



NATIONAL
SECURITIES
CLEARING
CORPORATION

RULES & PROCEDURES

TEXT OF PROPOSED RULE CHANGE

Underlined and boldface text indicates new text

~~Strikethrough and boldface~~ indicates deleted text

[Bracketed, underlined, boldface and blue] text indicates proposed rule changes in connection with a separate proposal that have not yet been approved

RULE 1. DEFINITIONS AND DESCRIPTIONS

Unless the context requires otherwise, the terms defined in this Rule shall, for all purposes of these Rules, have the meanings herein specified.

* * *

Off-the-Market Transaction

The term “Off-the-Market Transaction” shall mean either of the following:

(1) A single transaction that is: (a) greater than \$1 million in gross proceeds and (b) on the day of the submission of the transaction to the Corporation, either higher or lower than the most recently observed market price of the underlying Cleared Security by a percentage amount determined by the Corporation based upon market conditions and factors that impact trading behavior of the underlying Cleared Security, including the volatility, liquidity and other characteristics of such security; or

(2) A series of transactions submitted by or on behalf of two Members within the same settlement cycle that, if looked at as a single transaction, would be encompassed by subsection (1) of this definition.

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RULE 4. CLEARING FUND

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SEC. 3. If a Member, Mutual Fund/Insurance Services Member, Insurance Carrier/Retirement Services Member or Fund Member is obligated to the Corporation, other than for a pro rata charge governed by Section 5 of this Rule, and (i) fails to satisfy the obligation or (ii) the obligation is a Cross-Guaranty Obligation, the Corporation shall apply to such obligation the portion, of the participant's actual deposit necessary to eliminate the obligation. Upon the Corporation's demand the participant shall deposit in the Clearing Fund, within such time as the Corporation shall require, that which is necessary to eliminate any resulting deficiency in his Required Deposit. If the participant shall fail to do so, the Corporation may take disciplinary action against such participant pursuant to Rule 46 or Rule 48. Any disciplinary action which the Corporation takes pursuant to Rule 46 or Rule 48 or the voluntary or involuntary cessation of membership by the participant shall not affect the obligations of the participant to the Corporation or any remedy to which the Corporation may be entitled under applicable law.

In applying a Member's or Mutual Fund/Insurance Services Member's actual deposit to his obligations to the Corporation, the Corporation shall first apply that portion of his actual deposit which has been allocated to the Mutual Fund Allocation to obligations arising in the Mutual Fund Services, to the Insurance Allocation to obligations arising in the Insurance and Retirement Processing Services and to any Fund to obligations arising in the System to which the Fund pertains. If after such application the participant remains obligated in one or more Systems, the Corporation shall apply any remaining deposit to his remaining obligation to each such System, in the same proportion that each obligation bears to the total remaining obligations to the Systems. If the participant thereafter remains obligated to the Corporation, any remaining deposit shall be applied thereto.

Notwithstanding the foregoing, to the extent that a loss or liability of the Corporation is determined by the Corporation to arise in connection with an Off-the-Market Transaction, it shall be allocated directly and entirely to the Member that submitted the Off-the-Market Transaction, or on whose behalf the Off-the-Market Transaction was submitted, to the Corporation; however, no allocation shall be made if such Member has satisfied all applicable intraday mark-to-market margin charges assessed by the Corporation with respect to the Off-the-Market Transaction, as permitted by these Rules and Procedures.

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PROCEDURE II. TRADE COMPARISON AND RECORDING SERVICE

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F. Index Receipts

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2. Creation/Redemption Input

On T, by such time as established by the Corporation from time to time, an Index Receipt Agent may submit to the Corporation on behalf of Members, index receipt creation and redemption instructions and their scheduled settlement date, the final Dividend/Balancing Cash Amount relative to such instructions and a transaction amount representing the Index Receipt Agent's fee for the processing of the index receipt. The Index Receipt Agent may elect a Settlement Date of T+1, T+2 or T+3 for the Index Receipts and the component securities or cash. The Index Receipt Agent may submit as-of index creation and redemption instructions, but only if such as-of data is submitted by the cut-off time as designated by the Corporation from time to time, with next day settling creates and redeems required to be submitted by such cut-off time on T.

