SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Release No. 106163 / August 19, 2026

Admin. Proc. File No. 3-20808

In the Matter of the Application of

LEK SECURITIES CORPORATION

For Review of Action Taken by

NATIONAL SECURITIES CLEARING CORPORATION
and THE DEPOSITORY TRUST COMPANY

OPINION OF THE COMMISSION

REGISTERED CLEARING AGENCY — REVIEW OF PROHIBITIONS AND LIMITATIONS ON ACCESS TO SERVICES

REGISTERED CLEARING AGENCY — REVIEW OF DISCIPLINARY PROCEEDING

NSCC and DTC issued cease-to-act determinations to broker. NSCC imposed activity cap on broker and fined and censured broker for violating the activity cap. NSCC and DTC assessed hearing costs against broker. *Held*, applications for review of cease-to-act determinations and activity cap are *dismissed*, censures and fines are *set aside*, and hearing costs are *reduced*.

APPEARANCES:

*Kevin Harnisch* and *Ilana Sinkin* of Norton Rose Fulbright US LLP, for Lek Securities Corporation.

*James R. Anderson*, *Timothy E. Burroughs*, *Benjamin J. Catalano*, and *Margaret A. Dale* of Proskauer Rose LLP, for the National Securities Clearing Corporation and the Depository Trust Company.

Appeal filed: April 4, 2022
Last brief received: August 15, 2022

Lek Securities Corporation ("LSC"), formerly a registered broker-dealer, member of FINRA and the National Securities Clearing Corporation ("NSCC"), and participant in the Depository Trust Company ("DTC," together, with NSCC, the "Clearing Agencies"), appeals from action taken by the Depository Trust and Clearing Corporation ("DTCC"), NSCC's and DTC's parent entity. DTCC upheld the Clearing Agencies' determinations to cease to act for LSC; impose a cap on LSC's trading activity; and impose censures and $120,000 in fines for LSC's violations of the activity cap. DTCC also assessed approximately $383,000 in hearing costs against LSC.

We sustain DTCC's cease-to-act determinations and imposition of the activity cap, but set aside DTCC's imposition of the censures and fines and reduce the hearing cost award.

## I. Background

### A. Overview of the Clearing Agencies and LSC

NSCC and DTC are self-regulatory organizations and clearing agencies registered with the Commission.[1] NSCC provides central counterparty clearing and settlement services, guaranteeing payment and delivery of securities for virtually all transactions in equities and other types of securities in the United States.[2] NSCC requires its members to post margin (also called required fund deposits) to address the risks NSCC takes due to its central counterparty status.[3] DTC, in turn, is a central securities depository for U.S. transactions in equities and other securities, and faces credit risks associated with each participant's end-of-day net funds settlement of securities transactions.[4]

LSC was founded in 1990 and was a member of NSCC and a participant in DTC from 1999 until the Clearing Agencies ceased to act for LSC in 2022.[5] According to LSC, its core business was executing and clearing orders in the public securities markets for its clients, as well

---

[1] *See Depository Trust Co.*, 48 Fed. Reg. 45167, 45178–81 (Oct. 3, 1983) (approving full registration of DTC, NSCC, and seven other entities as clearing agencies); *see also* 15 U.S.C. § 78c(a)(26) (defining "self-regulatory organization" to include any "registered clearing agency").

[2] *See Order Approving a Proposed Rule Change to Enhance the Calculation of the Family-Issued Sec. Charge*, Exchange Act Release No. 88494, 2020 WL 1659286, at *1 (Mar. 27, 2020).

[3] *See Alpine Sec. Corp.*, Exchange Act Release No. 103552, 2025 WL 2144126, at *1 (July 28, 2025); *see also* 17 C.F.R. § 240.17Ad-22(e)(6)(i) (requiring each clearing agency providing central counterparty clearing services to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover the agency's credit exposures through a risk-based margin system).

[4] *See Atlantis Internet Grp. Corp.*, Exchange Act Release No. 70620, 2013 WL 5519826, at *1 n.1 (Oct. 7, 2013).

[5] NSCC members are also participants in NSCC. *See* 15 U.S.C. § 78c(a)(24) (defining "participant" in a clearing agency).

as safekeeping its clients' assets. At the time it ceased operations, Charles Lek had been LSC's Chief Executive Officer since October 2019.

### B. The Clearing Agencies' cease-to-act determinations and related actions

On October 26, 2021, NSCC and DTC notified LSC that each clearing agency had determined to cease to act for LSC. These determinations meant that the firm would no longer be able to clear trades for its clients. The Clearing Agencies notified LSC that they based their cease-to-act determinations on (i) LSC's weak capital and liquidity position and (ii) LSC's inadequate responses, failures to respond, and misleading representations to DTCC's risk-management staff.[6]

Based on the same reasons, NSCC also imposed an activity cap on LSC that limited LSC's aggregate unsettled clearing activity to $300 million. The activity cap served as an interim measure to limit NSCC's risk exposure while LSC's hearing on the cease-to-act determination was pending.

NSCC informed LSC that the activity cap would take effect immediately. The cease-to-act determinations, however, would not take effect until either LSC's time to request a hearing expired or, if LSC requested a hearing, a hearing panel affirmed the determinations. On October 29, 2021, LSC requested a hearing, objecting to the cease-to-act determinations and activity cap.

On November 5, 2021, NSCC notified LSC that it had increased the activity cap, at LSC's request, to $400 million. NSCC also informed LSC that the firm had violated the prior $300 million cap five times and that NSCC would censure and fine LSC $20,000 for each violation. NSCC also increased LSC's minimum required fund deposit from $20 million to $27 million.[7] On November 7, 2021, NSCC notified LSC that it had violated the $400 million cap and that NSCC would thus impose another censure and $20,000 fine. LSC also requested a hearing on these sanction determinations.

### C. The DTCC hearing panel's decision

A DTCC hearing panel was appointed to hear LSC's objections. The hearing panel was composed of members of DTCC's Board of Directors, who were also members of the Clearing Agencies' boards. After a two-day hearing and the parties' submission of written materials, the hearing panel affirmed the cease-to-act determinations, the activity cap, and the censures and $120,000 in fines for violating the activity cap. In a separate decision, DTCC also assessed LSC $383,449.14 in hearing costs, which included $348,560 in professional fees for counsel to the panel.

---

[6] The Clearing Agencies also based their cease-to-act determinations on concerns about LSC's internal controls, but DTCC found that the Clearing Agencies had not sufficiently justified ceasing to act on that basis. That issue is therefore not before us.

[7] NSCC had previously increased LSC's minimum required fund deposit to $20 million in August 2021, at the same time DTC had lowered LSC's net debit cap to $50 million.

The hearing panel based its decision on two independent grounds: (1) LSC's weak capital and liquidity position and (2) LSC's inadequate responses, failures to respond, and inaccurate and misleading representations.

As to the first basis, the panel found that, in early 2021, LSC's margin requirements had increased significantly. In that same year, the firm lost approximately $100 million in bank financing, leaving it, by October 2021, with only $10 million in bank financing available to fund its NSCC margin requirements. As a result, the panel concluded, LSC's liquidity and capital position "was so weak as to present an unacceptable settlement risk" to NSCC and NSCC's other members.

The panel noted that LSC implemented a promissory note arrangement called the "Lek Holdings Note Program" to cover this lost financing, but concluded that the program was inadequate. Under the program, LSC customers would lend money on an unsecured basis to LSC's parent—Lek Securities Holdings Limited ("Lek Holdings")—which in turn would lend that money to LSC to meet its NSCC margin requirements. The panel found, however, that none of the steps in the program (other than LSC's requirement to post margin at NSCC) was legally required or even documented in LSC's written procedures, and that the program addressed only the firm's initial margin requirements and not any changes that could occur between a trade's placement and settlement.

