

ACATS Transfer Cycle

SEC Approves Amendments to NASD Rule 11870 and NYSE Rule 412 to Conform with NSCC's ACATS Transfer Cycle Time Frames

Effective Date: October 22, 2007

Executive Summary

The SEC approved amendments to NASD Rule 11870 and NYSE Rule 412 to make the time frames in the rules for validating or taking exception to an instruction to transfer a customer's securities account assets and for completing the transfer of the assets consistent with the time frames in the NSCC Automated Customer Account Transfer Service (ACATS) transfer cycle.¹

As further discussed in this *Notice*, effective October 22, 2007, NSCC modified its rules to shorten the account transfer time frame with respect to certain types of transfers.²

NASD Rule 11870 and NYSE Rule 412, as amended, are set forth in Attachment A. The amendments became effective on October 22, 2007.

Questions concerning this *Notice* should be directed to:

- Rachael Grad, Counsel, Office of General Counsel, at (202) 728-8290 (with respect to NASD Rule 11870).
- Stephen Kasprzak, Principal Counsel, Risk Oversight and Operational Regulation, at (212) 656-5226 (with respect to NYSE Rule 412).

October 2007

Notice Type

- Rule Amendment

Suggested Routing

- Compliance
- Legal
- Operations
- Senior Management

Key Topic(s)

- Automated Customer Account Transfer Service (ACATS)
- Customer Account Transfer Contracts
- National Securities Clearing Corporation (NSCC)

Referenced Rules & Notices

- NASD Rule 11870
- NSCC Important Notice A#6515 (P&S#6085)
- NYSE Rule 412

Background and Discussion

NASD Rule 11870 and NYSE Rule 412 regulate the transfer of customer accounts from one member (the carrying firm) to another (the receiving firm). Such transfers generally occur through ACATS, an electronic transfer system the National Securities Clearing Corporation (NSCC) developed to automate and standardize account transfers. The rule amendments make the time frames in NASD Rule 11870 and NYSE Rule 412 consistent with the time frames that NSCC established in ACATS.

Members are advised that, effective October 22, 2007, NSCC modified its rules to shorten the account transfer time frame with respect to certain types of ACATS transfers. The current NSCC time frames are addressed in NSCC Important Notice A#6515 (P&S#6085) (October 18, 2007) http://www.dtcc.com/downloads/legal/imp_notices/2007/nscc/a6515.pdf, and NSCC Important Notices cited therein. NASD Rule 11870 and NYSE Rule 412, as amended, reflect NSCC's recent changes by eliminating two of the three business days previously allowed for validating or taking exception to transfer requests.

NASD Rule 11870 and NYSE Rule 412 will change if and when NSCC further modifies the account transfer time frames in the future. FINRA will announce any such changes in those time frames to its members in a *Regulatory Notice* and other appropriate communications.

Endnotes

- 1 See Securities Exchange Act Release No. 56677 (October 19, 2007), 72 FR 60699 (October 25, 2007) (Order Granting Approval of a Proposed Rule Change Relating to NASD Rule 11870 (Customer Account Transfer Contracts) and NYSE Rule 412 (Customer Account Transfer Contracts) to Make the Time Frames in the Rules for Validating or Taking Exception to an Instruction to Transfer a Customer's Securities Account Consistent with the Time Frames in the Automated Customer Account Transfer Service; File No. SR-FINRA-2007-005).
- 2 See Securities Exchange Act Release No. 56678 (October 19, 2007) 72 FR 60701 (October 25, 2007) (Order Granting Approval of a Proposed Rule Change to Amend its Rules and Procedures with Regard to the Automated Customer Account Transfer Service (ACATS) and ACATS Fund/SERV Processing; File No. SR-NSCC-2007-13).

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Attachment A

Below is the text of the rule change. New language is underlined; deletions are in brackets.

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11000. UNIFORM PRACTICE CODE

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11870. Customer Account Transfer Contracts

(a) No Change

(b) Transfer Procedures

(1) Upon receipt from the customer of an authorized broker-to-broker transfer instruction form ("TIF") to receive such customer's securities account assets in whole or in specifically designated part, from the carrying member, the receiving member must immediately submit such instruction to the carrying member. The carrying member must, within [three] one business day[s] following receipt of such instruction, or receipt of a TIF received directly from the customer authorizing the transfer of assets in specifically designated part: (A) validate the transfer instruction to the receiving member (with an attachment reflecting all positions and money balances to be transferred as shown on its books); or (B) take exception to the transfer instruction for reasons other than securities positions or money balance discrepancies and advise the receiving member of the exception taken. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the National Securities Clearing Corporation (NSCC).

(2) No Change.

(c) and (d) No Change.

(e) Completion of the Transfer

Within three business days following the validation of a transfer instruction, the carrying member must complete the transfer of the customer's security account assets to the receiving member. The receiving member and the carrying member must immediately establish fail-to-receive and fail-to-deliver contracts at then-current market values upon their respective books of account against the long/short positions that have not been delivered/received and the receiving/carrying member must debit/credit the related money amount. The customer's security account assets shall thereupon be deemed transferred. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the NSCC.

(f) through (n) No Change.

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Rule 412. Customer Account Transfer Contracts

(a) No Change.

(b)

(1) Upon receipt from the customer of an authorized broker-to-broker transfer instruction form ("TIF") to receive such customer's securities account assets in whole or in specifically designated part, the receiving organization will immediately submit such instruction to the carrying organization. The carrying organization must, within [three (3)] one business day[s] following receipt of such instruction, or receipt of a TIF received directly from the customer authorizing the transfer of assets in specifically designated part: (i) validate the transfer instruction (with an attachment reflecting all positions and money balances to be transferred as shown on its books) to the receiving organization or (ii) take exception to the transfer instruction for reasons other than securities positions or money balance discrepancies and advise the receiving organization of the exception taken. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the National Securities Clearing Corporation (NSCC).

(2) No Change.

(3) Within three [(3)] business days following the validation of a transfer instruction, the carrying organization must complete the transfer of the customer's securities account assets to the receiving organization. The carrying organization and the receiving organization must establish fail to receive and fail to deliver contracts at then current market values upon their respective books of account against the long/short positions (including options) that have not been delivered/received and the receiving/carrying organization must debit/credit the related money amount. The customer's securities account assets shall thereupon be deemed transferred. The time frame(s) set forth in this paragraph will change, as determined from time-to-time in any publication, relating to the ACATS facility, by the NSCC.

(c) through (f) No Change.

Supplementary Material .10 through .30 No Change.

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