

to the foregoing and the terms of any such loan, the obligation of NSCC to return any items of pledged collateral to its members or to permit substitutions and withdrawals thereof remains unaffected.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.⁶ By adding language, as requested by its lenders, to its rules to make clear the rights of NSCC, lenders, and members with respect to pledged deposits, the proposed rule change will help NSCC maintain adequate liquidity resources and therefore should help assure NSCC's ability to safeguard securities and funds.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-2003-08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48133; File No. SR-NYSE-98-14]

Self-Regulatory Organizations; Notice of Filing of Amendment Nos. 1, 2, and 3 to a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Margin Requirements

July 7, 2003.

On April 28, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section

19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule 19b-4 thereunder,² a proposal to amend NYSE Rule 431, "Margin Requirements." The proposed rule change was published for comment in the **Federal Register** on August 5, 1998.³ The Commission received one comment regarding the proposal.⁴ The NYSE filed Amendment Nos. 1, 2, and 3 to the proposal on January 5, 1999, November 6, 2002, and May 12, 2003, respectively. In addition, on March 6, 2000, the NYSE filed an Information Memo ("NYSE Information Memo") that sets forth the general requirements for the written risk analysis methodology that members would be required to maintain in connection with good faith securities transactions in exempt accounts (which are discussed more fully below). The Commission is publishing this notice of Amendment Nos. 1 and 2 and the NYSE Information Memo to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Consolidated changes made to the proposed rule text as a result of Amendment Nos. 1, 2, and 3 appear below. The base text is taken from the proposal that the Commission published for comment in 1998. Additional language proposed by the NYSE in Amendment Nos. 1, 2, and 3 is italicized; language deleted by Amendment Nos. 1, 2, and 3 is in brackets.

Rule 431

Margin Requirements

Rule 431(a)(1) through (a)(2) unchanged.

(a)(3) The term "designated account" means the account of (i) a bank (as defined in section 3(a)(6) of the Securities Exchange Act of 1934), (ii) a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), the deposits of which are insured by the Federal Deposit Insurance Corporation, (iii) an insurance company (as defined in section 2(a)(17) of the Investment Company Act of 1940, (iv) an investment company registered with the Securities and Exchange

Commission under the Investment Company Act of 1940, (v) a state or a political subdivision thereof, or (vi) a pension or profit sharing plan subject to ERISA or of an agency of the United States or of a state or a political subdivision thereof.

(a)(4) through (a)(8) unchanged.

(a)(9) The term "highly rated foreign sovereign debt securities" means any debt securities (including major foreign sovereign debt securities) issued or guaranteed by the government of a foreign country, its provinces, states or cities, or a supranational entity, if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in one of the top two rating categories by at least one nationally recognized statistical rating organization.

(a)(10) The term "investment grade debt securities" means any debt securities (including those issued by the government of a foreign country, its provinces, states or cities, or a supranational entity), if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in one of the top four rating categories by at least one nationally recognized statistical rating organization.

(a)(11) The term "major foreign sovereign debt securities" means any debt securities issued or guaranteed by the government of a foreign country or a supranational entity, if at the time of the extension of credit the issue, the issuer or guarantor, or any other outstanding obligation of the issuer or guarantor ranked junior to or on a parity with the issue or the guarantee is assigned a rating (implicitly or explicitly) in the top rating category by at least one nationally recognized statistical rating organization.

(a)(12) The term "mortgage related securities" means securities falling within the definition in section 3(a)(41) of the Securities Exchange Act of 1934.

(a)(13) The term "exempt account" means

(A) A member organization, non-member broker-dealer *registered as a broker or dealer pursuant to the Securities Exchange Act of 1934*, a "designated account" or

(B) Any person that
(i) Has net worth of at least forty-five million dollars and financial assets of at

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 40278 (July 29, 1998), 63 FR 41882 ("1998 Notice").

⁴ See letter from Paul Saltzman, Senior Vice President and General Counsel, The Bond Market Association ("TBMA") and Patricia Brigantic, Vice President and Senior Associate General Counsel, TBMA, to Jonathan Katz, Secretary, Commission, dated August 26, 1998 ("TBMA Letter").

such secured Lender (or its collateral agent), so long as any loans made by such Lender to the Corporation or other obligations, secured by such collateral, are unpaid and outstanding."

⁶ 15 U.S.C. 78q-1(b)(3)(F).

⁷ 17 CFR 200.30-3(a)(12).