As an independent basis for its decision, the hearing panel found that LSC also engaged in a pattern of deliberate obfuscation to mislead the Clearing Agencies about the firm's finances. Among other things, the panel found that LSC failed to timely disclose the loss of its bank financing, affirmatively misrepresented changes to the firm's credit lines, and repeatedly failed to respond to requests for information about the Lek Holdings Note Program.

LSC subsequently filed this application for review. After the Commission denied LSC's motion to stay the cease-to-act determinations pending this appeal,[8] NSCC ceased to act for LSC on July 27, 2022,[9] and DTC ceased to act for LSC on September 20, 2022.[10] LSC ceased operations on November 28, 2022.[11]

---

[8] *Lek Sec. Corp.*, Exchange Act Release No. 95014, 2022 WL 1769802, at *1 (May 31, 2022).

[9] *See* NSCC Important Notice A# 9156, P&S# 8729 (July 27, 2022), https://www.dtcc.com/-/media/Files/pdf/2022/7/27/a9156.pdf.

[10] *See* DTC Important Notice B# 17371-22 (Sept. 20, 2022), https://www.dtcc.com/-/media/Files/pdf/2022/9/20/17371-22.pdf.

[11] *See* BrokerCheck Report for Lek Securities Corporation, https://files.brokercheck.finra.org/firm/firm_33135.pdf. We take official notice of this BrokerCheck report under Commission Rule of Practice 323. *See* 17 C.F.R. § 201.323; *Michael Albert DiPietro*, Exchange Act Release No. 77398, 2016 WL 1071562, at *1 n.1 (Mar. 17, 2016).

## II. Analysis

### A. NSCC's and DTC's Cease-to-Act Determinations

Under Section 19(f) of the Exchange Act, we review a self-regulatory organization's prohibition or limitation with respect to access to services offered by the organization, such as a decision to cease to act, to determine whether (1) the specific grounds on which such prohibition or limitation is based exist in fact, (2) such prohibition or limitation is in accordance with the organization's rules, and (3) such rules are, and were applied in a manner, consistent with the Exchange Act's purposes.[12] Our review is de novo, and we apply a preponderance of the evidence standard.[13]

#### 1. The specific grounds for the Clearing Agencies' cease-to-act determinations exist in fact.

We find, as the hearing panel did, that the grounds for the Clearing Agencies' cease-to-act determinations exist in fact.

##### a. LSC's weak liquidity position.

###### *i. LSC's NSCC margin requirements increased at the same time its liquidity position weakened significantly.*

At the end of 2020, LSC had lines of credit with three banks totaling $112.5 million. Most of this bank financing was secured by customers' securities and not used by LSC to cover NSCC margin requirements. But $19.5 million of the bank financing was available to cover NSCC margin requirements. In February 2021, however, a Commission-approved rule change significantly increased margin requirements for microcap and illiquid securities, which represented 15% to 20% of LSC's business in 2021.[14] As a result, between February to October

---

[12] 15 U.S.C. § 78s(f). We also must set aside any prohibition or limitation if we find that it unnecessarily or inappropriately burdens competition. *Id.* LSC includes only a single vague statement in its opening brief alleging that DTCC failed to weigh the impact on competition of forcing out of business "one of the last self-clearing brokers that provides clearing and custody services to underserved Small Firms." LSC forfeited this argument by not supporting it with evidence, explaining it further, or raising it below in briefing before DTCC. *See, e.g. Canady v. SEC*, 230 F.3d 362, 362–63 (D.C. Cir. 2000) (upholding Commission's conclusion that respondent "waived [a] defense by failing to argue it"); *MFS Sec. Corp. v. SEC*, 380 F.3d 611, 622 (2d Cir. 2004) (finding "valid" the Commission's routine application of "an exhaustion requirement in its review of disciplinary actions by [self-regulatory organizations]").

[13] *See Richard G. Cody*, Exchange Act Release No. 64565, 2011 WL 2098202, at *9 (May 27, 2011), *aff'd*, 693 F.3d 251 (1st Cir. 2012) (review under Section 19(e)); *see also Keith Patrick Sequeira*, Exchange Act Release No. 81786, 2017 WL 4335070, at *3 (explaining that Section 19(f) "provides a similar standard of review [to Section 19(e)] but does not direct us to consider whether a sanction is excessive or oppressive").

[14] *See Order Approving a Proposed Rule Change to Enhance Nat'l Sec. Clearing Corp.'s Haircut-Based Volatility Charge Applicable to Illiquid Securities and UITs and Make Certain*

2021, LSC's required fund deposit exceeded $60 million over ten times, spiking as high as $84.8 million. By contrast, the highest that LSC's required fund deposit ever spiked in the four months preceding the rule change was just over $50 million; the next highest spike was less than $40 million.

The $19.5 million in bank financing that LSC had available to cover margin at the start of 2021 would have covered less than a quarter of LSC's peak 2021 margin requirements. And that same year, LSC lost more than $80 million in total bank financing, including almost half of the financing available for margin: In March 2021, LSC's $25 million credit line with Texas Capital Bank, which was not used to fund NSCC margin, expired. In addition, LSC's primary lender and settlement bank, Bank of Montreal-Harris ("BMOH"), eliminated LSC's credit line in October 2021, after reducing the line from $75 million to $50 million in July and decreasing the portion of the line that could be used for NSCC margin in August and September. These losses left LSC with $30 million in total bank financing from Lakeside Bank, of which only $10 million was available to fund NSCC margin requirements.

*ii. LSC implemented its Lek Holdings Note Program to serve as its primary source of margin funding.*

Charles Lek admitted that, because of the 2021 rule change, "LSC knew it would need more unsecured lines of credit to continue its current operations." To address this need, LSC created the Lek Holdings Note Program. As part of the program, LSC entered a promissory note with its parent, Lek Holdings, that authorized LSC to borrow up to $100 million on an unsecured basis.[15] Lek explained during the hearing, however, that Lek Holdings lacked sufficient funds to fund the note itself. Lek testified that LSC therefore required customers whose trades it expected to trigger large margin requirements to fund the note by loaning Lek Holdings an amount that the firm expected it would need to cover the initial anticipated margin requirements for those customers' trades, plus a buffer. Lek Holdings, in turn, would loan that money to LSC.

LSC has identified few documents that describe or implement this program. LSC introduced three successive notes between Lek Holdings and LSC; a promissory note between Lek Holdings and an LSC customer; and a spreadsheet tracking customers' loan balance activity with Lek Holdings through May 2021. But LSC never provided DTCC with written agreements obligating customers to participate in the program or written policies or procedures codifying the program. Indeed, LSC has not identified any documentation that specifies (a) how or when LSC determines a customer must participate in the note program; (b) how LSC calculates the amount a customer must lend to Lek Holdings; or (c) how LSC would respond if NSCC required additional margin for a particular trade. Although LSC claims that its electronic pre-trade risk

---

*Other Changes to Procedure XV*, Exchange Act Release No. 90502, 2020 WL 7015194 (Nov. 24, 2020); *see also* NSCC Important Notice A# 8954, P&S 8527 (Jan. 13, 2021), https://www.dtcc.com/-/media/Files/pdf/2021/1/13/a8954.pdf (setting February 1, 2021, as effective date for changes to volatility charge).

