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June 26, 2013

Elizabeth M. Murphy  
Secretary  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

Re: Release No. 34-69313; File No. SR-NSCC-2013-02; and  
Release No. 34-69451; File No. SR-NSCC-2013-802

Dear Ms. Murphy:

Fidelity Investments ("Fidelity")<sup>1</sup> appreciates the opportunity to respond to the Securities and Exchange Commission's (the "SEC" or "Commission") request for comment with respect to the proposed rule change submitted by National Securities Clearing Corporation ("NSCC") to institute supplemental liquidity deposits to its Clearing Fund, which are designed to ensure that NSCC has adequate liquidity resources to meet its liquidity needs (the "Proposal").<sup>2,3</sup> Fidelity

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<sup>1</sup>Fidelity Investments is one of the world's largest providers of financial services, with assets under administration of \$4.2 trillion, including managed assets of \$1.8 trillion, as of April 30, 2013. The firm is a leading provider of investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing and many other financial products and services to more than 20 million individuals and institutions, as well as through 5,000 financial intermediary firms.

<sup>2</sup>See Notice of Filing of Proposed Rule Change to Institute Supplemental Liquidity Deposits to Its Clearing Fund Designed to Increase Liquidity Resources to Meet Its Liquidity Needs, Exchange Act Release No. 69313 (April 4, 2013), 78 FR 21487 (April 10, 2013); Notice of Filing Amendment No. 1 and Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, to Institute Supplemental Liquidity Deposits to Its Clearing Fund Designed to Increase Liquidity Resources to Meet Its Liquidity Needs, Exchange Act Release No. 69620 (May 22, 2013), 78 FR 32292 (May 29, 2013); Notice of Filing of Advance Notice, as Modified by Amendment No. 1, to Institute Supplemental Liquidity Deposits to Its Clearing Fund Designed to Increase Liquidity Resources to Meet Its Liquidity Needs, Exchange Act Release No. 69451 (April 25, 2013), 78 FR 25496 (May 1, 2013); Notice of Extension of Review Period of Advance Notice, as Modified by Amendment No. 1, to Institute Supplemental Liquidity Deposits to Its Clearing Fund Designed to Increase Liquidity Resources to Meet Its Liquidity Needs, Exchange Act Release No. 69605 (May 20, 2013), 78 FR 31616 (May 24, 2013); Form 19b-4 filing constituting Amendment No. 2 to Rule Filing SR-NSCC-2013-02 (June 11, 2013), available at [http://www.dtcc.com/downloads/legal/rule\\_filings/2013/nscc/SR-NSCC\\_2013-02\\_Amendment\\_2.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2013/nscc/SR-NSCC_2013-02_Amendment_2.pdf) (not yet noticed by the Commission) ("Proposed Rule Change Amendment No. 2"); Form 19b-4 filing constituting Amendment No. 2 to Rule Filing SR-NSCC-2013-802 (June 11, 2013), available at [http://www.dtcc.com/downloads/legal/rule\\_filings/2013/nscc/SR-NSCC\\_2013-02-802\\_Amendment\\_2.pdf](http://www.dtcc.com/downloads/legal/rule_filings/2013/nscc/SR-NSCC_2013-02-802_Amendment_2.pdf) (not yet noticed by the Commission).

<sup>3</sup>Fidelity previously requested that the Commission extend the comment deadline and the time period for the Commission's determination on the Proposal. Our comment letter is available at: <http://www.sec.gov/comments/sr-nscc-2013-02/nscc201302-7.pdf>

submits this comment letter on behalf of National Financial Services LLC (“NFS”)<sup>4</sup>, an NSCC Member affected by the Proposal.<sup>5</sup>

Fidelity fully supports the overall goals of the Proposal, including NSCC’s desire to maintain sufficient financial resources to withstand a default by its largest unaffiliated Member or Affiliated Family. We appreciate the changes that the NSCC has made to the Proposal with Proposed Rule Change Amendment No. 2 (“Amended Proposal”), which address our concerns regarding the ability of each Member, regardless of a commercial bank affiliation, to participate in the Credit Facility. We also believe that under the Amended Proposal, Members are provided greater transparency with respect to liquidity exposure with the NSCC, which allows each Member to plan for its liquidity obligations. For these reasons, Fidelity believes that the SEC should approve the NSCC’s Amended Proposal pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (“Exchange Act”) and not object to the Amended Proposal pursuant to Section 806(e) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). However, as detailed below, Fidelity also believes that (i) the NSCC should continue to review additional funding alternatives for Members and should continue to develop its capital structure further and (ii) the SEC should review its processes for review of combined filings under Section 19(b) of the Exchange Act and Section 806(e) of the Dodd-Frank Act to determine whether a more streamlined comment process is possible for future combined filings.

**I. The NSCC should continue to review additional funding alternatives for Members and the NSCC should continue to develop its capital structure further**

If Members are afforded a number of different alternatives by which they can fund their Regular Activity Supplemental Deposit, and such alternatives are available at any given time, Members will have the flexibility to adapt to changing market conditions. To this end, Fidelity urges the NSCC to continue to review additional funding alternatives for Members to fund their Regular Activity Supplemental Deposit. We believe that such alternatives should include (i) the provision of a standby irrevocable letter of credit and (ii) a deposit of US Treasury Securities.

