



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 Proposed Rule Change.

(a) National Securities Clearing Corporation (“NSCC”) proposes to amend Addendum O to its rules, to extend the policy statement regarding the admission of entities that are organized in a country other than the U.S. (“non-U.S. entities”) for admission as full-service NSCC members, to also apply the policy to the admission of NSCC members whose use of NSCC services is limited to NSCC’s mutual fund and insurance services.<sup>1</sup> The text of the amendment to Addendum O is attached hereto as Exhibit 5.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization.

The proposed rule change was approved by DTCC’s Board of Directors at a meeting held on April 25, 2007.

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

(a) The proposed rule change amends Addendum O to NSCC’s Rules and Procedures. Addendum O sets forth NSCC’s policy statement regarding the admission of entities that are organized in a country other than the U.S. and that are not subject to U.S. federal or state regulation (“non-U.S. entities”), as full-service members of NSCC. The proposed rule change extends the policy statement to apply to the admission of non-U.S. entities as NSCC limited members whose use of NSCC services is limited to NSCC’s

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<sup>1</sup> Full-service members are admitted for use of NSCC services in which NSCC as a central counterparty provides settlement-related guarantees regarding certain trades cleared and netted at NSCC. Limited members are admitted for use of NSCC’s non-guaranteed services, such as Mutual Fund Services and Insurance and Retirement Processing Services, in which participants do not receive the protection of the NSCC guarantee.

mutual fund services and insurance and retirement processing services.

NSCC's rules address the admission of applicants to membership in NSCC.<sup>2</sup> Admission is subject to an applicant's demonstration that it meets reasonable standards of financial responsibility, operational capability and character. Additionally, under the Rules, each member must continue to be in a position to demonstrate to NSCC that it meets these standards.

Addendum O establishes additional admissions criteria applicable to non-U.S. entities that address the unique risks associated with their admission, including: (1) that the entity is not subject to U.S. federal or state regulation; (2) that the operation of the laws of the entity's home country and time zone differences may impede the successful exercise of NSCC's rights and remedies, particularly in the event of the entity's failure to settle; and (3) that financial information about the non-U.S. entity made available to NSCC for monitoring purposes may be less adequate than information about U.S.-based entities.<sup>3</sup>

Addendum O requires that, in addition to executing the standard NSCC membership agreement, the non-U.S. entity enter into a series of undertakings and agreements that are designed to address jurisdictional concerns and to assure that NSCC

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<sup>2</sup> Rule 2 and Addendum B address admission of applicants as members of NSCC. Admission of applicants whose use of NSCC services is limited to mutual fund services and/or insurance and retirement processing services is subject to the following provisions of Addendum B, depending on the particular capacity in which the applicant seeks to act: Section 2 of Addendum B (Mutual Fund/Insurance Services Members); Section 3 of Addendum B (Fund Members); Section 4 of Addendum B (Insurance Carrier/Retirement Services Members). NSCC has not yet established admission criteria applicable to non-U.S. entities that are insurance companies. NSCC will file a proposed rule change extending Addendum O to such non-U.S. applicants at such time as it has established applicable criteria.

<sup>3</sup> Addendum O was adopted by NSCC pursuant to proposed rule change SR-NSCC-2007-15, approved by the Commission on August 12, 2008 (Release No. 34-58344). Reference is made to Release No. 34-58344 for a description of Addendum O as it was originally adopted with respect to applicants for full-service membership and as it is proposed to be applied to applicants for limited participation in NSCC's non-guaranteed services under this proposed rule change. Certain of the criteria set forth in Addendum O may be waived where inappropriate to a particular applicant or class of applicants (e.g., a foreign government, international or national central securities depositories).

is provided with audited financial information that is acceptable to NSCC. In addition, the non-U.S. entity must be subject to regulation in its home country and be in good standing with its home country regulator. In order to address the risks presented by acceptance of financial statements prepared in non-U.S. GAAP, Addendum O also provides that NSCC applies a premium in the form of a multiplier of capital requirements otherwise applicable for admission under NSCC rules.

(b) The proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act. The proposed policy does not unfairly discriminate against non-U.S. entities seeking admission to NSCC because it appropriately takes into account the unique risks to the clearing corporation raised by their admission.

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

While NSCC acknowledges that the proposed additional admissions criteria applicable to non-U.S. entities may impose some additional burden, for the reasons stated above, we believe that any such burden is necessary and appropriate in furtherance of the purposes of the Exchange Act.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Members, 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.