[15] There were three successive promissory notes, each of which authorized LSC to borrow different amounts from Lek Holdings. The final note authorized LSC to borrow up to $100 million.

control process sets limits beyond which LSC would allow trades only if a customer participates in the note program, LSC identifies no documentation evidencing that requirement. Nor does LSC identify any contractual or other legal obligation requiring LSC's customers to lend money to Lek Holdings or Lek Holdings to lend money to LSC under the program or directing how any lent money must be used by Lek Holdings or LSC. To the contrary, each promissory note in the record explicitly states that the note maker will use the loaned funds "freely in its business."

*iii. Charles Lek's representations about FINRA's assessment of the note program.*

Although not contained in the cease-to-act notices, DTCC found that Charles Lek made misrepresentations during the hearing that cast further doubt on the degree to which it could rely on the Lek Holdings Note Program, given the program's lack of legally enforceable obligations. Lek submitted an affirmation to the hearing panel attesting that LSC provided information to FINRA about its note program that had "alleviated any concerns" FINRA had about the program. Lek further attested that Brian Kowalski, FINRA's Senior Director of Risk Monitoring, had "acknowledged that FINRA now believes that the Lek Holdings Note Program adequately addresses any liquidity risks associated with NSCC funding requirements."

Kowalski subsequently submitted his own affidavit contradicting Lek's representations. He declared that Lek's statements were false and that FINRA "continues to have concerns on the subject of whether the Lek Holding Promissory Note Program adequately addresses liquidity risks associated with NSCC funding requirements."

Moreover, a transcript and recording of a call between LSC (including Lek) and FINRA—which LSC itself created—showed that, although FINRA understood how the note program worked, Kowalski stated during that call that "I don't think we're completely comfortable" and that "the concern is still there." Kowalski explained during the call that FINRA was concerned that LSC was relying on the note program to fund its NSCC minimum required fund deposit. Kowalski stated that such reliance was "beyond [the program's] intended use" and that the program's notes allowed lenders to demand LSC repay them within three days of a request. FINRA Senior Vice President Ornella Bergeron, who held a more senior risk management position than Kowalski and also participated in the call, was even more direct: "with the current lines that you have, we're definitely not comfortable with the liquidity."

**b. LSC's disclosures, responses, and representations to the Clearing Agencies.**

*i. LSC's Statements About Its Texas Capital Financing*

According to Charles Lek, Texas Capital informed him in October 2020 that it intended to terminate LSC's $25 million credit line, which at the time represented more than 23% of LSC's total bank financing. But neither Lek nor LSC informed DTCC or the Clearing Agencies about the bank's intention, despite NSCC's requirement that each participant proactively disclose

events that "could have a material impact on such participant's business and/or financial condition."[16] When the credit line expired on March 31, 2021, LSC again said nothing.

As part of preparation for a site examination, DTCC requested that LSC "provide a schedule of the firm's sources of funding liquidity." Under the applicable rules, LSC had an obligation to provide requested information in response.[17] LSC responded in April 2021 that "[t]here have been no changes in the terms of the Company's credit facilities" over the past 12 months. LSC's response included a table listing "available lines of credit" of up to $107,500,000—including the Texas Capital line, with a "Renewal/Expiration Date" of March 31, 2021—and a note above the table that "credit line facilities expire on the dates indicated" and that "in 2021, Texas Capital . . . has exited the relationships with many broker dealers in the industry." Nowhere did LSC clarify that the Texas Capital credit line had expired.

When DTCC followed up requesting details of LSC's funding sources by lender, LSC responded in May 2021 with the same table and accompanying note, without providing the requested breakdown—and again without specifying that the Texas Capital credit line had expired. LSC did not explain that the credit line had expired until May 13, 2021, when DTCC staff directly asked about it during the site examination.

*ii. LSC's Statements About Its BMOH Financing*

LSC's disclosures about its other primary lender, BMOH, followed the same course. BMOH reduced the NSCC sublimit on LSC's credit line in November 2020 and again in January 202l—yet LSC did not tell the Clearing Agencies about these developments at the time, despite NSCC's rule on disclosure of potentially material business and financial developments. Instead, LSC told DTCC in April 2021 that there had been no changes in the terms of its credit facilities over the prior 12 months.

Nor did LSC disclose to the Clearing Agencies when its relationship with BMOH worsened. Between May and June 2021, LSC's counsel sent BMOH three letters stating that BMOH had informed LSC it intended to terminate their relationship and warning that closing LSC's settlement account would cause "immediate and irreparable harm to LSC." On July 8, 2021, BMOH's counsel sent LSC a letter announcing that the bank would terminate its relationship with the firm entirely. Specifically, BMOH's counsel informed LSC that the bank would immediately reduce the firm's credit line to $50 million and reduce the NSCC sublimit to $4 million in August 2021. More significantly, the letter informed LSC that BMOH would eliminate the NSCC sublimit entirely in September 2021 and terminate the parties' relationship, including discontinuing settlement services, in October 2021. BMOH cited a "loss of confidence" in LSC management, regulatory concerns arising from Commission and FINRA actions, and concerns about LSC's financial condition.

LSC did not inform the Clearing Agencies about BMOH's plan to terminate its relationship with the firm or the July 8 letter. The agencies instead learned of these

---

16 NSCC Rule 2B, Sec. 2(B)(b).

17 *See* NSCC Rule 15, Sec. 1; DTC Rule 2, Sec. 1.

developments from a different regulator. DTCC then asked LSC for all "recent correspondence" with BMOH, a written plan for addressing the loss of financing and settlement services, and information about alternate funding sources. Several weeks after receiving the BMOH letter, on July 26, LSC produced the BMOH letter and told DTCC that Lakeside Bank had increased its credit line and would "assume the role of Lek Securities' settlement bank." But LSC did not provide the requested written plan.

DTCC's letter also asked LSC to confirm or correct DTCC's understanding of the upcoming BMOH credit line changes and provide "all relevant details." LSC responded that it would not "attempt to correct each inaccuracy" in DTCC's letter and would instead identify "the most material ones." DTCC's letter had incorrectly stated that BMOH would reduce LSC's entire line of credit to $4 million in August 2021. LSC corrected that error—but said nothing about how BMOH would reduce LSC's NSCC sublimit to $4 million that month. LSC also told DTCC that, while it agreed that "it is important to keep DTCC apprised of all developments that could impact our ability to remain a member in good standing at NSCC and DTC," LSC considered "the issues surrounding our sources of funding" to "not [be] such a development."

*iii. LSC's Statements to DTCC About the Lek Holdings Note Program*

LSC claims that it implemented the Lek Holdings Note Program in February 2021 to meet its NSCC liquidity needs, but did not disclose the program to the Clearing Agencies when it did so. LSC first alluded to the program in its April 2021 due diligence response to DTCC, stating only that LSC "maintains a Promissory Note agreement with its parent . . . , wherein the company can drawn [sic] on the line as needed." LSC disclosed nothing about how Lek Holdings lacked the resources to fund the note itself.

Beginning in April 2021, DTCC sent LSC multiple requests for information about its finances and its borrowing arrangement with Lek Holdings. In its May 2021 response, LSC described the promissory note with Lek Holdings as an "interest bearing" note "due on demand" and used "for working capital," again without disclosing that Lek Holdings depended entirely on customer lending to fund it. Through September 2021, DTCC repeatedly asked LSC for information about how the promissory note was funded, proof of Lek Holdings' financial standing, and copies of materials that LSC sent FINRA about the note and its funding. LSC never provided DTCC with a narrative explanation of how the program operated or how it fit into LSC's risk management system. Nor did LSC provide detailed financial information about the customers on whom LSC planned to rely for funding. LSC did not provide DTCC with a full explanation of the note program until Lek's affirmation to the hearing panel.

