

## 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.<sup>2</sup>

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

The purpose of the proposed rule filing is to modify Versions 1 and 2 of Addendum B, Standards of Financial Responsibility and Operational Capability, of NSCC's Rules and Procedures to eliminate all references to Class I and Class II security surveillance, as NSCC does not place securities on surveillance status.

The proposed rule change accurately reflects the functions performed by NSCC and constitutes a stated practice with respect to the administration and enforcement of an existing rule; therefore, NSCC believes it is consistent with the provisions of the Act and the rules and regulations thereunder.

### (B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have 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)(i) of the Act<sup>3</sup> and Rule 19b-4(f)(1)<sup>4</sup> thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, enforcement, or

administration of an existing rule. 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-NSCC-2002-11. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NSCC. All submissions should refer to the File No. SR-NSCC-2002-11 and should be submitted by February 12, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 47178; File No. SR-PCX-2002-74]

### Self-Regulatory Organizations; Order Granting Accelerated Approval to a Rule Change Proposed by the Pacific Stock Exchange, Inc. Relating to Two New Order Types on the Archipelago Exchange

January 13, 2003.

On December 9, 2002, the Pacific Stock Exchange, Inc. ("PCX") filed a proposed rule change with the Securities and Exchange Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and rule 19b-4 thereunder<sup>2</sup> to adopt two new order types, an Immediate-or-Cancel ("IOC") Cross Order and a Post No Preference ("PNP") Cross Order, on its equities trading facility, the Archipelago Exchange ("ArcaEx"). The PCX also proposed to allow the new order types to be subject to the recent *de minimis* exemption from the trade-through restrictions of the Intermarket Trading System Plan in certain exchange-traded funds.<sup>3</sup>

The Commission published notice of the proposed rule change for comment in the **Federal Register** on December 24, 2002.<sup>4</sup> The Commission received no public comments with respect to the proposal. This order grants accelerated approval to the PCX's proposed rule change.

The PCX requested that the Commission grant accelerated approval to the proposed rule change pursuant to section 19(b)(2) of the Act<sup>5</sup> so that the PCX may implement the new order types before the 30th day after publication of the notice in the **Federal Register**. The PCX represented that the proposed IOC Cross and PNP Cross order types would promote a more efficient and effective market operation and enhance the investment choices available to investors in the handling of their orders. Moreover, with respect to the proposal to amend PCXE rule 7.37, the PCX believes that the proposed rule change would allow market participants to take full advantage of the *de minimis*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 46428 (August 28, 2002), 67 FR 56607 (September 4, 2002) (Order of the Commission pursuant to section 11A of Act).

<sup>4</sup> See Securities Exchange Act Release No. 47010 (December 16, 2002), 67 FR 78554 (December 24, 2002). The 15-day comment period ran through January 8, 2003.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>2</sup> The Commission has modified parts of these statements.

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

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>5</sup> 17 CFR 200.30-3(a)(12).