

PROCEDURAL SCHEDULE—Continued

December 1, 2011	Deadline for reply briefs in response to answering briefs (<i>see</i> 39 CFR 3001.115(d)).
December 8, 2011	Deadline for motions by any party requesting oral argument; the Commission will schedule oral argument only when it is a necessary addition to the written filings (<i>see</i> 39 CFR 3001.116).
January 6, 2012	Expiration of the Commission's 120-day decisional schedule (<i>see</i> 39 U.S.C. 404(d)(5)).

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65401; File No. SR-NSCC-2011-07]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Amend Rules Relating to the Settlement Timing of Partial Transfers Which Include Mutual Fund Assets Through NSCC's Automated Customer Account Transfer Service

September 26, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder² notice is hereby given that on September 12, 2011, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by NSCC.³ The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval.

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

The purpose of this proposed rule change is to amend NSCC's rules regarding an adjustment to the settlement timing of partial transfers of mutual fund assets⁴ through NSCC's

¹ 15 U.S.C. 78s(b)(1).² 17 CFR 240.19b-4.³ The text of the proposed rule change is attached as Exhibit 5 to NSCC's filing, which is available at http://www.dtcc.com/downloads/legal/rule_filings/2011/nsc/2011-07.pdf.⁴ For purposes of this rule filing, the term "mutual fund assets" means Fund/Serv Eligible Assets, as that term is defined under Rule 1 of NSCC's Rules and Procedures. Pursuant to Rule 3, Section 1(c) of NSCC's Rules, a Fund/Serv Eligible Fund must be assigned a CUSIP number, and may only be: (i) An investment company regulated under the Investment Company Act of 1940; (ii) a fund or other pooled investment entity that is subject to regulation under applicable federal and state banking and/or insurance law; or (iii) a fund

Automated Customer Account Transfer Service.

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.⁵

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

Since its inception in 1985, NSCC's Automated Account Transfer System ("ACATS")⁶ has provided NSCC members with an efficient automated means for the prompt transfer of customer accounts between members. NSCC, in consultation with the industry,⁷ is proposing to adjust the processing schedule related to ACATS in order to reduce the risk associated with a partial transfer that includes mutual fund assets processed through NSCC's Fund/SERV service⁸ and

or other pooled investment entity subject to regulation under other applicable law which meets criteria established by NSCC from time to time.

⁵ The Commission has modified the text of the summaries prepared by NSCC.

⁶ Through ACATS, an NSCC member to whom a customer's securities account is to be transferred ("Receiving Member") initiates the account transfer process by submitting a Transfer Initiation Request ("TIF") to NSCC. When an NSCC member currently holding the customer account accepts a customer account transfer ("Delivering Member") and all other preconditions to the processing of an ACATS transfer pursuant to NSCC's Rules have been met, NSCC will enter CNS-eligible securities in that account into NSCC's CNS Accounting Operation ("CNS") prior to the settlement cycle on the day before settlement date. "Non-CNS ACATS" transactions will be settled either through or away from NSCC depending on the asset type. *See* Rule 50 (Automated Customer Account Transfer Service).

⁷ NSCC has engaged in extensive consultations with the Securities Industry and Financial Markets Association's ("SIFMA") Customer Account Division and Securities Operations Division regarding this proposed rule change.

⁸ NSCC processes and settles mutual fund transactions through Fund/SERV. NSCC members

ACATS. Specifically, the proposed rule change would revise NSCC rules so that the last day a "Fund Member" or "Mutual Fund Processor," as applicable,⁹ would be permitted to respond to a mutual fund re-registration request submitted through Fund/SERV is aligned with the ACATS settlement date for the transfer. As more fully described below, the proposed rule change should reduce the likelihood that a transaction could be responded to by the applicable Fund Member or Mutual Fund Processor after settlement occurs, which might otherwise create risk and complicate the reversal of incentive charges in the event of the default of a party to the transaction.

(1) Current Non-CNS ACATS Process

For non-CNS eligible securities transferred through ACATS (on broker-to-broker transfers only), on ACATS settlement date NSCC automatically debits the Delivering Member with the market value of the assets being transferred through ACATS and credits the Receiving Member with the same amount.¹⁰ The actual transfer of the assets occurs for value, so that the original debits and credits associated with the transfer are offset. This process provides incentive to the Delivering Member to complete delivery in a timely manner and also allows the Receiving Member to record the customer position on its records regardless of whether the security is actually delivered on settlement date. For non-CNS eligible securities transferred through ACATS, NSCC does

can utilize the automated, standardized formats and centralized platform of Fund/SERV to complete order entry (purchases, exchanges and redemptions) as well as confirmations, registrations and money settlement. NSCC's Rule 52 (Mutual Fund Services).

