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February 15, 2017

The Honorable Michael S. Piwowar, Acting Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: Standards for Covered Clearing Agencies (Release No. 34-78961; File No. S7-03-14)

Dear Dr. Piwowar:

The Depository Trust and Clearing Corporation (“DTCC”), on behalf of its three registered clearing agency subsidiaries (the “Clearing Agencies”),¹ has engaged in substantial work and multiple conversations with Staff from the Commission’s Division of Trading and Markets concerning our ongoing efforts to come into compliance with the Commission’s final rule for Standards for Covered Clearing Agencies (the “Rule”).² As emphasized in recent conversations and correspondence with Staff and in our original comment letter relating to the Rule,³ DTCC fully supports the enhanced risk management standards and other requirements for covered clearing agencies set forth in the Rule. We have been working diligently to fulfill these requirements and to operate our clearance and settlement services in keeping with the heightened standards to which covered clearing agencies are subject.

In particular, the Rule’s requirement that covered clearing agencies establish and maintain plans for recovery and orderly wind-down (“RWPs”) is an important new input into the industry’s efforts to manage systemic risk, and we believe it is critical that RWPs be carefully designed to address concerns unique to each covered clearing agency and its members. In order to better achieve that objective, the Clearing Agencies respectfully request that the Commission temporarily exempt the Clearing Agencies from, or otherwise delay the compliance date for, satisfaction of the Rule’s requirements specific to having completed and approved RWPs, as further described below.

The Rule requires covered clearing agencies to “establish, implement, maintain and enforce written policies and procedures reasonably designed to” sustain their satisfaction of a broad group of enhanced financial risk management, operational risk management and governance standards.⁴ The compliance date for all aspects of the Rule is April 11, 2017. Among the list of enhanced standards is the requirement that each covered clearing

¹ Depository Trust Company (“DTC”), National Securities Clearing Corporation (“NSCC”) and Fixed Income Clearing Corporation (“FICC”) are “covered clearing agencies,” as defined in the Commission’s final rule for Standards for Covered Clearing Agencies, by virtue of their designation as systemically important clearing agencies by the Financial Stability Oversight Council. See 17 CFR 240.17Ad-22(a)(5) and (6).

² See Standards for Covered Clearing Agencies, Exchange Act Release 34-78961, 81 Fed. Reg. 70786 (Oct. 13, 2016) (“Adopting Release”). The Rule is codified at 17 CFR 240.17Ad-22(e).

³ Larry E. Thompson, Managing Director and General Counsel, DTCC, to Kevin M. O’Neill, Deputy Secretary, SEC (May 27, 2014), available here: <https://www.sec.gov/comments/s7-03-14/s70314-16.pdf>.

⁴ 17 CFR 240.17Ad-22(e)(1) – (23).

agency have policies and procedures reasonably designed to “maintain a sound risk management framework ... [which] includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.”⁵ RWPs have been a topic of great interest among financial industry regulators, market participants and clearing agencies since at least 2012. A substantial amount of guidance concerning RWPs has been released recently.⁶ The topic remains under active discussion in the industry. For example, on February 1, 2017, the Financial Stability Board published for consultation a draft *Guidance on Central Counterparty Resolution and Resolution Planning*, for which comments are due on March 13, 2017.⁷

The Clearing Agencies have been developing their RWPs for some time and have shared initial drafts with Staff. Although we have had constructive conversations with Staff, as well as other interested regulators and policymakers, a substantial amount of work remains to be completed, and we believe it would be prudent to provide for a longer period of time for consultation concerning the content of RWP documents and appropriate rule filings pursuant to which the Commission would approve, and the Clearing Agencies would formally implement, their RWPs.⁸ In particular, we believe that the Clearing Agencies, their members and other interested persons would benefit from further thought development concerning whether and how the RWPs should address the continued provision of critical operations and services in the event that recovery tools fail.⁹ We also believe that more time is required to better understand the manner in which the Clearing Agencies’ RWPs will relate to resolution planning work that is being prepared by resolution authorities or that may be, as has been suggested in some conversations, voluntarily prepared by the Clearing Agencies themselves. Ultimately, the planning process and final RWPs must interact appropriately with resolution plans prepared and maintained by resolution authorities and with recovery and resolution plans prepared by systemically important financial institutions that are members of the Clearing Agencies and that may rely upon them for continuity of critical services in a future financial crisis.

