

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-70501; SR-NSCC-2013-02)

September 25, 2013

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Institute Supplemental Liquidity Deposits to Its Clearing Funding Designed to Increase Liquidity Resources to Meet Its Liquidity Needs

On March 21, 2013, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to institute supplemental liquidity deposits to its Clearing Fund in order to increase liquidity resources to meet its liquidity needs (“Proposed Rule Change”). The Proposed Rule Change was published for comment in the Federal Register on April 10, 2013.³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4. NSCC also filed the proposal contained in the Proposed Rule Change as advance notice SR-NSCC-2013-802 (“Advance Notice”), as modified by Amendment No. 1, pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (“Clearing Supervision Act”) and Rule 19b-4(n)(1)(i) thereunder. See Release No. 34-69451 (Apr. 25, 2013), 78 FR 25496 (May 1, 2013). On May 20, 2013, the Commission extended the period of review of the Advance Notice, as modified by Amendment No. 1. Release No. 34-69605 (May 20, 2013), 78 FR 31616 (May 24, 2013). On June 11, 2013, NSCC filed Amendment No. 2 to the Advance Notice, as previously modified by Amendment No.1. Release No. 34-69954 (Jul. 9, 2013), 78 FR 42127 (Jul. 15, 2013). On July 18, 2013, the Commission made a request of NSCC to provide additional information regarding the Advance Notice, as amended, pursuant to Section 806(e)(1)(D) of the Clearing Supervision Act. 12 U.S.C. 5465(e)(1)(D). Upon the Commission’s receipt of NSCC’s complete response to that request, the Commission will have 60 days to issue an objection or no objection to the Advance Notice. See 12 U.S.C. 5465(e)(1)(E) and (G). The proposal in the Proposed Rule Change, as amended, and the Advance Notice, as amended, shall not take effect until all regulatory actions required with respect to the proposal are completed.

³ Release No. 34-69313 (Apr. 4, 2013), 78 FR 21487 (Apr. 10, 2013).

On April 19, 2013, NSCC filed with the Commission Amendment No. 1 to the Proposed Rule Change, which, on May 29, 2013, the Commission published for comment in the Federal Register and designated a longer period for Commission action on the Proposed Rule Change, as amended.⁴

On June 11, 2013, NSCC filed Amendment No. 2 to the Proposed Rule Change, as previously modified by Amendment No. 1, which, on July 15, 2013, the Commission published for comment in the Federal Register and issued an order instituting proceedings to determine whether to approve or disapprove the Proposed Rule Change, as amended (“Order Instituting Proceedings”).⁵ In the Order Instituting Proceedings, the Commission solicited comment on whether Amendment No. 2 adequately addresses the concern raised by some commenters that the Proposed Rule Change, as amended, could have a discriminatory impact on NSCC’s non-bank affiliated members who would be subject to the proposal but who do not currently participate in NSCC’s Credit Facility.⁶

Prior to issuing the Order Instituting Proceedings, the Commission had received fourteen comment letters to the proposal contained in the Proposed Rule Change and its related Advance Notice,⁷ including NSCC’s response to the comment letters received as of June 10, 2013.⁸ In

⁴ See Release No. 34-69620 (May 22, 2013), 78 FR 32292 (May 29, 2013).

⁵ Release No. 34-69951 (Jul. 9, 2013), 78 FR 42140 (Jul. 15, 2013).

⁶ See id.

⁷ See Comments Received on File Nos. SR-NSCC-2013-02 (<http://sec.gov/comments/sr-nsc-2013-02/nsc201302.shtml>) and SR-NSCC-2013-802 (<http://sec.gov/comments/sr-nsc-2013-802/nsc2013802.shtml>). Since the proposal contained in the Proposed Rule Change was also filed as an Advance Notice, see Release No. 34-69451, supra note 2, the Commission is considering all public comments received on the proposal regardless of whether the comments are submitted to the Proposed Rule Change, as amended, or the Advance Notice, as amended.

response to the Order Instituting Proceedings, the Commission received eight additional comment letters, including NSCC's response to the comment letters received as of August 20, 2013 to the Order Instituting Proceedings.⁹

Section 19(b)(2)(B)(ii)(I) of the Exchange Act provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving a proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change.¹⁰ The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.¹¹ The Proposed Rule Change was published for notice and comment in the Federal Register on April 10, 2013. The 180th day after that publication date is October 7, 2013.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the Proposed Rule Change, as amended, so that it has sufficient time to consider the amended proposal, the issues raised in the comment letters to the amended proposal, including comment letters submitted in response to the Order Instituting Proceedings, and NSCC's responses to such comments.

⁸ NSCC also received a comment letter directly prior to filing the Proposed Rule Change and related Advance Notice with the Commission, which NSCC provided to the Commission in Amendment No. 1 to the filings. See Exhibit 2 to File No. SR-NSCC-2013-02 (<http://sec.gov/rules/sro/nsc/2013/34-69620-ex2.pdf>).

⁹ See Comments Received, supra note 7.

¹⁰ 15 U.S.C. 78s(b)(2)(B)(ii)(I).

¹¹ 15 U.S.C. 78s(b)(2)(B)(ii)(II).

Accordingly, the Commission, pursuant to Section 19(b)(2)(B)(ii)(II) of the Exchange Act,¹² designates December 6, 2013, as the date by which the Commission should either approve or disapprove the Proposed Rule Change (SR-NSCC-2013-02).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Kevin M. O'Neill
Deputy Secretary

¹² Id.

¹³ 17 CFR 200.30-3(a)(57).