*iv. LSC's Production of an Independent Consultant's Final Report*

Separately, in April 2021, DTCC asked LSC for updates about reports prepared by both an independent consultant and a separate independent monitor.[18] DTCC's requests contained an error: the requests for both the monitor and consultant contained a parenthetical noting a "three-

[18] LSC had engaged the independent consultant and the independent monitor to evaluate aspects of the firm's internal processes, operations, and controls, as part of settlements with FINRA and the Commission, respectively.

year engagement," despite only the independent monitor being subject to a three-year term. But LSC did not respond to either request, even though the independent consultant had recently issued its final report, which was critical of LSC.

DTCC followed up with at least four more requests, each expressly requesting the final report of the independent consultant, Berkeley Research Group LLC ("BRG").[19] On May 14, for example, DTCC requested "all available reports delivered by the Independent Consultant (Berkeley Research Group) produced after February 4, 2020," and noted that Lek had committed to providing the report by May 17. DTCC requested the same information again on May 19—after LSC's own self-imposed deadline to provide it passed. On May 24, LSC re-sent DTCC the initial BRG report and LSC's implementation report. But it did not provide BRG's final report, which had been issued a month earlier. After DTCC twice more specifically asked for the final BRG report in early June, Lek provided it on June 10, accompanied by a letter from Lek asserting that "the report is inaccurate and unsupportable."[20]

**2. The cease-to-act determinations are in accordance with the Clearing Agencies' rules.**

*a. The Clearing Agencies' rules authorized them to cease to act based on LSC's weak liquidity position.*

The Clearing Agencies' decisions to cease to act based on LSC's capital and liquidity position were consistent with their rules. DTC and NSCC rules permit participation only by entities that, in the clearing agency's judgment, can meet their financial obligations to the agency.[21] More specifically, NSCC participants must have sufficient sources of liquidity and capital to meet their NSCC margin requirements.[22]

NSCC rules thus authorize it to cease to act if a participant fails to comply with NSCC financial or operational requirements or "is in such financial or operating difficulty" that NSCC determines "in its discretion" that ceasing to act is necessary "for the protection of the Corporation, the participants, creditors, or investors."[23] NSCC rules also authorize it to cease to

---

19 The independent monitor was employed by a different company.

20 We do not reach DTCC's determination that Lek falsely certified to DTCC that LSC had complied with BRG's initial report before BRG issued its final report, as there is ample support for DTCC's cease-to-act determination regardless of the false certification determination.

21 DTC Rule 2; NSCC Rules 1, 46.

22 *See* NSCC Rule 2A, Sec. 1.A (defining qualifications for membership by reference to Addendum B); NSCC Rule 2B, Sec. 1 (providing that Rule 2A qualifications and standards are continuing membership requirements); NSCC Rule 4, Sec. 1 (establishing required fund deposits); Addendum B to NSCC Rules (providing that an applicant must demonstrate "that it has sufficient financial ability to meet all of its anticipated obligations to the Corporation"); Addendum B to NSCC Rules, Sec. 1.B.1 (defining minimum excess net capital for U.S. broker-dealer members and applicants).

23 NSCC Rule 46, Sec. 1.

act when "adequate cause exists to do so."[24] DTC's rules similarly authorize it to cease to act if it has "reasonable grounds to believe" that doing so is necessary for the protection of DTC or its participants.[25]

The record amply supports the Clearing Agencies' cease-to-act decisions under those provisions. By October 2021, LSC had lost most of its bank financing, including nearly half of the financing available to meet the firm's NSCC margin requirements, leaving it only $10 million to cover margin requirements that were often several times that amount. And LSC had no reliable means for filling that gap.

LSC disputes this conclusion, arguing that its loss of bank financing was immaterial because the Lek Holdings Note Program could bridge that gap. But that program relied entirely on a chain of voluntary acts—by customers, Lek Holdings, and LSC itself—none of which were legally required. LSC contends that the lack of legal obligations did not matter because the firm would not allow a customer to execute a trade that LSC thought might generate substantial margin requirements until after Lek Holdings had received the funds LSC believed were necessary. Yet LSC had no written procedures requiring, or even describing, that process. Even LSC's own expert conceded that the program addressed only the initial margin requirement at the time of the trade, and not the margin swings that could occur between trade and settlement.

LSC contends that "if the Clearing Agencies and the DTCC thought that more documentation was necessary, they could have required LSC to create such documentation instead [of] putting LSC out of business." But for months, DTCC repeatedly asked LSC for more information and documentation about the note program—requests that LSC repeatedly evaded or answered incompletely. LSC cannot claim it did not know these concerns.

The program's lack of binding obligations, combined with LSC's failure to document how it would operate, was itself sufficient to justify the Clearing Agencies' doubts about its reliability. LSC's conduct toward the Clearing Agencies reinforced that conclusion. LSC repeatedly obfuscated the state of its finances and the funding underlying the note program, as well as its plans to cover its margin obligations. LSC's CEO then misrepresented to DTCC, during these very proceedings, that FINRA staff had concluded that the note program adequately addressed LSC's liquidity risks—a claim the record clearly refutes.

On appeal, LSC disputes that its finances were weak enough to justify the Clearing Agencies' cease-to-act determinations. It points to two post-determination developments: that its average daily margin requirements were well below its "readily available liquidity," and that Lakeside increased LSC's credit lines to $50 million in June 2022. But the additional $20 million in financing was all secured by customer securities—the type of financing that Lek himself testified LSC would not use to fund LSC's NSCC margin requirements. Nor does LSC offer any evidence that its reduced margin requirements would remain lower in the future, and it

---

24 *Id.*

25 DTC Rule 10, Sec. 1(vi).

provides no commitment to ensuring they do. LSC's reduced margin requirements may themselves reflect the activity cap that NSCC imposed on LSC in November 2021.

LSC also argues that the cease-to-act decisions were inappropriate because the firm remained solvent until those decisions became effective and the firm never missed or defaulted on a margin requirement. But the Clearing Agencies' authority to cease to act is not limited to insolvency or actual default.[26] The national clearing system is interconnected: one firm's failure can cascade through the system, affecting other participants' financial conditions and threatening the stability of the system as a whole.[27] The Clearing Agencies must therefore be able to act before issues occur.[28] DTCC had an ample basis to conclude that the danger that LSC would be unable to continue meeting its margin obligations presented an unacceptable risk to that system.

*b. The Clearing Agencies' rules authorized them to cease to act based on LSC's incomplete, false, and misleading disclosures about its financial condition to the Clearing Agencies.*

LSC's course of misstatements and deliberate obfuscation provided an independent basis under the Clearing Agencies' rules to cease to act. NSCC's rules require participants to promptly notify NSCC of "any event that . . . could have a material impact on such participant's business and/or financial condition"[29] and both Clearing Agencies require participants to furnish financial information when requested.[30] The Clearing Agencies may cease to act where a participant or its controlling management misstates or omits a material fact to the Clearing Agencies.[31] These

---

26 *See* NSCC Rule 46, Sec. 1(c); DTC Rule 10, Sec. 1(vi).

27 *Cf. Alpine Sec. Corp.*, Exchange Act Release No. 103775, 2025 WL 2450967, at *7 (Aug. 25, 2025) (recognizing that clearing agency participation requirements "increase the stability of the financial markets in order to reduce systemic risk" and that a participant's failure to satisfy those requirements "poses the risk of disruptions to [the] clearing and settlement process" (internal quotation marks omitted)).

28 *See* DTC Rule 10, Sec. 1(vi)(B) (authorizing DTC to cease to act where "necessary for the protection of" DTC or other participants); NSCC Rule 46, Sec. 1(c) (authorizing NSCC to prohibit a participant's access to services where the participant "is in such financial or operating difficulty[ ] . . . that such action is necessary for the protection" of NSCC, its participants, creditors, or investors).