On T, the Corporation will report to Members on the Index Receipt Detail Report the details of the creations and redemptions submitted, the gross quantity of underlying security components of creation and redemption instructions and the quantity of index receipt shares associated with particular creation and redemption activity. The report will also indicate the final Dividend/Balancing Cash Amount that must be paid or received and the transaction amount that must be paid on Settlement Date. ~~The Corporation may remove next day settling index receipt transactions (including T+2 settling as-of creates and redeems submitted on T+1) from the system if either the Member or Index Receipt Agent to the applicable trade has not timely satisfied its Clearing Fund obligation on Settlement Date.~~

3. Settlement

Index receipts and the underlying component securities which are eligible for CNS or cash, if applicable, will be reported on the next available Consolidated Trade Summary, ~~or, in the case of next day settling index receipts, the Second Supplemental Consolidated Trade Summary.~~ The applicable Consolidated Trade Summary will also separately indicate the other component securities, or cash component, if applicable, due to settle. Component securities will be netted with all other CNS and Non-CNS securities and entered into the CNS and Balance Order Accounting operations for settlement. ~~Subject to the provisions of Section F. 2. of this Procedure, next day settling index receipts which are CNS~~

~~eligible will be processed in the day cycle of the CNS Accounting
Operation after receipt of applicable Clearing Fund payments.~~

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PROCEDURE XV. CLEARING FUND FORMULA AND OTHER MATTERS¹

I.(A) Clearing Fund Formula for Members

Each Member of the Corporation, except as otherwise provided in this Procedure, is required to contribute to the Clearing Fund maintained by the Corporation an amount calculated by the Corporation equal to:

(1) For CNS Transactions

* * *

(b) The net of each day's difference between (x) the contract price of such Member's Regular Way, When-Issued and When-Distributed net positions for transactions not submitted through the ID Net service that have not yet passed Settlement Date and its fail positions, and (y) the Current Market Price for such positions² (such difference to be known as the "Regular Mark-to-Market"); provided that: (i) the Corporation shall exclude from this calculation any trades for which the Corporation has, under a Clearing Agency Cross-Guaranty Agreement, either obtained coverage for such difference (if the sum of the differences for the trades subject to the agreement is a positive number) or undertaken an obligation to provide coverage for such difference (if the sum of the differences for trades subject to the agreement is a negative number), (ii) the Corporation may, but shall not be required to, exclude from this calculation any shares delivered by the Member in the night cycle to satisfy all or any portion of a short position, and (iii) that ~~if the Member is an ID Net Subscriber and~~ if the value of the Regular Mark-to-Market as computed above is a positive number, then the value of the Regular Mark-to-Market shall be zero;

plus

(c) If such Member is an ID Net Subscriber, the net of each day's difference between (x) the contract price of -the net positions attributable to such Member's transactions submitted through the ID Net service, and (y) the Current Market Price for such positions (such difference to be known as the "ID Net Mark-to-Market"), provided that if the value of the ID Net Mark-to-Market as computed above is a positive number, then the value of the ID Net Mark-to-Market shall be zero;

plus

¹ All calculations shall be performed daily or, if the Corporation deems it appropriate, on a more frequent basis.

² For fail positions, the contract price used for this purpose is the prior day's Market Price.

(d) If such Member clears for one or more Market Makers³ (i.e., the Member's Correspondent(s)) or is itself a Market Maker in any security dominated by either the Member or its Correspondent(s) (where domination is calculated for each Member and each of its Correspondent(s) according to criteria determined by the Corporation from time to time), and if the sum of the absolute values of the Net Unsettled Positions in such dominated security or securities of any one or more of such Market Makers exceeds the excess net capital of the respective Market Maker or the Member (whether or not it is a Market Maker), (i.e., such Market Maker's or Member's Excess), the Corporation may then require the Member to contribute an additional Clearing Fund Deposit to the Corporation either in an amount equal to each such Market Maker's or Member's Excess or the sum of each of the absolute values of the Net Unsettled Positions or a combination of both. In performing the calculation, the Corporation may take into account offsetting pending (i.e., non-fail) transactions that have been confirmed and/or affirmed through an institutional delivery system acceptable to the Corporation. In addition, where a Market Maker's Net Unsettled Positions in dominated issues are cleared by one or more Members, the Corporation may treat those positions, for purposes of calculations pursuant to this paragraph, as if they were all cleared by the Market Maker's clearing Member, as listed in the records of the Corporation in accordance with Section 3(e) of Rule 3⁴;

