to T Contracts, and Addendum N (Interpretation of the Board of Directors—Locked-In Data from Qualified Special Representatives)—modified to conform an existing rule cross reference to renumbered procedure subsection.

accurate clearance and settlement of securities. NSCC further states that the proposal is consistent with the CPSS/IOSCO Recommendations for Central Counterparties (specifically Recommendation 12) in that in addition to the additional efficiencies noted above, the UTC will also provide for cost-effectively meeting the requirements of NSCC's members.

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

NSCC believes that the proposed rule change will not impose any burden on competition 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

NSCC has not solicited or received written comments relating to the proposed rule change. NSCC will notify the Commission of any written comments it receives.

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

Within 45 days of the date of 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 or disapprove such 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, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

- Electronic comments may be submitted by using the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or send an e-mail to *rule-comment@sec.gov*. Please include File No. SR–NSCC–2010–09 on the subject line.
- Paper comments should be sent in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–1090.

All submissions should refer to File No. SR–NSCC–2010–09. 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 Web site viewing and printing 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 NSCC's principal office and NSCC's Web site (*http://www.dtcc.com/legal/rule_filings/nscc/2010.php*). 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 No. SR–NSCC–2010–09 and should be submitted October 12, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–23372 Filed 9–17–10; 8:45 am]

BILLING CODE 8010–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62908; File No. SR–NASDAQ–2010–111]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish an Optional Depth Data Enterprise License Fee

September 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 7, 2010, The NASDAQ Stock Market LLC ("NASDAQ" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

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

NASDAQ proposes to establish an optional Depth Data Enterprise License Fee for external distribution of depth-of-book data to non-professional users. The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.[3]

* * * * *

7023. NASDAQ TotalView

(a) TotalView Entitlement

The TotalView entitlement allows a subscriber to see all individual NASDAQ Market Center participant orders and quotes displayed in the system as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the NASDAQ Market Center, including the NQDS feed.

(1)

(A) Except as provided in (a)(1)(B) and (C), for the TotalView entitlement there shall be a $70 monthly charge for each controlled device.

(B) Except as provided in (a)(1)(C), a non-professional subscriber, as defined in Rule 7011(b), shall pay $14 per month for each controlled device.

(C) As an alternative to (a)(1)(A) and (B), a broker-dealer distributor may purchase an enterprise license at a rate of $25,000 for non-professional subscribers or $100,000 per month for both professional and non-professional subscribers. The enterprise license entitles a distributor to provide TotalView and OpenView to an unlimited number of internal users, whether such users receive the data directly or through third-party vendors, and external users with whom the firm has a brokerage relationship. The enterprise license shall not apply to relevant Level 1 and NQDS fees.

(D) As an alternative to (a)(1)(A), (B) and (C), a market participant may purchase an enterprise license at a rate

[3] Changes are marked to the rule text that appears in the electronic manual of Nasdaq found at *http://nasdaqomx.cchwallstreet.com*.