29 NSCC Rule 2B, Sec. 2(B)(b).

30 NSCC Rule 15, Sec. 1; DTC Rule 2, Sec. 1.

31 DTC Rule 10, Sec. 1.vi (authorizing DTC to cease to act if the Board of Directors or an authorized committee has "reasonable grounds to believe" that "the Participant or its Controlling Management" has made "a misstatement of a material fact or omit[ed] to state a material fact to the Corporation in connection with its application to become a Participant or thereafter"); NSCC Rule 2A, Sec. 1.G.ii (authorizing NSCC to cease to act where a "participant or its Controlling Management has a record that reflects . . . the applicant or its Controlling Management is responsible for . . . making a misstatement of a material fact or has omitted to state a material fact to the Corporation in connection with its application to become a Member or thereafter").

rules enable the Clearing Agencies to evaluate whether participants can satisfy their financial obligations and to minimize systemic risks.[32] The amount, sources, and reliability of margin financing are central to that evaluation.[33] As described above, LSC's practice of withholding and misrepresenting material information hampered the Clearing Agencies' ability to make that evaluation and provided ample basis to cease to act.

LSC argues that the word "material" is undefined in the Clearing Agencies' rules and thus impermissibly vague. This argument is without merit. NSCC's rules specify that events that "could have a material impact on [a] participant's business and/or financial condition" include "material changes in business lines" or being a defendant in "litigation which could reasonably be anticipated to have a direct negative impact on the participant's financial condition or ability to conduct business."[34] As for the DTCC rules regarding material misstatements and omissions, materiality has a well-understood meaning in that context; information is material if it would have "significantly altered the total mix of information made available" to DTCC.[35] DTCC appropriately applied this definition when interpreting the Clearing Agencies' rules and reaching its conclusions. Information about LSC's financing, including information about the availability

---

[32] *See* DTC Rule 2, Sec. 10(a), (b)(i)–(ii), (d) ("All Participants will be monitored and reviewed by the Corporation on an ongoing and periodic basis" and "will be assigned a credit rating by the Corporation in accordance with the Credit Risk Rating Matrix" that may be downgraded based on factors including DTC's "reasonable concerns . . . about the Participant's financial stability due to particular facts and circumstances," the Participant's "failure . . . to demonstrate satisfactory financial condition," and the Participant's "failure . . . to provide information required by the Corporation to assess risk exposure posed by the Participant's activity"); NSCC Rule 2B, Sec. 4(a), (b)(i)–(ii), (d) (same for members of NSCC).

[33] *See* NSCC Rule 1 (providing that the Credit Risk Rating Matrix is based on "quantitative factors, such as . . . liquidity" and "qualitative factors, such as . . . capital and liquidity risk management"); DTC Rule 1 (same); *Notice of Filing of Proposed Rule Change to Enhance the Credit Risk Rating Matrix and Make Other Changes*, Exchange Act Release No. 80381, 2017 WL 1278816, at *4 & n.12 (Apr. 5, 2017) (proposing amendments to NSCC Rule 2B, Sec. 4, and NSCC's Credit Risk Rating Matrix to incorporate qualitative factors that "may indicate that a Member is or will soon be undergoing financial distress," including for broker-dealers factors like "access to funding"), *approved by*, Exchange Act Release No. 80743, 2017 WL 2212082, at *5 (May 19, 2017) (approving NSCC's proposed amendments and equivalent amendments by DTC and another clearing agency because the enhancements could improve Clearing Agencies' understanding of credit risks presented by members and "ability to calculate margin").

[34] NSCC Rule 2B, Sec. 2(B)(b).

[35] *See Basic Inc. v. Levinson*, 485 U.S. 224, 231–32, 250 (1988) (defining materiality under the securities laws to require "a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available," and recognizing that "[m]ateriality depends on the facts and thus is to be determined on a case-by-case basis" (internal quotation marks omitted)); *cf. Scott Mathis*, Exchange Act Release No. 61120, 2009 WL 4611423, at *9–10 (Dec. 7, 2009) (applying test in context of materiality of information omitted from Form U4).

of financing for covering NSCC margin requirements, was clearly material to LSC's financial condition and to DTCC's assessment of that condition.[36]

LSC's disclosures to the Clearing Agencies followed a consistent pattern: withhold adverse information, provide misleading partial disclosures when pressed, and ultimately disclose the full facts only when directly (and sometimes repeatedly) asked. The pattern began in October 2020, when LSC learned that Texas Capital intended to terminate its $25 million credit line but failed to disclose it, and continued for nearly a year. The pattern culminated with LSC expressly telling DTCC that its funding sources "were not such a development" that required disclosure. On multiple occasions, LSC had information, DTCC asked for it, and LSC either withheld it or provided a response that obscured the true state of its finances.

Three disclosures particularly illustrate the pattern. First, in April 2021, LSC affirmatively told DTCC that there had been "no changes in the terms of the Company's credit facilities" over the prior 12 months—a plainly false statement given the Texas Capital credit line's expiration and the multiple reductions to the portion of the BMOH credit line that could be used for margin. Second, when DTCC asked LSC to correct its understanding of changes to the BMOH credit line and relationship, LSC selectively provided only corrections that did not reflect poorly on LSC, while misleadingly saying nothing about the interim reduction and termination of the portion of the credit line that could be used for margin—and also telling DTCC that LSC's funding sources were "not such a development" requiring disclosure. Third, despite months of requests, LSC never provided DTCC with a full explanation of how the note between LSC and its parent was funded. Even after LSC challenged the cease-to-act notices, DTCC's Managing Director for Financial and Operational Risk Management did not understand "how the financing [from Lek Holdings] specifically relates to [LSC's] customers, or how much or how often it is borrowing from them."

LSC argues that its April and May due diligence responses accurately disclosed the Texas Capital credit line's March 31 renewal/expiration date and Texas Capital's broader exit from broker-dealer relationships. We disagree. LSC did not proactively disclose the termination of the Texas Capital credit line as required by NSCC Rule 2B in either October 2020 when LSC learned the line would not be renewed or March 2021 when the line expired. Instead of making the required disclosure, LSC falsely stated in its April due diligence response that there had been "no changes" to its credit facilities over the prior 12 months. LSC's false statement was not cured by ambiguously listing a "Renewal/Expiration Date" for the Texas Capital line or vaguely

---

[36] *Cf. SEC v. Murphy*, 626 F.2d 633, 653 (9th Cir. 1980) ("Surely the materiality of information relating to financial condition, solvency and profitability is not subject to serious challenge."); *Fuad Ahmed*, Exchange Act Release No. 81759, 2017 WL 4335036, at *15 (Sept. 28, 2017) (recognizing, in the context of the sale of notes for a holding company, that misrepresentations regarding the holding company's financial condition, "particularly its creditworthiness and debt load," were material because "this information would influence [the company's] ability to repay the notes); *Mathis*, 2009 WL 4611423, at *9–10 (holding that omitted tax lien information was material to regulators because it would inform their assessment of whether he could "manage his financial obligations").

stating that Texas Capital had exited relationships with "many broker dealers." Neither of those statements disclosed that the credit line had, in fact, expired.

