

while maintaining all other elements of this pricing tier.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and with Section 6(b)(4) of the Act,⁶ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. NASDAQ is reducing the level of liquidity provision required to receive a favorable rebate for orders in stocks listed on NASDAQ, AMEX or NYSE, resulting in potential price reductions for members with large volumes of liquidity provided.

The impact of the changes upon the net fees paid by a particular market participant will depend upon a number of variables, including its monthly volume, the order types it uses, and the prices of its quotes and orders (*i.e.*, its propensity to add or remove liquidity and to set the best bid and offer). NASDAQ notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. NASDAQ believes that its fees remain competitive with other venues and are reasonable and equitably allocated to those members on the basis of whether they opt to direct orders to NASDAQ.

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

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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 Act⁷ and subparagraph (f)(2) of Rule 19b-4 thereunder.⁸ 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. Please include File Number SR-NASDAQ-2009-082 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-2009-082. 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 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 offices 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-2009-082, and should be

submitted on or before October 13, 2009.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-22733 Filed 9-21-09; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60660; File Nos. SR-DTC-2009-14, SR-NSCC-2009-07, SR-FICC-2009-09]

Self-Regulatory Organizations; The Depository Trust Company, Fixed Income Clearing Corporation, and National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes Relating to Economic Sanctions and Embargo Programs Administered and Enforced by the Office of Foreign Assets Control

September 11, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 26, 2009, The Depository Trust Company ("DTC"), the National Securities Clearing Corporation ("NSCC"), and the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared primarily by FICC, NSCC, and DTC (collectively, "Clearing Agencies"). The Clearing Agencies filed the proposed rule changes pursuant to Section 19(b)(3)(A)(iii) of the Act² and Rule 19b-4(f)(4) thereunder³ so that the proposals were effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statement of Terms of Substance of the Proposed Rule Changes

The Clearing Agencies are revising their rules to refine the obligations of their members or participants concerning the economic sanctions and embargo programs administered and enforced by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury.

⁹ 17 CFR 200.30-3(a)(12).

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).

⁵ 15 U.S.C. 78f.

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(a)(ii).

⁸ 17 CFR 240.19b-4(f)(2).

II. Self-Regulatory Organizations' Statement of Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, the Clearing Agencies included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The Clearing Agencies have prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organizations' Statement of Purpose of, and Statutory Basis for, the Proposed Rule Changes

On March 31, 2009, April 1, 2009, and April 22, 2009, FICC, NSCC, and DTC, respectively, filed proposed rule changes with the Commission to establish new OFAC compliance obligations.⁴ Specifically, the rule changes established a new requirement that certain members or participants subject to the jurisdiction of the U.S. submit a "Confirmation of an OFAC Program" Letter ("OFAC Letter") every two years. The OFAC Letter is intended to document that the U.S. member or participant has implemented a program to conduct appropriate risk-based OFAC screening and that the U.S. member or participant confirms that activity subject to OFAC sanctions regulations has been excluded from business conducted through the Clearing Agencies. The Clearing Agencies and Commission received two comment letters in response to those rule changes.⁵

Under this set of rule changes, the Clearing Agencies are revising the text of the OFAC Letter to address the concerns expressed in the comment letters. In addition, NSCC is amending the language of Rule 2, Section 4, of NSCC's Rules and Procedures to exclude Third Party Administrator Members and Investment Manager/ Agent Member from the requirement to submit an OFAC Letter, and FICC is amending Article III, Rule 1, Section 7, of FICC's Mortgage Backed Securities Division's rules to exclude EPN-Only Members from the requirement to submit an OFAC Letter.

1. Certification of OFAC Screening

Both comment letters asserted that paragraph two of the OFAC Letter

imposed additional obligations that were inconsistent with OFAC guidance and industry standards. After consultation with OFAC and the Commission and after further discussions with the commenters, the Clearing Agencies have agreed to modify the language of this provision in order to clarify that all Clearing Agencies' members or participants subject to the jurisdiction of the U.S. ("U.S. Members") are required to screen customer information for OFAC compliance but that the screening of customers alone may not be sufficient to address the U.S. Member's OFAC obligations.

2. Certification of Exclusion from Business

Both commentators indicated that the language within the third paragraph of the OFAC Letter was too broad and was inconsistent with the requirement that U.S. members or participants implement a risk-based OFAC program. The Clearing Agencies intended this provision to be consistent with the U.S. member's or participant's risk-based OFAC program; it was not the Clearing Agencies' intent to impose a greater burden. Accordingly, the Clearing Agencies, in consultation with OFAC and the Commission, have modified the language in the third paragraph to clarify that U.S. members or participants will not submit transactions they know are subject to OFAC sanctions regulations. When determining the U.S. members' or participants' knowledge of activity that is subject to OFAC sanctions regulations, the Clearing Agencies will utilize standards established pursuant to the OFAC Economic Sanctions Enforcement Guidelines.⁶ These guidelines include willfully or recklessly violating OFAC sanctions regulations where the U.S. member or participant had actual knowledge or reason to know of the violation. The Clearing Agencies will rely on determinations made by OFAC or other competent authorities to determine whether members or participants are in compliance with this obligation.

