

### 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<sup>8</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder<sup>9</sup> because it establishes or changes a due, fee, or other charge applicable only to a member imposed by the self-regulatory organization. Accordingly, the proposal is effective upon Commission receipt of the filing. 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.

### 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-NASDAQ-2007-017 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-NASDAQ-2007-017. 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 the filing also will be available for inspection and copying at the principal office of Nasdaq. 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-2007-017 and should be submitted on or before April 11, 2007.

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

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

[FR Doc. E7-5089 Filed 3-20-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55478; File No. SR-NSCC-2007-03]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule To Make Technical and Updating Changes to Its Reconfirmation and Pricing Service

March 15, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 26, 2007, 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 Act<sup>2</sup> and Rule 19b-4(f)(4)<sup>3</sup> 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 make technical and updating changes to

its Reconfirmation and Pricing Service ("RECAPS").

#### 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>

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

RECAPS is a mandated service for all full-service NSCC members that reconfirms and reprices members' fails in RECAP-eligible securities that represent positions that are currently failing outside of NSCC's Continuous Net Settlement ("CNS") system. It thus provides a mechanism for reducing outstanding non-CNS member fails. The proposed revisions to the procedures reflect enhancements to the service, confirming processing changes with current processes, and deletion of obsolete reports.

RECAPS is currently offered quarterly. The processing cycle begins on a Tuesday and ends with successfully matched trades settling the following Tuesday. On the first Tuesday of the processing cycle, members submit CUSIP files for fails designated for processing through the service. The data on these files is used to obtain current prices for the designated securities. On Friday, members submit eligible aged fails to NSCC until a designated cut-off time. On Saturday, NSCC distributes RECAPS contract sheets, RECAPS CNS and Non-CNS Compared Summaries, Balance Orders (for matched transactions in Balance Order securities), and RECAPS CNS Projection Reports and Advisory Listings. On Monday, members take action on all unmatched items. On Tuesday, the final day of the RECAPS cycle, all matched fails are scheduled to settle.

The process enhancements eliminate the need for submission of CUSIP files on Tuesday since current price information can be obtained on Friday when members submit their fails for reconfirming and pricing. In addition,

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

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

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

the process enhancements enable the distribution of reports at an earlier time on Saturday and enable fails to settle on the next settlement day after they match (e.g., fails matched on Friday will settle on Monday and fails matched on Monday will settle on Tuesday).

Furthermore, the RECAPS CNS Projection Report is being eliminated because the relevant information will be provided on the existing CNS Projection Report. Similarly, to conform to current trade processing practices where NSCC has eliminated Balance Order and Receive and Deliver tickets,<sup>5</sup> RECAPS Balance Orders and RECAPS Trade-for-Trade Receive and Deliver Orders will be evidenced by the information contained on the RECAPS Non-CNS Compared Trade Summary.

Finally, the RECAPS procedure is being revised to clarify that reconfirmed fails in securities where the original fail price was less than one penny per share will settle on a trade-for-trade basis as a "Special Trade" with the RECAPS value being the original comparison value (as opposed to the system-generated price of one cent per share). Clarifying language also is being added to distinguish between information that appears on the RECAPS CNS Compared Trade Summary and information on the RECAPS Non-CNS Compared Trade Summary.

Since the RECAPS procedures provides for NSCC to determine the processing schedule for each RECAPS cycle, NSCC advises its participants of the RECAPS calendar and the processing schedule through Important Notices. Members have been advised on the proposed scheduling changes outlined above, as well as the other enhancements described in this filing, in Important Notice A#6323, P&S#5893 dated October 26, 2006.

The proposed rule change is consistent with Section 17A of the Act,<sup>6</sup> as amended, because the updated procedures and operational enhancements will further facilitate the accurate clearance and settlement of securities transactions, particularly, the settlement of aged fails.

#### *(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.

<sup>5</sup> Balance Order and Receiver and Deliver tickets were eliminated as part of the CNS Rewrite in 2004. Securities Exchange Act Release No. 50026 (July 15, 2004), 69 FR 43650 (July 21, 2004) [File No. SR-NSCC-2004-01].

<sup>6</sup> 15 U.S.C. 78q-1.

#### *(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. On October 26, 2006, members were advised by Important Notice A#6323, P&S#5893, of the proposed enhancements to RECAPS. 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 Act<sup>7</sup> and Rule 19b-4(f)(4)<sup>8</sup> thereunder because it effects a change in an existing service of NSCC that: (i) Does not adversely affect the safeguarding of securities or funds in the custody of NSCC or for which it is responsible; and (ii) does not significantly affect the respective rights or obligations of NSCC 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-NSCC-2007-03 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-2007-03. This file number should be included on the subject line if e-mail is used. To help the

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>8</sup> 17 CFR 240.19b-4(f)(4).

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 filings also will be available for inspection and copying at the principal office of NSCC and on NSCC's Web site at <http://nsc.com/legal/2007/2007-03.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-2007-03 and should be submitted on or before April 11, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-5133 Filed 3-20-07; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>9</sup> 17 CFR 200.30-3(a)(12).