LSC also suggests that it complied with its disclosure requirements by producing BMOH's July 8 letter upon request and that, prior to that letter, BMOH's intention to terminate the parties' relationship was speculative and therefore not material. We disagree. NSCC's rules require proactive disclosure of any event that "*could have* a material impact" on a participant's financial condition, not just events that have already had, or are certain to have, such an impact.[37] LSC was aware months before the July 8 letter that BMOH was planning to terminate its settlement relationship because, for months, LSC's counsel had been sending BMOH letters warning of the "immediate and irreparable" harm that such action would cause LSC. Yet despite the harm such action could have on the firm, LSC did not disclose the impending termination of its settlement relationship with BMOH. Moreover, once BMOH sent the July 8 letter, in which its counsel confirmed in writing, on a fixed schedule, that the bank would immediately reduce LSC's credit line, restrict and then eliminate the portion of the credit line available to pay margin, and terminate the settlement relationship by October, LSC could no longer treat BMOH's planned actions as merely speculative. Given the potential impact of these changes on LSC's financial condition, the events outlined in the July 8 letter were material events requiring proactive disclosure. Instead, LSC waited until DTCC learned about the July 8 letter from FINRA and expressly requested production of the letter before producing it on July 26.

We also reject LSC's suggestion that the firm had no obligation to disclose changes in its credit lines because the Lek Holdings Note Program sufficiently covered the reductions in its bank financing. LSC's alleged belief that the note program was an adequate substitute for bank financing cannot justify its false statement about the supposed lack of change to its bank financing or its failure to provide all requested information to the Clearing Agencies about its bank financing and note program.[38] Beyond that false statement, it was not up to LSC to decide whether it had sufficiently mitigated the impact of losing most of its bank financing; NSCC needed clarity into LSC's financial circumstances, including how it was managing its liquidity, to appropriately evaluate the risks it posed to the agency.[39] NSCC's standard for proactive disclosure hinges on whether an event *could have* a material impact on the participant's financial condition,[40] not on the participant's subjective belief that it can mitigate or has mitigated the event's potential impact.

LSC's argument also highlights that it specifically created the note program to meet its margin obligations and replace its reduced unsecured bank financing. Consequently, the existence of and details about the borrowing arrangement were central to the Clearing Agencies' assessment of LSC's ability to meet its margin obligations. Yet LSC failed to proactively disclose the borrowing arrangement until months after its establishment, provided only

---

37 NSCC Rule 2B, Sec. 2(B)(b) (emphasis added).

38 *See* DTC Rule 2, Sec. 1; DTC Rule 10, Sec. 1.vi; NSCC Rule 2A, Sec. 1(G)(ii); NSCC Rule 15, Sec. 1.

39 *See* NSCC Rule 2B, Sec. 4.

40 NSCC Rule 2B, Sec. 2(B)(b).

fragmentary descriptions of the program over months of requests, never disclosed that customers were fully funding the note between LSC and Lek Holdings, and never provided a written operational description or supporting written policies and procedures implementing the program that would have allowed DTCC to understand how the program worked or evaluate its reliability.

LSC finally argues that it "did not intentionally provide inaccurate information" and that the firm ultimately provided all the requested information "within a brief period of time." Neither argument is persuasive. The Clearing Agencies' rules do not require a finding of intent. A pattern of incomplete and misleading disclosures violates those rules regardless of intent. And LSC's claims of inadvertence and eventual compliance ignore that LSC repeatedly misrepresented its financial condition, withheld the same information despite repeated requests, and expressly told DTCC that issues surrounding its funding sources "were not such a development" that required disclosure.[41] Such a sustained pattern of nondisclosure left the Clearing Agencies no basis to trust LSC's future representations.

**3. The Clearing Agencies' rules are, and were applied in a manner, consistent with the purposes of the Exchange Act.**

Exchange Act Section 17A requires that clearing agency rules be designed to protect investors and the public interest and permits a registered clearing agency to deny participation to any participant that does not meet financial responsibility and competence standards.[42] The Clearing Agencies' rules are consistent with these requirements, and DTCC applied them accordingly.

NSCC Rule 46, Section 1, and DTC Rule 10, Section 1, protect investors and the public interest by authorizing the Clearing Agencies to cease to act when a participant's financial condition threatens the stability of the clearance and settlement system or otherwise threatens the Clearing Agencies, other participants, or investors.[43] DTC Rules 2 and 10 and NSCC Rule 2A serve the same purposes by authorizing the Clearing Agencies to cease to act when participants make material misstatements or omissions.[44] And DTC Rules 2 and 9(A) and NSCC Rules 2A and 15 require participants to provide information to the Clearing Agencies, enabling them to assess whether participants can meet their financial and operational obligations and to limit the risk of harm to the national clearance and settlement system.[45]

DTCC applied these rules in a manner consistent with the Exchange Act's purposes. LSC's weak financial condition posed a risk to the stability of the national clearance and

---

41 *Cf. SEC v. Merkin*, No. 11-23585-CIV, 2012 WL 5245561, at *8 (S.D. Fla. Oct. 3, 2012) (finding that conduct was "intentional and that [the defendant] acted with scienter" because, among other things, he "repeated the false statements on at least four occasions"), *aff'd*, 628 F. App'x 741 (11th Cir. 2016) (per curiam).

42 *See* 15 U.S.C. § 78q-1(b)(2)(F), (4)(B).

43 *See id.*

44 *See id.*

45 *See* 15 U.S.C. § 78q-1(a)(2)(A).

settlement system, and LSC's pattern of non-disclosure and misstatements hampered the agencies' ability to assess that risk. By affirming the Clearing Agencies' decisions to cease to act on those grounds, DTCC acted to protect other participants and the integrity of the national clearance and settlement system from the risks that LSC posed.[46]

The Exchange Act also requires self-regulatory organizations to provide fair procedures to participants facing prohibitions or limitations on access to services.[47] The Commission has held that fair procedures require notice, an opportunity to be heard, a record, and a written statement of the grounds for the action.[48] DTC Rules 2 and 10 and NSCC Rules 37, 45, and 46 implement each of these protections.[49] And DTCC satisfied those protections by providing LSC with written notice of the grounds for the cease-to-act determinations, the opportunity for briefing, a transcribed evidentiary hearing, and a written decision explaining the grounds for DTCC's conclusions.

LSC argues that DTCC did not provide fair notice because the Clearing Agencies did not tell LSC precisely how it could alleviate the agencies' concerns, such as by specifying a liquidity level that LSC needed to meet. We disagree. NSCC's rules specify the margin requirements that participants like LSC must meet.[50] DTCC risk management staff repeatedly and specifically expressed concern about the decrease in LSC's available bank financing and the firm's reliance on a promissory note with its parent to cover that loss. DTCC then provided LSC with numerous opportunities to alleviate these concerns through information and document requests. LSC had fair notice of DTCC's concerns and ample opportunity to address them.[51] LSC cannot shift its own responsibility for not doing so onto DTCC.[52]

---

46 *Cf. KJM Sec., Inc.*, Exchange Act Release No. 94059, 2022 WL 215647, at *4 (Jan. 25, 2022) (sustaining suspension that converted to expulsion of FINRA member firm that failed to file an audited annual report where the reporting rules that the firm violated "involve fundamental safeguards imposed for the protection of the investing public on those who wish to engage in the securities business").

47 15 U.S.C. § 78q-1(b)(5)(B).

48 *See Atlantis Internet Grp.*, Exchange Act Release No. 75168, 2015 WL 3643461, at *6–7 (June 12, 2015) (recognizing that DTC must provide notice and an opportunity to be heard, keep a record, and provide a written statement setting forth the grounds on which a prohibition or limitation is based).

49 *See* 15 U.S.C. § 78q-1(a)(2)(A), (b)(5)(B).

50 *See* NSCC Rule 4, Sec. 1; NSCC Procedure XV.

51 *Cf. Upton v. SEC*, 75 F.3d 92, 98 (2d Cir. 1996) ("Due process requires that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited." (internal quotation marks omitted)).

