

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75541; File No. SR-NSCC-2015-802)

July 28, 2015

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Advance Notice to Establish a Prefunded Liquidity Program As Part of NSCC's Liquidity Risk Management

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010¹ ("Clearing Supervision Act") and Rule 19b-4(n)(1)(i)² under the Securities Exchange Act of 1934, notice is hereby given that on June 26, 2015, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the advance notice SR-NSCC-2015-802 ("Advance Notice") as described in Items I and II, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This Advance Notice is filed by NSCC in connection with a proposed liquidity program to raise prefunded liquidity through the issuance and private placement of short-term, unsecured notes ("Prefunded Liquidity Program"), which will consist of a combination of commercial paper notes and extendible notes. The Prefunded Liquidity Program would supplement NSCC's existing default liquidity risk management resources.

¹ 12 U.S.C. 5465(e)(1).

² 17 CFR 240.19b-4(n)(1)(i).

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A) and (B) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received from Members, Participants, or Others

Written comments on the Advance Notice have not been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

(B) Advance Notice Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Description of Change

NSCC proposes to establish the Prefunded Liquidity Program in order to raise prefunded liquidity and diversify its liquidity resources through the private placement of unsecured debt, consisting of a combination of short-term promissory notes ("Commercial Paper Notes"), and extendible-term promissory notes ("Extendible Notes", together with the Commercial Paper Notes, "Notes"), to institutional investors in an aggregate amount not to exceed \$5 billion. The proceeds from the Prefunded Liquidity Program would supplement NSCC's existing liquidity resources, which collectively provide NSCC with liquidity to complete end-of-day settlement in the event of the default of an NSCC Member.³

³ Terms not defined herein are defined in NSCC's Rules and Procedures ("Rules") available at http://dtcc.com/~media/Files/Downloads/legal/rules/nscc_rules.pdf. The events that constitute a Member default are specified in NSCC's Rule 46

Terms of the Prefunded Liquidity Program. NSCC has engaged an issuing and paying agent, as well as certain placement agent dealers, to develop a program to issue the Notes. The Notes would be issued to institutional investors through a private placement and offered in reliance on an exemption from registration under Section 4(a)(2) of the Securities Act of 1933.⁴ NSCC would be party to certain transaction documents required to establish the Prefunded Liquidity Program, including an issuing and paying agent agreement, and a dealer agreement with each of the placement agent dealers. The dealer agreements would each be based on the standard form of dealer agreement for commercial paper programs, which is published by the Securities Industry and Financial Markets Association. The material terms and conditions of the Prefunded Liquidity Program are summarized below.

The Prefunded Liquidity Program would be established as a combination of both Commercial Paper Notes, which typically have shorter maturities, and Extendible Notes, which typically have longer maturities, in order to facilitate the staggering of the maturities of the issued Notes. NSCC intends to structure the Prefunded Liquidity Program such that the maturities of the issued Notes are staggered to avoid concentrations of maturing liabilities. The average maturity of the aggregate Notes outstanding issued under the Prefunded Liquidity Program is broadly estimated to range between three and six months. The Commercial Paper Notes and the Extendible Notes

(Restrictions on Access to Services), which provides that NSCC's Board of Directors may suspend a Member or prohibit or limit a Member's access to NSCC's services in enumerated circumstances; this includes default in delivering funds or securities to NSCC, or a Member's experiencing such financial or operational difficulties that NSCC determines, in its discretion, that restriction on access to services is necessary for its protection and for the protection of its membership.

⁴ 15 U.S.C. 77d(4)(a)(2) [sic].

would be represented by one or more master notes issued in the name of The Depository Trust Company (“DTC”), or its nominee. The Notes would be issued only through the book-entry system of DTC and would not be certificated.