Not applicable.

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

(a) This filing 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 relates to the admission of non-U.S. entities for use of mutual fund and insurance services at NSCC, under criteria identical to that required in respect to admission for full-service membership in NSCC. Accordingly, the rule change effects a change in an existing service of a registered clearing agency that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of NSCC or for which NSCC is responsible, and (ii) does not significantly affect the respective rights or obligations of NSCC or persons using the service. The prescribed conduct and scope of the proposed rule change is consistent with the existent rule and any policy issues raised by the proposed rule have been previously considered by the Commission in NSCC proposed rule change SR-NSCC-2007-15, which was subject to notice and comment, and is consistent with those policy decisions.

(c) Not applicable.

(d) Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission.

Not applicable.

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-2009-01)**

**SELF-REGULATORY ORGANIZATIONS**

Proposed Rule Change by NATIONAL SECURITIES CLEARING CORPORATION ("NSCC") to amend Addendum O to allow admission of entities that are organized in a country other than the U.S. (non-U.S. entities) for admission as limited members whose use of NSCC services are limited to NSCC's mutual fund and insurance 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 amends Addendum O to NSCC's Rules and Procedures. Addendum O sets forth NSCC's policy statement regarding the admission of entities that are organized in a country other than the U.S. and that are not subject to U.S. federal or state regulation ("non-U.S. entities"), as full-service members of NSCC. The proposed rule change extends the policy statement to apply to the admission of non-U.S. entities as NSCC limited members whose use of NSCC services is limited to NSCC's

mutual fund services and insurance and retirement processing services.

NSCC's rules address the admission of applicants to membership in NSCC.<sup>1</sup> Admission is subject to an applicant's demonstration that it meets reasonable standards of financial responsibility, operational capability and character. Additionally, under the Rules, each member must continue to be in a position to demonstrate to NSCC that it meets these standards.

Addendum O establishes additional admissions criteria applicable to non-U.S. entities that address the unique risks associated with their admission, including: (1) that the entity is not subject to U.S. federal or state regulation; (2) that the operation of the laws of the entity's home country and time zone differences may impede the successful exercise of NSCC's rights and remedies, particularly in the event of the entity's failure to settle; and (3) that financial information about the non-U.S. entity made available to NSCC for monitoring purposes may be less adequate than information about U.S.-based entities.<sup>2</sup>

Addendum O requires that, in addition to executing the standard NSCC membership agreement, the non-U.S. entity enter into a series of undertakings and agreements that are designed to address jurisdictional concerns and to assure that NSCC is provided with audited financial information that is acceptable to NSCC. In addition, the non-U.S. entity must be subject to regulation in its home country and be in good standing with its home country regulator. In order to address the risks presented by acceptance of financial statements prepared in non-U.S. GAAP, Addendum O also provides that NSCC applies a premium in the form of a multiplier of capital requirements otherwise applicable for admission under NSCC rules.

(b) The proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act. The proposed policy does not unfairly discriminate against non-U.S. entities seeking admission to NSCC because it appropriately takes into account the unique risks to the clearing corporation raised by their admission.

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<sup>1</sup> Rule 2 and Addendum B address admission of applicants as members of NSCC. Admission of applicants whose use of NSCC services is limited to mutual fund services and/or insurance and retirement processing services is subject to the following provisions of Addendum B, depending on the particular capacity in which the applicant seeks to act: Section 2 of Addendum B (Mutual Fund/Insurance Services Members); Section 3 of Addendum B (Fund Members); Section 4 of Addendum B (Insurance Carrier/Retirement Services Members). NSCC has not yet established admission criteria applicable to non-U.S. entities that are insurance companies. NSCC will file a proposed rule change extending Addendum O to such non-U.S. applicants at such time as it has established applicable criteria.

<sup>2</sup> Addendum O was adopted by NSCC pursuant to proposed rule change SR-NSCC-2007-15, approved by the Commission on August 12, 2008 (Release No. 34-58344). Reference is made to Release No. 34-58344 for a description of Addendum O as it was originally adopted with respect to applicants for full-service membership and as it is proposed to be applied to applicants for limited participation in NSCC's non-guaranteed services under this proposed rule change. Certain of the criteria set forth in Addendum O may be waived where inappropriate to a particular applicant or class of applicants (e.g., a foreign government, international or national central securities depositories).

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 subparagraph (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-2009-01 on the subject line.
- Paper comments should be sent in triplicate to Florence E. Harmon, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington DC 20549-1090.