plus

(e) An additional payment ("special charge") from Members in view of price fluctuations in or volatility or lack of liquidity of any security. The Corporation shall make any such determination based on such factors as the Corporation determines to be appropriate from time to time;

plus

(f) 5% or such greater amount, as determined by the Corporation, not to exceed 10% of such Member's long fail CNS positions plus 5%, or such greater amount, as determined by the Corporation, not to exceed 10% of such Member's short fail CNS positions, ~~plus;~~

plus

(g) a margin requirement differential component charge calculated as the sum of the exponentially weighted moving average ("EWMA") of

³ As used in this Procedure, the term "~~A~~Market Maker@" shall mean a member firm of FINRA that is registered by FINRA as a Market Maker.

⁴ The Corporation may require or permit such Member to deliver some or all shares necessary to complete a short obligation in lieu of part or all of its requirement under this section or subsection I.(A)(2)(c).

the daily positive changes over a 100-day look back period in the Member's (i) Regular Mark-to-Market component, (ii) ID Net Mark-to-Market component and (iii) volatility component, times a multiplier calibrated based on backtesting results;

plus

(h) a coverage component charge calculated as the EWMA of the Member's daily backtesting coverage deficiency amount over a 100-day look back period; the Member's backtesting deficiency amount for each day is determined as the difference between the simulated profit and loss on the Member's portfolio and the sum of the Member's (i) volatility component, (ii) margin requirement differential component, (iii) Illiquid Charge and (iv) Market Maker domination charge.

~~(g) an amount for certain activity (referred to as "Specified Activity") based on the average of the Member's three highest aggregate calculated charges for daily Specified Activity measured over the most recent 20 settlement days. For purposes of this calculation, "Specified Activity" means transactions (other than Index Receipt creates and redeems and their underlying component securities, or cash component, if applicable) processed by the Corporation on a shortened processing cycle (i.e., otherwise than on a three-day processing and settlement cycle), including T+3 as-of trades,⁵ cash trades, next day settling trades, and similar transactions. This charge shall be calculated by: (i) netting Specified Activity by cusip to a single long or short position, and (ii) applying a charge to each such position, using not less than two standard deviations as determined by historic pricing. The standard deviations will be the same as those derived for the daily volatility calculations; provided however, that as is the case with the volatility charge, for those securities whose volatility is either less amenable to statistical analysis, or so amenable only in a complex manner, the Corporation shall instead apply the same percentage charge to those securities as applied pursuant to clause I.(A)(1)(a) above.~~

(2) For Balance Order Transactions

* * *

⁵ ~~That is, as-of trades compared or recorded on T+3 prior to the applicable comparison/recording cut-off time, including trades received after the applicable T+2 cut-off time. With respect to next day settling trades, this includes next day as-of trades.~~

(b) The net of each day's difference between the contract price of such Member's Net Balance Order Unsettled Positions, and the Current Market Price for such positions (**such difference to be known as the "Regular Mark-to-Market"**), provided that the Corporation shall exclude from this calculation any trades for which the Corporation has, under a Clearing Agency Cross-Guaranty Agreement, either obtained coverage for such difference (if the sum of the differences for the trades subject to the agreement is a positive number) or undertaken an obligation to provide coverage for such difference (if the sum of the differences for trades subject to the agreement is a negative number);

plus

(c) If such Member clears for one or more Market Makers (i.e., the Member's Correspondent(s)) or is itself a Market Maker in any security dominated by either the Member or its Correspondent(s) (where domination is calculated for each Member and each of its Correspondent(s) according to criteria determined by the Corporation from time to time), and if the sum of the absolute values of the Net Balance Order Unsettled Positions in such dominated security or securities of any one or more of such Market Makers exceeds the excess net capital of the respective Market Maker or the Member (whether or not it is a Market Maker), (i.e., such Market Maker's or Member's Excess), the Corporation may then require the Member to contribute an additional Clearing Fund Deposit to the Corporation either in an amount equal to each such Market Maker's or Member's Excess or the sum of each of the absolute values of the Net Balance Order Unsettled Positions or a combination of both. In performing the calculation, the Corporation may take into account offsetting pending (i.e., non-fail) transactions that have been confirmed and/or affirmed through an institutional delivery system acceptable to the Corporation. In addition, where a Market Maker's Net Balance Order Unsettled Positions in dominated issues are cleared by one or more Members, the Corporation may treat those positions, for purposes of calculations pursuant to this paragraph, as if they were all cleared by the Market Maker's clearing Member, as listed in the records of the Corporation in accordance with Section 3(e) of Rule 3;

