

MEMO# 23155

December 31, 2008

SEC Notice of Filing of Proposed Rule Change to Amend NSCC Rules to Add Agreement from Fund Members on Mutual Fund Profile Information

[23155]

December 31, 2008

TO: BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 41-08
BROKER/DEALER ADVISORY COMMITTEE No. 52-08
OPERATIONS COMMITTEE No. 23-08
SMALL FUNDS COMMITTEE No. 32-08
TRANSFER AGENT ADVISORY COMMITTEE No. 73-08
CHIEF COMPLIANCE OFFICER COMMITTEE No. 24-08
COMPLIANCE ADVISORY COMMITTEE No. 20-08 RE: SEC NOTICE OF FILING OF PROPOSED
RULE CHANGE TO AMEND NSCC RULES TO ADD AGREEMENT FROM FUND MEMBERS ON
MUTUAL FUND PROFILE INFORMATION

The Securities and Exchange Commission recently published notice of filing of proposed rule change to amend the National Securities Clearing Corporation (NSCC) rules to add an agreement that requires fund members to have taken reasonable steps to validate the accuracy of the data they submit to the Mutual Fund Profile Service database. The Commission has published the notice to solicit comments from interested parties on the proposed rule change no later than January 20, 2009. [\[1\]](#)

Background for Proposed Rule Change

Mutual Fund Profile is a central data source for comprehensive fund prospectus and operational information relating to mutual funds. The repository is a recognized industry

standard for information critical to the distribution of mutual funds in the third-party market.

Profile is organized into three databases: Security Issue Database (containing information such as Security ID number, security name, fee structure, investment objectives, breakpoint schedule data, and blue sky eligibility); Participant Database (containing contact information, NSCC processing capabilities and restrictions or requirements); and Distribution Database (containing projected or actual distributions, capital gains and dividend amounts and details, and commission information). NSCC Fund Members populate these databases, which are then accessed by the NSCC participants that are mutual fund distributors.

The NSCC has recently enhanced the Security Issue database in Profile to include new data fields needed by distributors, and re-engineered the structure of the data hierarchy to be easier for fund members to populate their data. Some enhancements to the Profile database were initiated in response to a recommendation in the Report (the “Report”) of The Joint NASD/Industry Task Force on Breakpoints (the “Task Force”). [\[2\]](#) NSCC has also adopted measures to assist funds members in validating their data once it is in the Profile database, by developing reports that note probable inconsistencies among related data fields.

The proposed agreement, made by the Fund Member to NSCC in NSCC’s Rules, is not intended to be a basis for independent legal rights against the fund member, nor is any third party intended or permitted to rely upon it as a representation to a third party or upon which a third-party can base any legal rights. NSCC requires similar agreements from its members elsewhere in its Rules and in its membership agreement.

Since NSCC’s Profile database is widely used by mutual fund distributors in processing the distribution of mutual fund shares, the proposed rule change facilitates the prompt and accurate clearance and settlement of securities transactions by assisting in the overall processing efficiency of mutual fund transactions and reducing processing difficulties resulting from incomplete or inaccurate information.

Proposed Amendments to NSCC Rule 52

The NSCC has proposed amending Rule 52 – Mutual Fund Services, D. Mutual Fund Profile Service, SEC 4. to include the following agreement:

Each Fund Member agrees with the Corporation that the Fund Member will take reasonable steps to validate the accuracy of the MFPS data that it submits to the Corporation.

Mutual Fund Profile Activities

The Institute continues to work with the NSCC, FINRA and members on outstanding Mutual Fund Profile database issues and is committed to supporting the industry in enhancing and expanding Profile’s capabilities in the future. We strongly encourage fund groups participating in Profile to ensure that data are accurate and establish procedures to periodically review such data for accuracy. These procedures should include updating Profile on a timely basis as fund policies and operations processing rules are updated or changed.

The ICI continues to urge fund members not participating in Profile to comply with the recommendations of the Joint NASD/Industry Task Force on Breakpoints, which includes populating the Mutual Fund Profile database with fund breakpoint schedules and linkage rules. Questions regarding the database may be directed to Rita Gribben (212-855-5677 or rgribben@dtcc.com) or Barbara Simon (212-855-5658 or bsimon@dtcc.com) at the NSCC.

Please contact the undersigned (202-326-5930 or kjoaquin@ici.org) no later than January 12, 2009, with any questions or concerns regarding the NSCC's proposed rule change on the Mutual Fund Profile database.

Kathleen C. Joaquin
Director - Operations & Distribution

endnotes

[1] See SEC Release No. 34-59105 (December 16, 2008) Notice of Filing of Proposed Rule Change to Amend Rules to Add an Agreement from Fund that Submit Mutual Fund Profile Information, available at <http://sec.gov/rules/sro/nscc.shtml>.

[2] The Task Force was formed in 2003 by the National Association of Securities Dealers ("NASD", now

"FINRA") with the participation of major fund companies, broker-dealers, NSCC, the Securities Industries

Association and the Investment Company Institute, in response to the NASD examination findings in which

it was discovered that investors frequently failed to receive appropriate breakpoint discounts in front-end

sales load mutual fund transactions. Recommendation (B) of the report stated that NSCC's Profile

database "should be expanded to include breakpoint aggregation terms and rules for all fund families, and

should include identification of both link-eligible products (for example, retirement plans, annuities, and

insurance products and college savings plans with mutual fund holdings)." The Recommendation also

noted "...for this database to be effective, it must also be comprehensive. Accordingly, mutual funds must

fully and accurately populate the database and must update the database on a timely basis."

should not be considered a substitute for, legal advice.