



SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information**

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

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**Exhibit 1 - Notice of Proposed Rule Change**

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

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**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

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Exhibit Sent As Paper Document

**Exhibit 3 - Form, Report, or Questionnaire**

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

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Exhibit Sent As Paper Document

**Exhibit 4 - Marked Copies**

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

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**Exhibit 5 - Proposed Rule Text**

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

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**Partial Amendment**

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

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1. Text of the Proposed Rule Change.

- (a) The proposed rule change is annexed hereto as Exhibit 5.
- (b) Not applicable.
- (c) Not applicable.

2. Procedures of the Self-Regulatory Organization.

(a) The proposed rule change was approved by the Operations and Planning Committee of at its July 18, 2008 meeting.

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

(a) The proposed rule change modifies NSCC's Rules regarding the registration of mutual fund positions between brokers, banks and fund companies that are NSCC participants to allow the transfer and re-registration of Fund/SERV Eligible Fund positions to and from a broker/dealer or other financial intermediary and a mutual fund company.

**Background**

Currently, NSCC's Rules permit the transfer of Fund/SERV Eligible Fund 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.

The Investment Company Institute ("ICI") requested that NSCC work with the ICI Transfers Committee, comprised of members of the ICI and the Securities Industry and Financial Markets Association ("SIFMA") Customer Account Transfer Division, to investigate further standardizing and automating the account transfer and re-registration process between mutual fund companies and NSCC member firms, by allowing the re-registration of fund shares held by a customer directly at a fund, from or into such position held on the books of the fund company by a broker/dealer or other financial intermediary. This re-registration is referred to as an 'in-kind transfer' although, in fact, no asset actually transfers between the fund and the intermediary, and the shares are simply re-registered on the books of the fund. Similarly, there is no movement of money through NSCC associated with this transaction.

**Proposed Rule Change**

The proposed rule change amends Rule 52 of NSCC's Rules to accommodate the following types of account re-registrations:

Transfer of customer mutual fund shares registration, held by a customer directly at a mutual fund company, to be re-registered in the name of a financial intermediary (e.g., broker-dealer, bank or other custodian)

Transfer of customer mutual fund shares registration, held by a financial intermediary, to be re-registered as a direct customer position at the mutual fund company

The transfer of registration can be requested by a Member in the capacity of the party receiving the re-registration, or in its capacity of the party from which the registration is to be transferred. Completion of the registration transfer request requires that the contra-side NSCC Fund Member accepts the re-registration request, in order for it to be processed through NSCC.

In connection with such transfer request, the rule also provides that, unless the parties agree otherwise, the Member and Fund Member agree with one another to comply with certain legal responsibilities that are associated with the re-registration. The Member agrees that, in initiating such 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. It also indemnifies the Fund Member from any liabilities associated with the request, other than those relating to the negligence or misconduct of the Member. In connection with re-registrations 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. The Rule further states that the participants 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 effect any legal rights of the participants arising out of the transaction. This is similar to the provisions that are currently contained in NSCC rules as they relate to other mutual fund services of NSCC (see for example Rule 52, Section 46 relating to Fund/SERV and ToRA services, and Rule 50, Section 17 relating to ACATs.)

Automating and standardizing the re-registrations involved in account transfer processing that must otherwise be done on a manual basis reduces processing errors, lower costs and reduces the time needed to complete the transfer process, to the benefit of investors and the firms that process transfers on their behalf.

(b) NSCC believes that the proposed rule change is consistent with the requirement of Section 17A of the Act and the rules and regulations thereunder because the implementation of the proposal will promote prompt and accurate clearance and settlement of re-registration of positions in mutual funds shares processed through NSCC's Fund/SERV service, by facilitating the transmission of standardized information

on a centralized communications platform. This will reduce processing errors, delays and risks that are typically associated with manual processes.

4. 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.

5. 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.

6. Extension of Time Period for Commission Action.

NSCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D).

- (a) The proposed rule change is made pursuant to paragraph (A) of Section 19(b)(3) of the Act and subparagraph (f) of Securities Exchange Act Rule 19b-4.
- (b) The proposed rule change effects a change in NSCC's mutual fund services that does not adversely affect the safeguarding of securities or funds in the custody or control of NSCC or for which it is responsible, and does not significantly affect the respective rights or obligations of NSCC or the persons using the service. Use of the re-registration enhancement is voluntary and members that use NSCC's mutual fund services are not obligated to use this feature unless they elect to do so. In addition, the enhancement affects a service of NSCC which is not guaranteed (i.e., to which NSCC is not a central counter-party) and it does not provide for the movement of securities or for the application of credits or debits to cash balances of members.
- (c) Not applicable.
- (d) Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory

Organization or of the Commission.