plus

(d) An additional payment ("special charge") from Members in view of price fluctuations in or volatility or lack of liquidity of any security. The Corporation shall make any such determination based on such factors as the Corporation determines to be appropriate from time to time, ~~plus;~~

plus

(e) a margin requirement differential component charge calculated as the sum of the EWMA of the daily positive changes over a 100-day look back period in the Member's (i) Regular Mark-to-Market component and (ii) volatility component, times a multiplier calibrated based on backtesting results;

plus

(f) a coverage component charge calculated as the EWMA of the Member's daily backtesting coverage deficiency amount over a 100-day look back period; the Member's backtesting deficiency amount for each day is determined as the difference between the simulated profit and loss on the Member's portfolio and the sum of the Member's (i) volatility component, (ii) margin requirement differential component, (iii) Illiquid Charge and (iv) Market Maker domination charge.

~~(e) an amount for certain activity (referred to as "Specified Activity") based on the average of the Member's three highest aggregate calculated charges for daily Specified Activity measured over the most recent 20 settlement days. For purposes of this calculation, "Specified Activity" means transactions (other than Index Receipt creates and redeems and their underlying component securities, or cash component, if applicable) processed by the Corporation on a shortened processing cycle (i.e., otherwise than on a three-day processing and settlement cycle), including T+3 as-of trades,⁶ cash trades, next day settling trades, and similar transactions. This charge shall be calculated by: (i) netting Specified Activity by cusip to a single long or short position, and (ii) applying a charge to each such position, using not less than two standard deviations as determined by historic pricing. The standard deviations will be the same as those derived for the daily volatility calculations; provided however, that as is the case with the volatility charge, for those securities whose volatility is either less amenable to statistical analysis, or so amenable only in a complex manner, the Corporation shall instead apply the same percentage charge to those securities as applied pursuant to clause I.(A)(1)(a) above.~~

* * *

⁶ ~~That is, as-of trades compared or recorded on T+3 prior to the applicable comparison/recording cut-off time, including trades received after the applicable T+2 cut-off time. With respect to next day settling trades, this includes next day as-of trades.~~

I.(B) Additional Clearing Fund Formula

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(2) Excess Capital Premium

If a Member's contribution to the Clearing Fund, as computed pursuant to Section I.(A) of this Procedure (but excluding any charges as set forth in Subsections I.(A)(1)(d), ~~I.(A)(1)(e)~~, **(g) and (h)**, **and I.(A)(2)(c)**, ~~and I.(A)(2)(d)~~, **(e) and (f)** of this Procedure), plus any amount collected pursuant to 1.(B)(1) above or Rule 15 (such aggregate amount referred to as the "Calculated Amount"), when divided by its excess net capital or capital (as applicable), as defined in the membership standards set forth in Addendum B, is greater than 1.0 (the "Excess Capital Ratio"), then the Corporation may require such Member to deposit, within such timeframe as the Corporation may require, an additional amount (the "Excess Capital Premium") to the Clearing Fund equal to the product of: (a) the amount by which the Calculated Amount exceeds its excess net capital or capital (as applicable), as defined in the membership standards set forth in Addendum B, multiplied by (b) its Excess Capital Ratio.

Notwithstanding the foregoing, the Corporation may: (i) collect an amount less than the Excess Capital Premium (including no premium), and (ii) return all or a portion of the Excess Capital Premium if it believes that the imposition or maintenance of the Excess Capital Premium is not necessary or appropriate.⁷⁵

(3) Backtesting Charge

The Corporation may require a Member to make an additional Clearing Fund deposit to mitigate exposures to the Corporation caused by settlement risks that may not be adequately captured by the Corporation's portfolio volatility model ("Backtesting Charge"). The Corporation may assess this charge both on the start of the day portfolio (the "Regular Backtesting Charge") or on an intraday basis (the "Intraday Backtesting Charge"), as needed, to enable the Corporation to achieve its backtesting coverage target. The Backtesting Charge may apply to Members that have