52 *Cf. SEC v. Falstaff Brewing Corp.*, No. 77-894, 1978 WL 1120, at *28 (D.D.C. Oct. 28, 1978) ("[D]efendants do not have the right to rely on the Commission's assistance to tell them how to comply with the securities laws, nor can they successfully assert the absence of such assistance as a defense."), *aff'd*, 629 F.2d 62 (D.C. Cir. 1980); *Don D. Anderson & Co.*,

#### 4. We reject LSC's argument that the cease-to-act determinations should be set aside as "excessive or oppressive" sanctions.

LSC contends that we should set aside the Clearing Agencies' cease-to-act determinations under Exchange Act Section 19(e) as "excessive or oppressive" sanctions.[53] The Clearing Agencies' cease-to-act determinations are not disciplinary sanctions, however, but rather prohibitions or limitations of access to service, which are reviewable under Section 19(f).[54]

Although we do not inquire into whether a cease-to-act determination is "excessive or oppressive," the Clearing Agencies' determinations remain subject to our review under Section 19(f). That review includes ensuring that the cease-to-act determinations complied with the Clearing Agencies' rules and accorded with the Exchange Act's purposes.[55] We recognize the significance of the Clearing Agencies' decision to cease to act for a then-functioning broker like LSC, but, for the reasons above, we find that the Clearing Agencies appropriately determined that ceasing to act was necessary and in accordance with the Exchange Act's purposes.

### B. NSCC's Activity Cap and Related Disciplinary Action and Sanctions

#### 1. NSCC's imposition of the activity cap was in accordance with its rules.

We similarly review NSCC's imposition of the activity cap on LSC under Section 19(f).[56] As explained above, NSCC capped LSC's unsettled clearing activity at $300 million while a hearing on NSCC's cease-to-act determination was pending, and NSCC later raised the cap to $400 million at LSC's request. NSCC imposed the activity cap under NSCC Rule 46, which authorizes NSCC to limit a participant's access to NSCC services where the participant has "failed to comply with any financial or operational requirement" and "such action is necessary for the protection of [NSCC], the participants, creditors, or investors."

NSCC determined it was appropriate to base an activity cap limitation on the same grounds as NSCC's cease-to-act determination—grounds that we affirmed above. LSC argues, without further elaboration, that NSCC's bases for the activity cap suffer "from the same flaws" as the cease-to-act determinations. We rejected those arguments above, and for the same reasons

---

Exchange Act Release No. 8477, 43 S.E.C. 989, 1968 WL 86078, at *2 (Dec. 26, 1968) ("[A]pplicants cannot shift their responsibility for compliance with net capital requirements to the NASD or to us.").

53 15 U.S.C. § 78s(e)(2).

54 15 U.S.C. § 78s(f). By contrast, the censures and fines imposed for LSC's alleged violations of the activity cap are disciplinary sanctions that we review below in Section II.B. *See, e.g.*, *Lek Sec. Corp.*, Exchange Act Release No. 102533, 2025 WL 743927, at *4, *9, *20, *24, *29 (Mar. 6, 2025) (reviewing fines and censures imposed by a self-regulatory agency under § 19(e)).

55 *See* 15 U.S.C. § 78s(f); *supra* notes 12–13 and accompanying text (discussing Section 19(f) review standard).

56 15 U.S.C. § 78s(f).

we conclude that LSC's failure to establish that it had sufficient liquidity and its incomplete and inaccurate responses to DTCC provided ample bases for imposing the activity cap.

NSCC's imposition of the activity cap also accorded with its rules. LSC argues that NSCC failed to explain its methodology for imposing the cap and immediately imposed fines for violations, thus depriving LSC of a chance to raise questions or concerns about how the cap was calculated. But Rule 46, Section 3, permits NSCC to summarily limit a participant's access to services based on the participant's financial or operating difficulty without prior notification.[57] If NSCC does so, it must promptly provide the participant with a written statement explaining the grounds for its decision and notifying the participant of its right to request a hearing.[58] NSCC did so here: it imposed the activity cap to limit NSCC's exposure to risks LSC's financial condition posed while a hearing on the cease-to-act determination was pending. And NSCC provided the required written statement, which explained that the activity cap was being imposed for the same reasons as the cease-to-act determination and notified LSC of its right to request a hearing.

NSCC explained in late December 2021 that it had initially selected $300 million as the activity cap in late October to allow LSC to continue its then-current level of business based on LSC's historical levels of activity at NSCC. Soon after imposing that initial cap, however, on November 5, NSCC increased the cap to $400 million in response to a call from Charles Lek expressing concern that the initial cap was too low. NSCC's November 5 letter explained that LSC's unsettled activity had only exceeded $400 million two times in the prior year.[59]

NSCC Rule 46 is, and was applied in a manner, consistent with the Exchange Act's purposes. By enabling NSCC to limit a participant's access to services in the event of financial difficulty, Rule 46 protects investors and the public interest and promotes prompt and accurate clearance and settlement of securities transactions.[60] By authorizing NSCC to impose such a limitation summarily but thereafter requiring an opportunity to be heard, Rule 46 "balance[s] the identifiable need for emergency action with the [participant's] right to fair procedures under the Exchange Act."[61] NSCC provided prompt notice of the activity cap and an opportunity for LSC to be heard after the cap was imposed.

---

[57] NSCC Rule 46, Sec. 3 ("[T]he Board of Directors may summarily suspend a participant's access to services offered by the Corporation in the event that either one or more of conditions (a), (b) or (c) of Section 1 of this Rule apply to such participant.").

[58] *Id.* ("Any participant . . . whose access has been summarily prohibited or limited . . . shall be promptly furnished a written statement of the grounds for the decision and shall be notified of its right to request a hearing[.]").

[59] In late December, NSCC further explained that it had also selected the $400 million cap because LSC's unsettled activity had not exceeded that threshold during the ten days that the initial activity cap was in effect.

[60] 15 U.S.C. § 78q-1(b)(3)(F).

[61] *Int'l Power Grp., Ltd.*, Exchange Act Release No. 66611, 2012 WL 892229, at *7 (Mar. 15, 2012); *see also* 15 U.S.C. § 78q-1(b)(5)(C) (authorizing a clearing agency to summarily limit

We thus sustain NSCC's imposition of the activity cap.

**2. We set aside NSCC's censures and fines for LSC's violations of the activity cap, and reduce the panel's hearing cost award.**

Having sustained the activity cap, we turn to assessing NSCC's imposition of censures and $120,000 in fines for LSC's violations of it. We review sanctions under Section 19(e) to determine (1) whether the applicant engaged in the conduct that the self-regulatory organization found, (2) whether that conduct violated the rules specified in the organization's determination, and (3) whether those rules are, and were applied in a manner, consistent with the purposes of the Exchange Act.[62] We may cancel, reduce, or remit any sanction that imposes any unnecessary or inappropriate burden on competition or that is excessive or oppressive.[63] Our review is de novo, and we apply a preponderance of the evidence standard.[64]

As discussed, LSC exceeded the NSCC activity cap six times. NSCC Rule 2A required LSC to use only the services or systems that NSCC permitted and to "abide by [NSCC's] Rules and be bound by all the provisions thereof."[65] By exceeding the activity cap, LSC violated that rule. And Rule 2A is, and was applied, consistently with the Exchange Act's purposes. By requiring members to comply with NSCC's rules and limiting NSCC's risk exposure to non-compliant participants, Rule 2A protects investors and the public interest and helps safeguard securities and funds in NSCC's custody.[66]

For the violations of the activity cap, NSCC imposed censures and $120,000 in fines on LSC. In particular, NSCC imposed the maximum possible fine of $20,000 on LSC for each of the six occasions when LSC violated the activity cap.[67] NSCC did not explain why it had selected the maximum fine for each violation.