Because of the complexity of the planning process, the need for further discussion and consultation, the advisability of appropriate member outreach prior to the submission of formal filings, and the time that is likely to be required for review of the proposed rule changes, advance notices and any comments thereto, we urge the Commission to exercise its authority to provide appropriate relief to the Clearing Agencies with respect to this specific aspect of the Rule.

⁵ 17 CFR 240.17Ad-22(e)(3)(ii).

⁶ See *Recovery of Financial Market Infrastructures*, published by CPMI-IOSCO in October 2014, available here: <http://www.bis.org/cpmi/publ/d121.pdf>. *Key Attributes of Effective Resolution Regimes*, published by the Financial Stability Board (“FSB”) on October 15, 2014, available here: http://www.fsb.org/wp-content/uploads/r_141015.pdf. *Staff Letter No. 16-61* (Memorandum to Registered Derivatives Clearing Organizations concerning RWPs), published by the Commodity Futures Trading Commission (“CFTC”) on July 21, 2016, available here: <http://www.cftc.gov/idc/groups/public/@lrllettergeneral/documents/letter/16-61.pdf>. *Essential Aspects of CCP Resolution Planning*, a discussion note published for comment by FSB on August 16, 2016, available here: <http://www.fsb.org/2016/08/essential-aspects-of-ccp-resolution-planning/>.

⁷ The newest draft Guidance is available here: <http://www.fsb.org/2017/02/guidance-on-central-counterparty-resolution-and-resolution-planning/>.

⁸ See Adopting Release at 93 (setting forth the Commission’s view that RWPs “would constitute a proposed rule change under Section 19(b) of the Exchange Act and, for designated clearing agencies, an advance notice under the Clearing Supervision Act.”)

⁹ This is of particular concern to DTCC because regulators, clearing members and other interested persons have devoted greater attention to requirements relating to CCPs (and derivatives CCPs, in particular), with relatively little discussion to date of recovery and wind-down objectives for the cash securities markets, including the impact of a central securities depository wind-down.

Specifically, we request that the Commission temporarily exempt the Clearing Agencies, until December 31, 2017, from compliance with the requirement set forth in Rule 17Ad-22(e)(3)(ii) that the sound risk management framework to be maintained by a covered clearing agency “include plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.”¹⁰

We believe that this limited temporary exemption would enable us to better satisfy the ultimate objectives of the Rule that covered clearing agencies be governed and operated in accordance with clear, effective and well-organized policy and procedure frameworks. The requested temporary exemption would allow the Clearing Agencies to focus near-term on enhancing internal policies and procedures and preparing and submitting the related proposed rule changes (and advance notices, where required) to support our compliance with the Rule, while providing time for further consultation with Staff concerning our approach to RWPs and related rule filings and advance notices.

We appreciate your consideration of this request. We would welcome any opportunity to further discuss these concerns.

Sincerely yours,



Michael C. Bodson
President and Chief Executive Officer
The Depository Trust & Clearing Corporation

cc: The Honorable Kara M. Stein, Commissioner
Heather Seidel, Acting Director and Chief Counsel, Division of Trading and Markets
Gary Goldsholle, Deputy Director, Division of Trading and Markets
Christian Sabella, Associate Director, Division of Trading and Markets

¹⁰ As a technical matter, the Clearing Agencies also request a temporary exemption with respect to clause (y) of Rule 17Ad-22(e)(15)(ii), solely to the extent it may be read to require the boards of directors of the Clearing Agencies to determine specific amounts of funds sufficient to ensure recovery or orderly wind-down pursuant to their RWPs. During the temporary exemption period, the Clearing Agencies would hold liquid net assets equal to, at a minimum, six months of operating expenses, in accordance with clause (x) of Rule 17Ad-22(e)(15)(ii).