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By Electronic Mail

Ms. Vanessa Countryman
Secretary
United States Securities and Exchange Commission
100 F. Street NE
Washington, D. C. 20549

Re: In the Matter of Lek Securities Corp., Admin. Proc. File No. []

Dear Ms. Countryman:

We are counsel to the National Securities Clearing Corporation (“NSCC”), a clearing agency registered with the Securities and Exchange Commission (“SEC” or the “Commission”) under Section 17A of the Securities Exchange Act of 1934 (the “Exchange Act”), and a self-regulatory organization (“SRO”) subject to Section 19 of the Exchange Act. We write in response to the purported application pursuant to Rule 19d-3 of the Rules and Regulations under Exchange Act and Rule 420 of the SEC’s Rules of Practice by Lek Securities Corporation (“LSC” or the “Company”), a NSCC Member, for review of certain action taken by NSCC, dated November 1, 2021 (the “LSC Filing” or “Filing”).¹

As mentioned in the LSC Filing, on October 26, 2021, NSCC imposed a cap of \$300 million of aggregate unsettled clearing activity as measured by the gross market value of LSC’s unsettled portfolio each business day coinciding with the approval of LSC’s start-of-day margin call (the “Activity Cap”),² pursuant to NSCC Rule 46, and advised LSC of the Activity Cap and the Company’s right to a hearing on the matter pursuant to NSCC Rules 37 and 46. (The amount of the Activity Cap was revised to \$400 million on November 5, 2021, effective November 8, 2021.) On October 29, 2021, LSC submitted its objection and request for a hearing on the Activity Cap; and, as LSC acknowledged in the Filing, a hearing on the Activity Cap as revised is now pending. Accordingly, the matter is not “final,” and any application for review and stay of the Activity Cap pending completion of the requested hearing is improper.³

¹ Capitalized terms not defined herein have the meaning given to them under NSCC rules, as applicable.

² The Activity Cap effectively is an instruction by NSCC to LSC to limit its daily unsettled activity to the amount specified. However, NSCC cannot prevent LSC from exceeding the Activity Cap, and the Company has exceeded the Activity Cap five times between November 1, 2021, and November 5, 2021.

³ Rule 19d-3 provides:

A hearing on the subject of the LSC Filing is pending; accordingly, there is no record for purposes of Rule 420(e) of the SEC's Rules of Practice. Moreover, because LSC has not exhausted its remedies with the NSCC, the issues raised in the LSC Filing are not ripe for review and adjudication by the Commission.⁴ The Filing, therefore, should be rejected.

Sincerely,



Benjamin J. Catalano

cc (by email):

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Applications to the Commission for review of any *final* disciplinary sanction, denial or conditioning of membership, participation, bar from association, or prohibition or limitation with respect to access to services offered by a self-regulatory organization or a member thereof by any such organization shall be made pursuant to Rule 420 of the Commission's Rules of Practice.

LSC has not exhausted its remedies at NSCC with respect to this matter.

The SEC's requirement that aggrieved members of SROs ordinarily must fully exhaust the remedies made available by those organizations before seeking Commission review [under Section 19(d)] is a sensible way of preventing circumvention of th[e] congressional scheme [for SEC oversight of SRO actions]. Were SRO members . . . free to bring their SRO-related grievances before the SEC without first exhausting SRO remedies, the self-regulatory function of SROs could be compromised.

MFS Sec. Corp. v. SEC, 380 F.3d 611, 621 (2d Cir. 2004).

⁴ See *MFS Sec. Corp.*, 380 F.3d at 621 (“[L]ike other administrative exhaustion requirements, the SEC's promotes the development of a record in a forum particularly suited to create it, upon which the Commission and, subsequently, the courts can more effectively conduct their review. It also provides SROs with the opportunity to correct their own errors prior to review by the Commission. The SEC's exhaustion requirement thus promotes the efficient resolution of disciplinary disputes between SROs and their members and is in harmony with Congress's delegation of authority to SROs to settle, in the first instance, disputes relating to their operations.”).