Moreover, the hearing panel did not independently assess or explain what sanctions were appropriate for these violations.[68] Instead, the panel simply stated that "LSC offered no argument that it had not violated the Activity Cap"; found "as a factual matter" that LSC violated the cap six times; and "affirm[ed] the sanctions imposed by NSCC of a fine of $20,000 for each

---

or suspend a participant's access to services where necessary due to "financial or operating difficulty" but requiring the "prompt[]" opportunity for a hearing after such action).

62 15 U.S.C. § 78s(e)(1)(A).

63 15 U.S.C. § 78s(e)(2).

64 *See Cody*, 2011 WL 2098202, at *9.

65 NSCC Rule 2A, Sec. 1.E(a), (e).

66 15 U.S.C. § 78q-1(b)(3)(F).

67 *See* NSCC Rule 48, Sec. 1 (providing that "the fine for any single offense shall not exceed the sum of $20,000").

68 *See Jason Lynn DiPaola*, Exchange Act Release No. 105568, 2026 WL 1509932, at *11 & n.51 (May 28, 2026) (noting that a self-regulatory organization must explain its choice of disciplinary sanctions).

day of violation, for a total fine of $120,000, and that LSC be censured in the manner" described in the NSCC letters. The hearing panel did not address the fact that all LSC's violations of the activity cap occurred within the first two weeks of the imposition of the initial activity cap, or that LSC alleged that its violations of the cap had been inadvertent. Nor did the hearing panel address the fact that it was upholding the fines at the same time as the cease-to-act determinations, which would exclude LSC from DTCC and therefore presumably mitigate the risk that LSC would violate the activity cap or any other DTCC rule again. Although we could remand to DTCC for further consideration and explanation, we exercise our discretion not to do so given that we are upholding the cease-to-act determinations, as well as the time elapsed in this matter.[69] We therefore set aside the sanctions.

We also reduce the $383,449.14 in costs that DTCC imposed against LSC. Both Clearing Agencies' rules provide that "the cost associated with the hearing may, in the discretion of the Panel, be charged in whole or in part" against a participant if the decision is adverse to that participant.[70] The rules do not further define "the cost associated with the hearing." DTCC nonetheless found that these rules allowed it to charge as costs the attorneys' fees of outside counsel retained by the hearing panel for the proceedings below. Such fees represented more than 90% of the total cost award. We find that the phrase "the cost associated with the hearing," without further definition or clarification of awardable costs, does not provide potential litigants with sufficient notice that a cost award may include attorneys' fees for the adjudicatory panel.[71] Nor did DTCC cite any authority or precedent in its cost award decision that would have notified LSC before its challenge that it could be liable for such fees. Thus, DTCC did not provide a fair procedure for including attorneys' fees as part of the cost award, contrary to the purposes of the Exchange Act.[72] We therefore reduce the cost award to $34,883.74, which covers DTCC's

---

69 *Cf. id.* at *11–12 (declining to remand case where FINRA failed to explain why it imposed consecutive rather than concurrent suspensions).

70 DTC Rule 22, Sec. 5; NSCC Rule 37, Sec. 4.

71 *See, e.g.*, *Baker Botts L.L.P. v. ASARCO LLC*, 576 U.S. 121, 126 (2015) (explaining that the "basic point of reference when considering the award of attorney's fees is the bedrock principle" that "[e]ach litigant pays his own attorney's fees, win or lose, unless a statute or contract provides otherwise," and that this rule is only departed from through "specific and explicit provisions for the allowance of attorneys' fees" (internal citations and quotation marks omitted)).

72 *See* Exchange Act Section 19(e)-(f), 15 U.S.C. § 78s(e)-(f) (providing that the Commission reviews self-regulatory organizations' actions for consistency with the purposes of the Exchange Act); Exchange Act Section 17A(b)(3)(H), 15 U.S.C. § 78q-1(b)(3)(H) (requiring that clearing agencies provide "fair procedure[s]" for certain Commission-reviewable actions).

"payments for court reporting services, transcripts, and printing charges for hard copies for the Hearing Panel's use."[73]

LSC also opposes the costs generally by referencing its underlying merits arguments against DTCC's actions and suggesting, without further explanation, that awarding costs against participants may disincentivize them from requesting hearings. But we affirm DTCC's underlying actions as explained above. And awarding costs to the prevailing party is a longstanding feature of American jurisprudence.[74] Moreover, the risk of paying a cost award is but one consideration that a participant must weigh when determining whether to request a DTCC hearing. Other, larger, factors include the importance of the challenged DTCC determination, the strength of the participant's case, and the expected cost of the participant's own attorneys. We therefore find it appropriate to uphold the reduced $34,883.74 cost award.

An appropriate order will issue.[75]

By the Commission (Chairman ATKINS and Commissioners PEIRCE and UYEDA).

Vanessa A. Countryman
Secretary

---

[73] *Cf., e.g.*, *Rita H. Malm*, Exchange Act Release No. 35000, 1994 WL 665963, at *9 n.41 (Nov. 23, 1994) (reducing NASD cost award); *Boren & Co.*, Exchange Act Release No. 6367, 1960 WL 56286, at *9–10 (Sept. 19, 1960) (same).

[74] *See, e.g.*, Fed. R. Civ. P. 54(d)(1) (providing that costs other than attorney's fees generally "should be allowed to the prevailing party"); *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 377 (2013) (holding that Rule 54(d)(1) "codifies a venerable presumption that prevailing parties are entitled to costs"); *United States v. Schurz*, 102 U.S. 378, 408 (1880) ("[A] a careful examination of the authorities leaves us no option but to follow the rule that the prevailing party shall recover of the unsuccessful one the legal costs which he has expended in obtaining his rights.").

[75] We have considered all of the parties' contentions. We have rejected or sustained them to the extent that they are inconsistent or in accord with the views expressed in this opinion.

All pending motions are denied as moot. For the avoidance of doubt, the Commission does not regard LSC's notation of "FOIA Confidential Treatment Requested" on its application for review, motion to stay, and supplements to those filings, as sufficient to constitute a motion requesting that the filings be made under seal or that a protective order limit their disclosure. *See* Rules of Practice 154(a), 17 C.F.R. § 201.154(a) (requiring that a motion "state with particularity the grounds therefor" and "be accompanied by a written brief of the points and authorities relied upon"); *see also* Rules of Practice 190, 322, 17 C.F.R. §§ 201.190, 322 (defining procedures to file an application for confidential treatment and to request a protective order, respectively); *cf.* 17 C.F.R. § 200.83 (providing procedure for requesting confidential treatment under the Freedom

of Information Act, but only when "no other statute or Commission rule provides procedures for requesting confidential treatment").

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 106163 / August 19, 2026

Admin. Proc. File No. 3-20808

In the Matter of the Application of

LEK SECURITIES CORPORATION

For Review of Action Taken by

NATIONAL SECURITIES CLEARING CORPORATION
and THE DEPOSITORY TRUST COMPANY

ORDER DISMISSING APPLICATIONS FOR REVIEW OF CEASE-TO-ACT DETERMINATIONS AND IMPOSITION OF ACTIVITY CAP, SETTING ASIDE CENSURES AND FINES, AND REDUCING HEARING COSTS

On the basis of the Commission's opinion issued this day, it is

ORDERED that the application for review of DTC's cease-to-act determination, NSCC's cease-to-act determination, and NSCC's imposition of the activity cap is dismissed; and it is further

ORDERED that the censures and fines imposed by NSCC for LSC's violations of the activity cap are set aside; and it is further

ORDERED that the hearing costs are reduced to $34,883.74.

By the Commission.

Vanessa A. Countryman
Secretary