⁷⁵ The Corporation has identified the following guidelines or circumstances, which are intended to be illustrative, but not limited, where the premium will not be imposed: (a) where the premium results from charges applied with respect to municipal securities trades settling in CNS, where the member has offsetting compared trades settling on a trade-for-trade basis through DTC; and (b) management will look to see whether the premium results from an unusual or non-recurring circumstance where management believes it would not be appropriate to assess the premium. Examples of such circumstances are a member's late submission of trade data for comparison or trade recording that would otherwise reduce the margined position if timely submitted, or an unexpected haircut or capital charge that does not fundamentally change its risk profile.

12-month trailing backtesting coverage below the 99 percent backtesting coverage target. The Regular Backtesting Charge and the Intraday Backtesting Charge shall generally be equal to the Member's third largest deficiency and fifth largest deficiency, respectively, that occurred during the previous 12 months. The Corporation may in its discretion adjust such charge if the Corporation determines that circumstances particular to a Member's settlement activity and/or market price volatility warrant a different approach to determining or applying such charge in a manner consistent with achieving the Corporation's backtesting coverage target.

(4) Bank Holiday Charge

For purposes of this section, "Holiday" means any day on which equities markets are open for trading, but the Board of Governors of the Federal Reserve System observes a holiday and banks are closed.

On the business day prior to any Holiday, the Corporation may require each Member to make an additional Clearing Fund deposit ("Bank Holiday Charge"). The Bank Holiday Charge approximates the exposure that a Member's trading activity on the applicable Holiday could pose to the Corporation. Since the Corporation cannot collect margin on the Holiday, the Bank Holiday Charge is due on the business day prior to the applicable Holiday.

The methodology for calculating a Bank Holiday Charge shall be determined by the Corporation in advance of each applicable Holiday. The Bank Holiday Charge approximates each Member's Required Deposit to address the exposure that such Member's trading activity on the Holiday could pose to the Corporation. The Corporation shall have the discretion to calculate the Bank Holiday Charge based on its assessment of market conditions at the time the Bank Holiday Charge is calculated (such as, for example, significant market occurrences that could impact market price volatility). The Corporation shall inform Members of the methodology it will use to calculate the Bank Holiday Charge by an Important Notice issued no later than 10 business days prior to the day on which the applicable Bank Holiday Charge is to be applied. Examples of potential methodologies for the Bank Holiday Charge may include, but shall not be limited to, time scaling of the volatility charge or a stress scenario that reflects potential market price volatility on the Holiday.]

(5) Intraday Mark-to-Market Charge

The Corporation may also collect a payment on an intra-day basis that is calculated as the difference between (x) the most recent mark-to-market price of a Member's net CNS and Balance Order positions (including its CNS failed positions) and (y) the most recently observed market price for

such positions if such difference meets or exceeds 80 percent of the Member's volatility component. The Corporation may reduce such threshold during volatile market conditions if the Corporation determines that a reduction of the threshold is appropriate to mitigate risks to the Corporation by accelerating the collection of anticipated additional margin from Members whose portfolios may present relatively greater risks to the Corporation on an overnight basis.

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I.(C) Clearing Fund Formula for Mutual Fund/Insurance Services Members who use the Mutual Fund Services.⁸⁶

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II. Minimum Clearing Fund and Additional Deposit Requirements

(A) Each Member of the Corporation shall be required to contribute a minimum of \$10,000 (the "minimum contribution"). The first 40% (but no less than \$10,000) of a Member's Required Deposit must be in cash and the remaining amount, may be evidenced by open account indebtedness secured by the pledge of Eligible Clearing Fund Securities, which shall be valued, for collateral purposes, as set forth in subsection III below. A Mutual Fund/Insurance Services Member's entire deposit is required to be in cash.

1. Special Provisions Related to Eligible Clearing Fund Securities:

(a) Any deposits of Eligible Clearing Fund Agency Securities⁹⁷ or Eligible Clearing Fund Mortgage-Backed Securities⁴⁰⁸, respectively, in excess of 25 percent of the Member's Required Deposit will be subject to an additional haircut equal to twice the percentage as

⁸⁶ This section applies to entities whose use of the Corporation's services are restricted to the Mutual Fund Services and/or the Insurance and Retirement Processing Services. Entities which use or are permitted to use Services other than or in addition to the Mutual Fund Services and Insurance and Retirement Processing Services are covered by section I.(A).