All submissions should refer to File Number SR-NSCC-2009-01. 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  
Deputy Secretary

## EXHIBIT 5

**Underlined, boldface text** indicates new text  
~~[Brackett and strikethrough]~~ indicates deleted text

## ADDENDUM O

## ADMISSION OF NON-US ENTITIES AS DIRECT NSCC MEMBERS

Admission of Non-US Entities  
~~[as direct NSCC Members]~~<sup>1</sup>

*Policy Statement on the Admission of Non-U.S. Entities as Direct Clearing Corporation Members, **Mutual Fund/Insurance Services Members, Fund Members or Insurance Carrier/Retirement Services Members**:* The policy permits entities that are organized in a country other than the United States and that are not otherwise subject to U.S. federal or state regulation (“non-U.S. entities”) to be eligible to become direct NSCC Members, **Mutual Fund/Insurance Services Members, Fund Members or Insurance Carrier/Retirement Services Members**. Under the policy, NSCC will require that the non-U.S. entity execute the standard NSCC ~~[Members]~~ **membership** ~~[A]~~ **agreement** and enter into an additional series of undertakings and agreements that are designed to address jurisdictional concerns, and to assure that NSCC is provided with audited financial information that is acceptable to NSCC.

Certain of these criteria may be waived where inappropriate to a particular applicant or class of applicants (e.g., a foreign government, international or national central securities depositories).

Requirements in addition to Standard Requirements for US ~~[Members]~~ **Entities**:

- Undertakings and Agreements –

At a minimum such Non-US entity would have to agree to:

- (a) in respect of any action brought by NSCC to enforce the entity’s obligations under the ~~[Members]~~ **membership** ~~[A]~~ **agreement**:
  - (i) irrevocably waive all immunity from NSCC’s attachment of the entity’s own assets in the U.S.;
  - (ii) irrevocably submit to the jurisdiction of a court in the U.S.;
  - (iii) irrevocably waive any objection to the laying of venue in a court in the U.S.; and
  - (iv) state that any judgment obtained against the foreign entity by NSCC may be enforced in the courts of any jurisdiction where the foreign entity or its property may be located, and that the foreign entity will irrevocably submit to the jurisdiction of each such courts.

<sup>1</sup> Excluding Mutual Fund/Insurance Services Members.

- (b) designate a person in New York as its agent to receive service of process;
  - (c) provide to NSCC, for financial monitoring purposes, audited financial statements prepared in accordance with either U.S. generally accepted accounting principles or other generally accepted accounting principles that are satisfactory to NSCC. In order to address the risk presented by the acceptance of financial statements prepared in non-U.S. GAAP, the existing minimum financial requirements for non-U.S. GAAP standards will each have a specific premium applied as follows:
    - (i) for financial statements prepared in accordance with International Financial Reporting Standards (“IFRS”), the Companies Act of 1985 (“UK GAAP”), or Canadian GAAP – a premium of 1 ½ times the existing requirement;
    - (ii) for financial statements prepared in accordance with a European Union (“EU”) country GAAP other than UK GAAP – a premium of 5 times the existing requirement; and
    - (iii) for financial statements prepared in accordance with any other type of GAAP a premium of 7 times the existing requirement.
  - (d) provide all financial reports or other information requested by NSCC in English, with monetary amounts stated in U.S. dollar equivalents indicating the conversion rate and date used.
- Foreign Legal Opinion – obtain an opinion of reputable foreign counsel satisfactory to NSCC providing, among other things, that the agreements described above may be enforced against the foreign entity in the courts of its home country or other jurisdictions where the entity or its property may be found.<sup>2</sup>
  - Regulatory Status of Foreign Entity
    - (a) The Non-US entity would have to be subject to regulation in its home country and its home country regulator must have entered into a Bilateral Information Sharing Arrangement or Memoranda of Understanding with the U.S. Securities and Exchange Commission regarding the sharing or exchange of information.
    - (b) The Non-US entity must be in compliance with the financial reporting and responsibility standards of its home country regulator.
  - AML Review - The Non-US entity must provide sufficient information to NSCC in order to evaluate AML risk, including whether the Non-US entity is subject to comparable AML requirements (to those imposed in the US) in its home country jurisdiction.

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<sup>2</sup> NSCC reserves the right to require the entity to deposit additional amounts to the Clearing Fund and to post a letter of credit in an instance where NSCC, in its sole discretion, believes the entity presents legal risk.