The Commercial Paper Notes would either be interest bearing or be sold at a discount from their face amount, and the Extendible Notes would be interest bearing. Interest payable on the Notes would be at market rates customary for such type of debt and reflective of the creditworthiness of NSCC. The Commercial Paper Notes would have a maturity not to exceed 397 calendar days from the date of issue, and would not be redeemable by NSCC prior to maturity, nor would they contain any provision for extension, renewal, automatic rollover or voluntary prepayment. The Extendible Notes would have an initial maturity of 397 calendar days from the date of issue. However, each month following the date of issue, the holder of an Extendible Note would be permitted to elect to extend the maturity of all or a portion of the principal amount of such Extendible Note for an additional 30 calendar days. A holder of an Extendible Note would be permitted to continue to extend its Extendible Note up to the final maturity date, which is expected to be a maximum of six years from the date of issue. If a holder of an Extendible Note fails to exercise its right to extend the maturity of all or a portion of the Extendible Note, such portion of the Extendible Note would be deemed to be represented by a new note (“Non-Extended Note”), and NSCC would have the option to redeem any Non-Extended Note in whole, but not in part, at any time prior to the maturity date of that Non-Extended Note, which would be 12 months from the date on which they opted not to extend.

NSCC would hold the proceeds from the issuance of the Notes in a cash deposit account at the Federal Reserve Bank of New York (“FRBNY”).⁵ Pending the establishment of NSCC’s account at the FRBNY, however, such proceeds would be maintained in accounts with creditworthy financial institutions in accordance with DTCC’s Investment Policy.⁶ NSCC currently invests its Clearing Fund deposits in the same manner, and acceptable investments under DTCC’s Investment Policy include reverse repurchase agreements, money market mutual fund investments, bank deposits and commercial paper bank sweep deposits. In all cases, these amounts would be available to draw to complete settlement as needed.

NSCC Liquidity Risk Management. As a central counterparty (“CCP”), NSCC occupies an important role in the securities settlement system by interposing itself between counterparties to financial transactions, thereby reducing the risk faced by its Members and contributing to global financial stability. NSCC’s liquidity risk management framework plays an integral part in NSCC’s ability to perform this role, and is designed to ensure that NSCC maintains sufficient liquid resources to timely meet its payment (principally settlement) obligations with a high degree of confidence.

⁵ Pursuant to Section 806(a) under Title VIII of the Clearing Supervision Act, and Section 234.6 of the Federal Reserve Regulation HH promulgated thereunder, NSCC, as a designated systemically important financial market utility (“SIFMU”) under the Clearing Supervision Act, has applied for a cash deposit account at the FRBNY, as well as subscription to ancillary FRBNY services that will facilitate the use of the requested cash deposit account. *See* 12 U.S.C. 5465(a); 12 CFR 234.6. The application is pending with the FRBNY as of the date of this filing.

⁶ NSCC manages investment risk, including the custody and overnight investment of Clearing Fund cash, through the corporate Investment Policy, which establishes credit and concentration exposure limits on NSCC’s investment counterparties and governs NSCC’s investments of cash, including the custody and overnight investment of Clearing Fund cash.

NSCC's liquidity needs are driven by the requirement to complete end-of-day settlement, on an ongoing basis, in the event of Member default. If an NSCC Member defaults, as a CCP for the cash markets, NSCC will need to complete settlement of guaranteed transactions on the failing Member's behalf from the date of default through the remainder of the settlement cycle (currently three days for securities that settle on a regular way basis in the U.S. equities markets).

NSCC measures and manages its liquidity risk by performing daily simulations that measure the amount of liquidity that would be required by NSCC in a number of scenarios, including amounts required over the settlement cycle in the event that the Member or Member family to which NSCC has the largest aggregate liquidity exposure defaults. NSCC seeks to maintain qualified liquidity resources in an amount sufficient to meet this requirement. NSCC's existing liquidity resources include: (1) the cash in NSCC's Clearing Fund; (2) the cash that would be obtained by drawing upon NSCC's committed 364-day credit facility with a consortium of banks; and (3) additional cash deposits, known as "Supplemental Liquidity Deposits", designed to cover the heightened liquidity exposure arising around monthly option expiry periods, required from those Members whose activity would pose the largest liquidity exposure to NSCC.⁷ The proceeds from the Prefunded Liquidity Program would supplement these liquidity resources. Further, NSCC would consider the proceeds from the Prefunded Liquidity Program to be qualifying liquidity resources under NSCC's Rule 4A.

By providing NSCC with additional, prefunded, and readily available liquidity resources to be used to complete end-of-day settlement as needed in the event of a

⁷ Supplemental Liquidity Deposits are described in NSCC Rule 4A, supra Note 1 [sic].