The proposed rule change is not based on the rules of another self-regulatory organization or the Commission.

9. Exhibits

Exhibit 1 - Notice of proposed rule change for publication in the Federal Register.

Exhibit 2 – N/A

Exhibit 3 – N/A

Exhibit 4 – N/A

Exhibit 5 - Proposed Rule Text

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

**(Release No. 34-\_\_\_\_\_ ; File No. SR-NSCC-2008-12)**

**SELF-REGULATORY ORGANIZATIONS**

Proposed Rule Change by NATIONAL SECURITIES CLEARING CORPORATION  
("NSCC") to relating to an enhancement to NSCC's mutual fund services.

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on \_\_\_\_\_, NSCC 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 by NSCC. 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 text of the proposed rule change is attached hereto as Exhibit 5.

**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 such statements.

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

(a) The proposed rule change modifies NSCC's Rules regarding the registration of mutual fund positions between brokers, banks and fund companies that are NSCC participants to allow the transfer and re-registration of Fund/SERV Eligible Fund positions to and from a broker/dealer or other financial intermediary and a mutual fund company.

**Background**

Currently, NSCC's Rules permit the transfer of Fund/SERV Eligible Fund 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.

The Investment Company Institute ("ICI") requested that NSCC work with the ICI Transfers Committee, comprised of members of the ICI and the Securities Industry and Financial Markets Association ("SIFMA") Customer Account Transfer Division, to investigate further standardizing and automating the account transfer and re-registration process between mutual fund companies and NSCC member firms, by allowing the re-registration of fund shares held by a customer directly at a fund, from or into such position held on the books of the fund company by a broker/dealer or other financial intermediary. This re-registration is referred to as an 'in-kind transfer' although, in fact, no asset actually transfers between the fund and the intermediary, and the shares are simply re-registered on the books of the fund. Similarly, there is no movement of money through NSCC associated with this transaction.

### **Proposed Rule Change**

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Transfer of customer mutual fund shares registration, held by a financial intermediary, to be re-registered as a direct customer position at the mutual fund company

The transfer of registration can be requested by a Member in the capacity of the party receiving the re-registration, or in its capacity of the party from which the registration is to be transferred. Completion of the registration transfer request requires that the contra-side NSCC Fund Member accepts the re-registration request, in order for it to be processed through NSCC.

In connection with such transfer request, the rule also provides that, unless the parties agree otherwise, the Member and Fund Member agree with one another to comply with certain legal responsibilities that are associated with the re-registration. The Member agrees that, in initiating such 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. It also indemnifies the Fund Member from any liabilities associated with the request, other than those relating to the negligence or misconduct of the Member. In connection with re-registrations 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. The Rule further states that the participants 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 effect any legal rights of the participants arising out of the transaction. This is similar to the provisions that are currently contained in NSCC rules as they relate to other mutual fund services of NSCC (see for example Rule 52, Section 46 relating to Fund/SERV and ToRA services, and Rule 50, Section 17 relating to ACATs.)

Automating and standardizing the re-registrations involved in account transfer processing that must otherwise be done on a manual basis reduces processing errors, lower costs and reduces the time needed to complete the transfer process, to the benefit of investors and the firms that process transfers on their behalf.

(ii) NSCC believes that the proposed rule change is consistent with the requirement of Section 17A of the Act and the rules and regulations thereunder because the implementation of the proposal will promote prompt and accurate clearance and settlement of re-registration of positions in mutual funds shares processed through NSCC's Fund/SERV service, by facilitating the transmission of standardized information on a centralized communications platform. This will reduce processing errors, delays and risks that are typically associated with manual processes.

**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 rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. 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 may be submitted by using the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>), or sending an e-mail to [rule-comment@sec.gov](mailto:rule-comment@sec.gov). Please include File No. SR-NSCC-2008-12 on the subject line.
- Paper comments should be sent in triplicate to Florence E. Harmon, Acting Secretary, 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 Section 100 F Street, NE, Washington DC 20549-1090. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. 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 the file number above and should be submitted within \_\_\_\_\_ days after the date of publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Florence E. Harmon  
Acting Secretary

Underline, Boldface Text indicate additional language

NATIONAL SECURITIES CLEARING CORPORATION RULES

\* \* \*

RULE 52. MUTUAL FUND SERVICES <sup>1</sup>

\* \* \*

**SEC. 18. Transfer of Registration**

**(a) The Corporation may provide a service to enable the transfer of instructions relating to the registration of Fund/SERV Eligible Fund Shares between a Member and a Fund Member or Mutual Fund Processor (each, a “participant”). For purposes of this Section 18, the participant to which the registration is to be transferred is referred to as the “Receiving Participant” and the participant that initially holds the registration that is subject to transfer is referred to as the “Delivering Participant”.**