3. Filing the OFAC Letter and the Associated Fine

The commenters indicated that the time period for when U.S. members or participants must file the OFAC Letter

was unclear. In an effort to clarify the time period, the Clearing Agencies will make the OFAC Letter available for execution by U.S. members or participants on or before October 1, 2009. NSCC must receive a validly executed OFAC Letter from all U.S. members or participants on or before March 31, 2010, in order for U.S. members or participants to satisfy the obligations imposed under these proposed rules. U.S. members or participants that fail to provide the Clearing Agencies with the OFAC Letter by March 31, 2010, will be subject to a \$5,000 fine for failure to provide the initial OFAC Letter. This fine is imposed for failure to provide documentation required under the Clearing Agencies' rules and the Clearing Agencies reserve the right to impose further fines or penalties up to and including ceasing to act on behalf of the member or participant for violation of the rules relating to the obligation of the member or participant to comply with OFAC sanctions regulations.

The OFAC Letter must be executed every two years from the date on which the current OFAC Letter was executed. Therefore, if the OFAC Letter executed by the member or participant is dated March 1, 2010, the U.S. member or participant must execute and provide the Clearing Agencies with an updated OFAC Letter on or before March 1, 2012. Because of the potential for different renewal dates, the Clearing Agencies will remind each individual U.S. member or participant of the expiration of its current OFAC Letter approximately ninety (90) days prior to the date due for the updated OFAC Letter. Additionally, the Clearing Agencies will send out an Important Notice every two years that will remind U.S. members or participants of this obligation generally. Although the combination of the Important Notice and the individual reminders are intended to remind U.S. members or participants about the obligation to execute the updated OFAC Letter, it is ultimately the responsibility of the U.S. member or participant to satisfy the requirements of the Clearing Agencies' rules regarding the OFAC Letter.

The execution of the OFAC Letter is the legal responsibility of the U.S. member or participant and not the responsibility of the Chief Compliance Officer, OFAC Compliance Officer, or other representative responsible for managing the OFAC compliance program ("Authorized OFAC Officer") of the U.S. member or participant. Therefore, the fine is imposed against the U.S. member or participant and is

⁴ Securities Exchange Act Release No. 59917 (May 14, 2009), 74 FR 23907 (May 21, 2009).

⁵ NSCC received one comment letter from the American Bankers Association ("ABA") and one comment letter issued jointly by the Securities Industry and Financial Markets Association ("SIFMA") and The Clearing House.

⁶ The OFAC Economic Sanctions Enforcement Guidelines are set forth in 31 CFR Part 501 Appendix A. OFAC has proposed revisions to the Economic Sanctions Enforcement Guidelines which are available online at http://www.ustreas.gov/offices/enforcement/ofac/policy/enf_guide_09082008.pdf.

the legal obligation of the U.S. member or participant and not the Authorized OFAC Officer. To clarify this point, the OFAC Letter has been updated to indicate that the Authorized OFAC Officer is signing on behalf of the U.S. member or participant.

The Clearing Agencies believe that proposed rule changes are consistent with the requirements of Section 17A of the Act⁷ and the rules and regulations thereunder because they will enhance the Clearing Agencies' compliance with applicable laws thereby reducing risks and associated costs to the Clearing Agencies and their members and participants.

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

The Clearing Agencies believe that the proposed rule change will not 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

As part of the process of amending the OFAC Letter, the Clearing Agencies solicited and received comments from representatives of the industry groups that submitted comments to SR-NSCC-2009-03. The Clearing Agencies will notify the Commission of any additional written comments they receive.

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

The foregoing rule changes have become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act⁸ and Rule 19b-4(f)(4)⁹ thereunder because each of the proposed rule changes effects a change in an existing service of one of the Clearing Agencies that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the Clearing Agencies or for which it is responsible and (ii) does not significantly affect the respective rights of the clearing agencies or persons using the service. At any time within sixty days of the filing of such rule changes, the Commission may summarily abrogate such rule changes 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 changes are 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 No. SR-DTC-2009-14, SR-NSCC-2009-07, or SR-FICC-2009-09 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 No. SR-DTC-2009-14, SR-NSCC-2009-07, or SR-FICC-2009-09. At least one of these file numbers 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 Section, 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 DTC's, NSCC's, and FICC's principal offices and on DTC's, NSCC's, and FICC's Web sites, respectively at <http://ficc.com/gov/gov.docs.jsp?NS-query=#rf>, http://www.dtcc.com/legal/rule_filings/nscc/2009.php, and <http://www.dtc.org/impNtc/mor/index.html>. 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-DTC-2009-14, SR-NSCC-2009-07, or SR-FICC-2009-09 and should be submitted on or before October 13, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9-22730 Filed 9-21-09; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2009-0059]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for public comment.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a request for emergency clearance for a collection of information associated with product plan information to assist the agency in establishing corporate average fuel economy standards for model years 2012 through 2016 passenger cars and light trucks. The establishment of those standards is required by the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act (EISA) of 2007, Public Law 110-140.

DATES: Comments must be received on or before November 23, 2009.

ADDRESSES: Comments must refer to the docket notice number cited at the beginning of this notice, and be submitted to: Mr. Ken Katz, Fuel Economy Division, Office of International Policy, Fuel Economy and Consumer Programs, at (202) 366-0846, facsimile (202) 493-2290, electronic mail: ken.katz@dot.gov. For legal issues, call Ms. Dorothy Nakama, Office of the Chief Counsel, at (202) 366-2992.

It is requested, but not required, that 2 copies of the comment be provided.

¹⁰ 17 CFR 200.30-3(a)(12).

⁷ 15 U.S.C. 78q-1.

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b-4(f)(4).