⁹ A "Fund Member" is an NSCC limited membership type defined in NSCC Rule 2 that participates in NSCC's mutual fund services acting as: (A) A mutual fund's: (1) Principal underwriter, (2) co-distributor, (3) sub-distributor; or (B) an entity that is otherwise authorized to process transactions on behalf of a mutual fund. A "Mutual Fund Processor" is a member authorized to act on behalf of a mutual fund in accordance with NSCC Rule 52.

¹⁰ CNS-eligible securities or non-CNS eligible securities refers to securities that are eligible or not eligible, respectively, for processing through NSCC's Continuous Net Settlement system ("CNS"). CNS system is an automated book-entry accounting system for securities transactions that allows each security in CNS to be netted to one position per participant, with NSCC as its central counterparty. *See* Rule 11 of NSCC Rules and Procedures.

not guarantee the transfer debits and credits so if a member fails to meet its settlement obligation, reversals of the money incentive debits and credits in ACATS may be required as part of NSCC's close-out process.

(2) ACATS and Fund/SERV Interface and Settlement Timing

The combined use of ACATS and Fund/SERV for the transfer of customer mutual fund assets between brokers (referred to as the "ACATS-Fund/SERV Interface") is a non-CNS, ACATS process where both the reregistration of mutual fund securities and associated money settlement of ACATS-Fund/SERV transactions are processed through NSCC's systems. Through this process, after both parties to the transfer have agreed to the transaction details ACATS creates a Fund/SERV record containing reregistration instructions and detailed information provided by the Delivering Member regarding how the asset is currently held. This record is sent to the applicable Fund Member or Mutual Fund Processor. On ACATS settlement date, the Delivering Member of the mutual fund asset is debited the market value of the asset and the Receiving Member is credited the market value of the asset. Any acceptance or rejection by the receiving Fund Member/Mutual Fund Processor is delivered through NSCC's Fund/SERV and is relayed to ACATS. In the case of an acceptance, NSCC offsets any incentive debits and credits with reverse entries. However, in the case of a rejection or a failure to respond to the transfer request, the incentive charges are carried into money settlement.¹¹

Currently in ACATS, full account transfers and partial account transfers have different settlement dates. A full account transfer has a two-day settlement cycle. A partial account transfer has a one-day settlement cycle; however, Fund/SERV always provides the receiving Fund Member/Mutual Fund Processor with a two-day response period to acknowledge or reject a transfer.¹² Thus, for a full transfer, the

¹¹ In the case of a rejection or no response by the receiving Fund Member/Mutual Fund Processor, it is the direct responsibility of the Receiving Member and Delivering Member to effect the reregistration of the asset outside of the ACATS-Fund/SERV interface and to reconcile any incentive charges that were applied.

¹² Please note that a previous rule filing (File No. SR-NSCC-2007-13, SEC Release No. 56678 [October 19, 2007], 72 FR 60701 [October 25, 2007]) made reference to adjusting the response period for the Fund Member/Mutual Fund Processor to one business day. The actual response period effected by that rule change was a two-day period as a result of cut-off times associated with internal processing. As described in this filing, the proposed rule change will ensure that the actual timing of the

last day for a Fund Member/Mutual Fund Processor to acknowledge or reject a fund reregistration is always on ACATS settlement date. However, for a partial transfer, the last day for a Fund Member/Mutual Fund Processor to acknowledge or reject a fund reregistration is on the business day after ACATS settlement date (unless the transfer contains option securities because options securities always require an additional day for settlement). In the case of a partial transfer where the reregistration occurs through the ACATS-Fund/SERV interface, the one-day delay presents a risk that the Delivering Member will not recover the incentive debit money that it would actually have paid through money settlement on settlement date in the event that the receiving Fund Member/Mutual Fund Processor provides no response (*i.e.*, the transaction is pending) on settlement date, accepts the transfer on Settlement Date + 1, and member subsequently defaults on the same date (*i.e.*, Settlement Date + 1).¹³ The proposed rule change would align the settlement date and Fund Member/Mutual Fund Processor response date thereby eliminating this risk and providing NSCC with greater transparency to track mutual fund transactions so that it can identify and reverse only the incomplete transactions (rejected transactions or transactions that were not responded to by the Fund Member/Mutual Fund Processor) on settlement date to avoid the need to reverse the payment of money in the event a member defaults.