⁹⁷ A Member that is an Agency may not pledge Eligible Clearing Fund Agency Securities of which it is the issuer.

⁴⁰⁸ With regard to a Member that pledges Eligible Clearing Fund Mortgage-Backed Securities of which it is the issuer, such securities will be subject to a premium haircut, as set forth in subsection III below.

specified in the proposed haircut schedule detailed in subsection III below, and

- (b) No more than 20 percent of a Member's Required Deposit secured by pledged Eligible Agency Securities may be of a single issuer.

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ADDENDUM K

INTERPRETATION OF THE BOARD OF DIRECTORS APPLICATION OF CLEARING FUND

Pursuant to Rule 47, the Board of Directors has the authority to interpret the Rules of the Corporation. The purpose of this interpretation is to clarify certain provisions of Rule 4 and the extent to which the Clearing Fund may be applied to a loss or liability of the Corporation.

I. APPLICATION OF THE CLEARING FUND TO LOSSES SUSTAINED BY A SYSTEM

1. Section 1 of Rule 4 provides that each Member's Required Deposit shall be allocated by the Corporation among the services for which the Corporation assumes responsibility for completion of transactions and which are designated as such by the Corporation (collectively the "Systems" and individually a "System") and in which the Member participates.
2. The Corporation has in practice assumed responsibility for completion of transactions in each of the following services, and has deemed each of these services to be a System, even though the Corporation has not previously made a formal designation of each such service as a System within the definition of Section 1 of Rule 4:

The Corporation guarantees the completion of compared and locked-in CNS and balance orders transactions from a fixed point in the clearance and settlement process.¹ CNS transactions are guaranteed as of the **point they have: (i) for bilateral submissions by Members, been validated and compared by the Corporation pursuant to these Rules and Procedures, and (ii) for locked-in submissions, been validated by the Corporation pursuant to these Rules and Procedures.** ~~later of: (i) midnight of T+1, and (ii) midnight of the day they are reported as compared or as of midnight on the day they appear on reports/output for locked-in trades. With respect to b~~Balance order transactions, ~~such transactions~~ are guaranteed as of the ~~later of: (i) midnight of T+1, and (ii) midnight of the day they are reported to Members as compared/recorded on~~

¹ The trade guarantee of obligations arising out of the exercise or assignment of options that are settled at the Corporation is addressed in a separate arrangement between NSCC and Options Clearing Corporation, as referred to in Procedure III of the Rules, and is not addressed in these Rules.

~~contracts and, in either case, point they have: (i) for bilateral submissions by Members, been validated and compared by the Corporation pursuant to these Rules and Procedures, and (ii) for locked-in submissions, been validated by the Corporation pursuant to these Rules and Procedures~~ through the close of business on T+3. ~~The Corporation guarantees same day and one day settling trades as of the completion of trade comparison or trade recording processing and with respect to balance order transactions, the Corporation guarantees same day and one day settling trades as of the completion of trade comparison or trade recording through T+3; provided, however, that: i) for transactions relating to one day index receipt creates and redeems, including their underlying components, and unless otherwise removed from processing pursuant to Procedure II. H. 2, such transactions will be guaranteed after such time on Settlement Date as the Corporation determines to complete processing of such items in the day cycle of the CNS Accounting Operation, and (ii) if~~ the contra party to a same day or one day settling trade is a member of an interfacing clearing corporation, such guarantee shall not be applicable unless an agreement to guarantee such trade exists between the Corporation and the interfacing clearing corporation. The Corporation has also adopted a policy of guaranteeing the completion of when-issued and when-distributed trades, as of the ~~later of: (i) midnight of T+1, and (ii) midnight of the day the trades are reported to Members as compared/recorded on contracts~~ point they have: (i) for bilateral submissions by Members, been validated and compared by the Corporation pursuant to these Rules and Procedures, and (ii) for locked-in submissions, been validated by the Corporation pursuant to these Rules and Procedures and will consider all when-issued and when-distributed trades of Members as if they were CNS transactions for surveillance purposes regardless of the accounting operation in which they ultimately settle.

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