**(b) In accordance with procedures established by the Corporation, a request for a registration transfer may be initiated by a Member in its capacity as a Delivering Participant or Receiving Participant, by submission of an instruction in such form and within such time frames as established by the Corporation from time to time. The Corporation will reject an instruction that does not conform to the requirements set forth in the Corporation’s procedures and will notify the Member of such rejection. Details of all requests for a transfer of registration made in accordance with the procedures of the Corporation shall be reported to the Delivering and Receiving Participants.**

**(c) The Fund Member or Mutual Fund Processor to which the transfer request is directed must reject or confirm the request in such form and within the time period established by the Corporation. A request that is not responded to in a timely manner, or one that is rejected by the Fund Member or Mutual Fund Processor, will be deleted within the time periods established by the Corporation. Details of rejections or confirmations of all requests made in accordance with the procedures of the Corporation, and all requests which have been deleted in accordance with such procedures, shall be reported to the Member that initiated the request.**

**(d) The Corporation will not be responsible for the completeness or accuracy of any information contained in a transfer request or any other instruction**

transmitted by a participant relating to the transaction. The submission of a transaction or instruction through the Corporation shall not otherwise relinquish, extinguish or affect any legal rights, remedies or obligations of the participant arising out of such transaction or instruction.

(e) Unless otherwise agreed between the participants that are a party to a transfer request transaction subject to this Section 18, each participant that submits a transfer request through the Corporation (the “Requesting Participant”) agrees as follows:

(i) to indemnify and hold harmless the participant that accepts such request, the affiliated companies of such participant and the respective directors, officers, employees and agents of each of such (collectively, the “Accepting Participant”) from and against any and all demands, damages, liabilities, and losses, or any pending or completed actions, proceedings or investigations (including reasonable attorney fees and other costs, including all expenses of litigation or arbitration, judgments, fines or amounts paid in settlement consented to by the Requesting Participant, whose consent shall not be unreasonably withheld) (collectively, “Losses”) to which any of them may be or become subject as a result of or arising out of (A) the Accepting Participant receiving and acting upon such request, or (B) any negligent act, omission, or willful misconduct by the Requesting Participant or its agents relating to such request; provided, however, that the Requesting Participant shall not be liable for any Losses to the extent that they arise from the negligence or misconduct of the Accepting Participant. Each Requesting Participant agrees that an Accepting Participant shall be a third-party beneficiary of the above indemnification and reimbursement obligations in respect of such request, and that the Accepting Participant may assert any claim under these indemnification and reimbursement obligations as a third-party beneficiary directly against such Requesting Participant: and

(ii) That it will have obtained from the holder(s) of the account(s) to which the request relates (the “Accountholder(s)”), written authorization, signed by the Accountholder(s), for the request in compliance with applicable law, and to furnish a copy of such authorization to the Accepting Participant upon request; and

(iii) With respect to a transfer request relating to an Individual Retirement Account (“IRA”), Roth IRA, SIMPLE IRA, Profit Sharing and Money Purchase Plan Account and other types of tax-deferred or tax-advantaged accounts (“Accounts”) for which the Accepting Participant acted as trustee or custodian (or an agent or affiliate thereof) and with respect to which the Requesting Participant makes the Fund Transfer Request in the capacity as a successor trustee or custodian (or an agent or affiliate thereof), that (A) the Requesting Participant (or, if the Requesting Participant is acting in the capacity as an agent or affiliate, the entity on whose behalf it acts) is qualified to act as successor trustee or custodian pursuant to applicable provisions of the Internal Revenue Code; (B) in all cases, the transfer is a trustee-to-trustee transfer and as such is a non-taxable and non-reportable

**transaction for federal income tax withholding and reporting purposes, (C) that for purposes of effecting the transfer of such Accounts, the Accepting Participant appoints the Requesting Participant as the Accepting Participant's agent to act on its behalf solely to receive and accept the instructions from an accountholder with respect to the Account transfer, and the Requesting Participant hereby accepts such appointment.**

**(f) Each Requesting Participant and Accepting Participant agrees that any dispute between them arising under this section shall be resolved directly between them, and that the Corporation shall not be made a party to any such dispute and shall have no responsibility with respect to the enforcement or satisfaction of any indemnification, reimbursement, notification or other obligation contained in this section.**

**SEC. 19-20 (Section numbers reserved for future use.)**