Member default, the proposed Prefunded Liquidity Program would provide additional certainty, stability, and safety to NSCC, its Members, and the U.S. equities market that it serves. The Prefunded Liquidity Program is also designed to reduce NSCC's concentration risk with respect to its liquidity resources since it is anticipated that many of the potential institutional investors who would be purchasers of the Notes are not currently providing liquidity resources to NSCC.

The Prefunded Liquidity Program was developed in coordination with a standing advisory group, the Clearing Agency Liquidity Council ("CALC"), which includes representatives of NSCC's Members and participants of NSCC's affiliate, the Fixed Income Clearing Corporation. The CALC was established in 2013 in order to facilitate dialogue between these clearing agencies and their participants regarding liquidity initiatives.⁸

Anticipated Effect on and Management of Risk

NSCC's consistent ability to timely complete settlement is a key part of NSCC's role as a CCP and allows NSCC to mitigate counterparty risk within the U.S. markets. In order to sufficiently perform this key role in promoting market stability, it is critical that NSCC has access to liquidity resources to enable it to complete end-of-day settlement, notwithstanding the default of a Member. NSCC believes that the overall impact of the Prefunded Liquidity Program on risks presented by NSCC would be to reduce the liquidity risks associated with NSCC's operation as a CCP by providing it with an additional source of liquidity to complete end-of-day settlement in the event of a Member

⁸ Reference to the establishment of the CALC was made in the Commission's order approving the proposed rule changes implementing the Supplemental Liquidity Deposits. Securities Exchange Act Release No. 70999 (December 5, 2013), 78 FR 75413 (December 11, 2013) (File No. SR-NSCC-2013-02).

default. NSCC further believes that a reduction in its liquidity risk would reduce systemic risk and would have a positive impact on the safety and soundness of the clearing system.

While the Prefunded Liquidity Program, like any liquidity resource, would involve certain risks, most of these risks are standard in any commercial paper or extendible note program. One risk associated with the Prefunded Liquidity Program would be the risk that NSCC does not have sufficient funds to repay issued Notes when they mature. NSCC believes that this risk is extremely remote, as the proceeds of the Prefunded Liquidity Program would be used only in the event of a Member default, and NSCC would replenish that cash, as it would replenish any of its liquidity resources that are used to facilitate settlement in the event of a Member default, with the proceeds of the close out of that defaulted Member's portfolio. This notwithstanding, in the event that proceeds from the close out are insufficient to fully repay a liquidity borrowing, then NSCC would look to its loss waterfall to repay any outstanding liquidity borrowings. NSCC would further mitigate this risk by structuring the Prefunded Liquidity Program so that the maturity dates of the issued Notes are sufficiently staggered, which would provide NSCC with time to complete the close out of a defaulted Member's portfolio. A second risk is that NSCC may be unable to issue new Notes as issued Notes mature. This risk is mitigated by the fact that NSCC maintains a number of different liquidity resources, described above, and would not depend on the Prefunded Liquidity Program as its sole source of liquidity. As such, NSCC believes that the significant systemic risk mitigation benefits of providing NSCC with additional, prefunded liquidity resources outweigh these risks.

Consistency with Clearing Supervision Act. By supplementing NSCC's existing liquidity resources with prefunded liquidity, the proposed Prefunded Liquidity Program would contribute to NSCC's goal of assuring that NSCC has adequate liquidity resources to meet its settlement obligations notwithstanding the default of any of its Members. As such, the proposed Prefunded Liquidity Program is consistent with Section 805(b)(1) of the Clearing Supervision Act, the objectives and principles of which specify the promotion of robust risk management, promotion of safety and soundness, reduction of systemic risks and support of the stability of the broader financial system.⁹

III. Date of Effectiveness of the Advance Notice, and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. NSCC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing NSCC with prompt written notice of the extension. The proposed change may be implemented in less than 60 days from the date the Advance Notice is filed, or the date further information requested by the Commission is received, if the Commission notifies NSCC in writing that it does not object to the proposed change and authorizes NSCC to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

⁹ 12 U.S.C. 5464(b)(1).

NSCC shall post notice on its website of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the Advance Notice is consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NSCC-2015-802 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NSCC-2015-802. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Advance Notice that are filed with the Commission, and all written communications relating to the Advance Notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on NSCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NSCC-2015-802 and should be submitted on or before [insert date 15 days from publication in the Federal Register].

By the Commission.

Robert W. Errett
Deputy Secretary