For example, the provision of a standby irrevocable letter of credit is an alternative by which Members could fund their Regular Activity Supplemental Deposit that would complement the existing Credit Facility or cash deposit alternatives. Based on recent discussions with potential Designated Lenders, we believe well qualified banks may be more amenable to providing this conventional alternative than participating directly in the Credit Facility. As such, the NSCC’s acceptance of this proposed alternative might serve to expand the universe of banks that would be willing to provide a source of liquidity to the NSCC and expand the funding alternatives for members. With respect to a deposit of US Treasury Securities, a Member might

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<sup>4</sup>National Financial Services LLC, a Fidelity Investments company, offers broker-dealer firms a comprehensive, fully disclosed clearing platform that includes a dedicated service model, a global trading platform, and a source of leading investment solutions. As of March 31, 2013, NFS serves nearly 260 broker-dealers representing over \$450 billion in assets under administration.

<sup>5</sup>Unless otherwise defined in this comment letter, capitalized terms have the meanings ascribed to them in the Proposal.

obtain a higher rate of return than cash, and this alternative is already an acceptable alternative for a portion of a Member's Clearing Fund deposit.

To help improve liquidity in the broker-dealer system, Fidelity encourages the SEC to consider allowing either all or a portion of the cash deposit made by a broker-dealer to be considered a "qualified security" under Rule 15c3-3(a)(6) of the Exchange Act for excess customer credits, given the deposit's risk characteristics, and that the SEC consider allowing the cash deposit to constitute a limited percentage of a Member's reserve deposit. We recommend that the cash deposit be considered a "qualified security" because (1) the cash will be on deposit with the Federal Reserve; (2) if the cash deposit is drawn to fund settlement, then it would be fully collateralized by the unsettled trades; and (3) because of the position of the Regular Activity Supplemental Deposit in the capital structure of the NSCC (it is called upon only after other sources of liquidity have been utilized), the risk of loss of the cash deposit is mitigated.

We also request that NSCC continue to develop and extend the liquidity sources within its own capital structure. We continue to have concerns that if the committed Credit Facility were to be significantly downsized, for example if the credit markets were disrupted and banks did not want to lend, the NSCC would have a significant amount of refinancing risk at the maturity of the committed Credit Facility. Moreover in such a situation, Members would have significant cash outlay burdens as it would be less likely that Members would be able to obtain a Designated Lender to participate on their behalf in the Credit Facility.

## **II. The SEC should review its process for review of combined filings under Section 19(b) of the Exchange Act and under Section 806(e) of the Dodd-Frank Act**

The NSCC has been designated as a systemically important financial market utility by the Financial Stability Oversight Council (FSOC). Section 806(e) of the Dodd-Frank Act requires any financial market utility designated by the FSOC to file 60 days advance notice of changes to its rules, procedures or operations that could materially affect the nature or level of risk presented by the financial market utility ("Advance Notice filing"). This Advance Notice filing is in addition to the NSCC's existing proposed rule change filing requirement under Section 19(b) of the Exchange Act ("19(b) filing").

Although NSCC filed the Advance Notice filing and 19(b) filing with the Commission on the same day (March 21, 2013) and these filings, as well as subsequent amendments to these filings, contained substantively similar content, the Commission's review and comment period for the Advance Notice filing and 19(b) filing involved two very different timelines, as noted below:

- The SEC posted the 19(b) filing to its website on April 4, 2013; the Advance Notice filing was posted to the SEC's website on April 25, 2013;
- The SEC published the 19(b) filing in the Federal Register on April 10, 2013 (with a May 1, 2013 comment deadline);
- NSCC filed with the SEC Amendment No. 1 for both the 19(b) filing and Advance Notice filing on April 19, 2013;

- The SEC published the Advance Notice as modified by Amendment No. 1 in the Federal Register on May 1, 2013 (with a May 22, 2013 comment deadline) and the SEC published Amendment No. 1 to the 19(b) filing on May 29, 2013 (with a June 19, 2013 comment deadline);
- The NSCC filed with the SEC Amendment No. 2 for both the 19(b) filing and Advance Notice filing on June 12, 2013. The SEC has not yet noticed these filings on their website, despite what we consider to be their material impact to the Proposal.

While we understand that the SEC will review and evaluate each 19(b) filing and each Advance Notice filing independently, the practical effect of this rulemaking process was that firms such as ours that were interested in commenting on the Proposal and Amended Proposal spent a significant amount of time simply trying to understand the comment processes, the effect of the amendments on each proposal, and the shifting comment deadlines for the two proposals. Accordingly, we urge the Commission to review its internal processes for combined filings under Section 19(b) of the Exchange Act and Advance Notice filings under Section 806(e) of the Dodd-Frank Act to determine whether a more streamlined process is possible for future combined filings.

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Fidelity thanks the Commission for considering our comments. We would be pleased to provide any further information or respond to any questions that you may have.

Sincerely,



Scott C. Goebel

cc:

Honorable Mary Jo White, SEC Chairman  
Honorable Elisse B. Walter, SEC Commissioner  
Honorable Luis A. Aguilar, SEC Commissioner  
Honorable Troy A. Paredes, SEC Commissioner  
Honorable Daniel M. Gallagher, SEC Commissioner

Mr. John Ramsay, Acting Director, Division of Trading and Markets  
Mr. James R. Burns, Deputy Director, Division of Trading and Markets  
Mr. Peter Curley, Associate Director, Division of Trading and Markets  
Mr. Mike Macchiaroli, Associate Director, Division of Trading and Markets  
Mr. David Shillman, Associate Director, Division of Trading and Markets  
Mr. Thomas Granelli, Depository Trust Clearing Corporation