(3) Proposed Rule Change

Pursuant to the rule change, NSCC proposes to modify: (A) Section 12 of Rule 50 (Automated Customer Account Transfer Service) to provide one additional business day for the transfer of any member to member partial transfer that contains any Fund/SERV-eligible asset before it reaches settlement date, and (B) Section 13 of Rule 50 to make conforming changes that provide that the settlement date for transfers where Delivering Member submits detailed account asset data and the transfer is not rejected by the

ACATS settlement cycle and the response period accorded to a Fund Member/Mutual Fund Processor with respect to this process will be aligned. The time frames proposed herein supersede any time frames previously in effect.

¹³ In this instance, the Delivering Member would have been charged the market value of the asset but would not have retained possession of the asset. If the Receiving Member defaults, the Delivering Member would lack recourse to recover the amount debited from its account on settlement date other than through a claim against the insolvent Receiving Member's estate.

Receiving Member would be one business day after the Delivering Member has submitted the asset account data unless the transfer contains options assets or Fund/SERV eligible assets. In such a situation, the settlement date for all assets would be two business days. The text of Rule 52 (Mutual Fund Services) is unaffected by this proposal. The effective date of the proposed rule change will be announced by Important Notice.

(4) Statutory Basis

The proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC because it provides enhanced customer protection and greater transparency with respect to the settlement status of transactions processed through the ACATS-Fund/SERV interface and reduces associated risks in the event of a party's default. As such, the proposed rule change would facilitate the prompt and accurate clearance and settlement of securities transactions. Furthermore, the proposed rule change is consistent with the CPSS/IOSCO Recommendations for Central Counterparties.

(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 been solicited NSCC.

III. 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-NSCC-2011-07 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-NSCC-2011-07. 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549-1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also 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/2011/nsc/2011-07.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-2011-07 and should be submitted on or before October 21, 2011.

IV. Commission's Finding and Order Granting Accelerated Approval of Proposed Rule Change

For the reasons stated below, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC.¹⁴ Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds of NSCC's participants which are

in the custody or control of the clearing agency or for which it is responsible.¹⁵

As described in this filing, NSCC's proposal to move the settlement of partial transfers of mutual fund assets in ACATS from one day to two days should help mitigate the risk that in the event of a member defaulting between the time funds have been exchanged but delivery has not been made and should provide greater transparency with respect to the settlement status of transactions processed through the ACATS-Fund/SERV interface. Accordingly, the Commission finds that the rule change is consistent with Section 17A(b)(3)(F) of the Act because it should allow NSCC to reduce risks associated with the transfer of mutual fund assets in ACATS, which should in turn better enable NSCC to assure the safeguarding of funds and securities in its possession or control or for which it is responsible.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of notice of filing thereof in the **Federal Register**. As discussed above, approval of the proposal will allow NSCC to immediately implement a procedure that should reduce risk for NSCC and its members, and other financial intermediaries associated with the transfer of mutual fund assets in ACATS. As such, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice filing in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NSCC-2011-07) is approved on an accelerated basis. For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Elizabeth M. Murphy,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65394; File No. SR-MSRB-2011-10]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Withdrawal of Proposed Rule Change Consisting of Amendments to MSRB Rule G-20 (Gifts and Gratuities) and Related Amendments to MSRB Rule G-8 (Books and Records) and MSRB Rule G-9 (Preservation of Records), and To Clarify That Certain Interpretations by the Financial Industry Regulatory Authority and the National Association of Securities Dealers Would Be Applicable to Municipal Advisors

September 26, 2011.

On August 16, 2011, the Municipal Securities Rulemaking Board (the "MSRB") filed with the Securities and Exchange Commission (the "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ and Rule 19b-4 thereunder,² consisting of proposed amendments to MSRB Rule G-20 (on gifts and gratuities), which would apply the rule to municipal advisors, along with related proposed amendments to Rule G-8 (on books and records) and Rule G-9 (on preservation of records), and to clarify that certain interpretations by the Financial Industry Regulatory Authority ("FINRA") of its gifts rule (FINRA Rule 3220) and its predecessor, the National Association of Securities Dealers ("NASD"), of its gift rule (NASD Rule 3060), would be applicable to municipal advisors. Notice of the proposed rule change was published in the **Federal Register** on September 7, 2011.³ The Commission received one comment letter on the proposed rule change.⁴ On September 9, 2011, the MSRB withdrew the proposed rule change (SR-MSRB-2011-10).⁵

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Elizabeth M. Murphy,
Secretary.

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¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 65234 (August 31, 2011), 76 FR 55449.

⁴ See letter to Elizabeth M. Murphy, Secretary, Commission, from Joseph J. Connolly, Counsel, The PFM Group, dated August 23, 2011.

⁵ See MSRB Notice 2011-51 (September 12, 2011).

⁶ 17 CFR 200.30-3(a)(12).

¹⁴ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

¹⁶ 17 CFR 200.30-3(a)(12).