

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-81339; File No. SR-NSCC-2017-011)

August 8, 2017

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Certain Adjustments, Clarifications and Corrections to the Fee Provisions for Insurance and Retirement Processing Services.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 3, 2017, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act and subparagraphs (f)(2)⁴ and (f)(4)⁵ of Rule 19b-4 thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would make certain adjustments, clarifications and corrections to the fee provisions for NSCC’s Insurance and Retirement Processing

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ 17 CFR 240.19b-4(f)(4).

Services (“I&RS”) set forth in Addendum A (Fee Structure) (“Addendum A”) of NSCC’s Rules & Procedures (“Rules”), as described below.⁶

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NSCC is proposing to make adjustments, clarifications and corrections to the fee provisions for I&RS set forth in Addendum A, as described below, in order to (i) align the fees charged more closely with the costs of providing the associated products and services to Members and Limited Members of NSCC (collectively, “NSCC Members”); (ii) allocate those fees equitably among NSCC Members; and (iii) make the Rules more consistent and clear with respect to these fees.

(i) Proposed Changes to Fees

NSCC is proposing to make the following changes to fees set forth in Section IV.K. of Addendum A:

⁶ Capitalized terms not defined herein are defined in the Rules, available at http://www.dtcc.com/~media/Files/Downloads/legal/rules/nsccl_rules.pdf.

A. *Proposed Change to Fees for Multiple Destination Files*

NSCC currently charges NSCC Members an additional monthly fee for directing NSCC to deliver I&RS files to more than two destinations.⁷ NSCC added the additional monthly fees for multiple destinations in 2016 to align the fees charged with the cost of providing products and services to NSCC Members with multiple file destinations.⁸ Currently, the Rules state that NSCC charges an additional \$50 per month for delivering files to three to four destinations and an additional \$100 per month for delivering files to five or more destinations.⁹ NSCC has determined that charging an additional \$50 monthly fee for NSCC Members that send files to five destinations is sufficient to allow NSCC to recover costs to NSCC of delivering files to such multiple destinations. Therefore, NSCC is proposing to amend its fee structure so that NSCC Members that direct NSCC to deliver files to five destinations would be charged an additional \$50 per month rather than an additional \$100 per month. As such, NSCC is proposing to change the additional fees charged for delivering files to multiple destinations, as described in Section IV.K. of Addendum A, to charge an additional \$50 per month for delivering files to three to five destinations, and an additional \$100 per month for delivering files to more than five destinations.

⁷ Note 6 to Section IV.K. of Addendum A, supra note 6.

⁸ Securities Exchange Act Release No. 76787 (December 29, 2015), 81 FR 283 (January 5, 2016) (File No. SR-NSCC-2015-009).

⁹ Note 6 to Section IV.K. of Addendum A, supra note 6.

B. Proposed Change to Fees for Positions for Retirement Plans Files

NSCC is proposing to add a fee for the Positions for Retirement Plans file type into the billing tier for the Positions and Valuations service (“Positions”) in Section IV.K. of Addendum A.¹⁰ Pursuant to Section 5 of Rule 57, NSCC Members can send four file types using Positions –Positions Full, Positions New, Positions for Retirement Plans, and Positions Focused.¹¹ In 2009, NSCC created two billing tiers for Positions, with one fee for Positions Full and Positions New, and a reduced fee charged for Positions Focused.¹² The fees charged for processing Positions Focused file types are lower because these files include less data than other Positions file types.¹³ In 2015, NSCC introduced a new file type for Positions – Positions for Retirement Plans. This file type is a full data file type, similar to the Positions Full and Positions New file types.

Therefore, NSCC is now proposing to amend Addendum A to add a fee for the Positions for Retirement Plans file type that is identical to the fee for the Positions Full and Positions New file types. NSCC believes this proposed change would align the fees for processing the Positions for Retirement Plans file type with the costs of delivering this service because the costs of processing the Positions for Retirement Plans file type are similar to the cost of processing the Positions Full and Positions New file types.

¹⁰ Section IV.K. of Addendum A, supra note 6.

¹¹ Rule 57, supra note 6.

¹² Securities Exchange Act Release No. 59285 (January 23, 2009), 74 FR 5875 (February 2, 2009) (File No. SR-NSCC-2008-13) (“2009 Fee Filing”).

¹³ Subsection 2.a.(ii), Section IV.K. of Addendum A, supra note 6.

C. Proposed Change to Fees for Positions Focused

As stated above, NSCC amended Addendum A in the 2009 Fee Filing to change the fees to be charged for processing the Positions Full, Positions New, and Positions Focused file types.¹⁴ The 2009 Fee Filing incorrectly amended Addendum A to state that NSCC would charge \$1.50 per 1,000 items for processing Positions Focused files from 2,000,001 to 4,000,000 items per month.¹⁵ NSCC management had previously determined that, in order to align the fee charged with the cost of providing this service, the fee for processing Positions Focused files from 2,000,001 to 4,000,000 items per month should be \$1.00 per 1,000 items.¹⁶ Therefore, NSCC is proposing to correct this error and amend Addendum A to provide that NSCC would charge \$1.00 per 1,000 items for processing Positions Focused files from 2,000,001 to 4,000,000 items per month.

D. Proposed Change to Fees for APP Non-Settlement Tiers

NSCC is proposing to modify the fee structure for the Initial Application Information feature of I&RS (“APP”) in order to align the fees charged to settling NSCC Members with the fees charged to non-settling NSCC Members. In 2003, NSCC established two categories for the fee structure for APP – a category for settling NSCC

¹⁴ 2009 Fee Filing, supra note 12.

¹⁵ Subsection 2.a.(ii), Section IV.K. of Addendum A, supra note 6. NSCC’s Important Notice announcing the 2009 fee changes identified the intended price for this tier at \$1.00 per 1,000 items. See NSCC Important Notice, “2009 Fee Revisions,” A# 6766, P&S# 6336, dated December 31, 2008, available at <http://www.dtcc.com/~media/Files/pdf/2008/12/31/a6766.pdf>.

¹⁶ A fee of \$1.00 per 1,000 items for processing Positions Focused files from 2,000,001 to 4,000,000 items per month was approved by the NSCC Core Services Operations and Planning Committee on November 13, 2008.

Members and a separate category for non-settling NSCC Members.¹⁷ When the fee structure was implemented in 2003, the fees charged to settling NSCC Members were higher than the fees charged to non-settling NSCC Members and the category for settling NSCC Members contained three tiers while the category for non-settling NSCC Members contained two tiers.¹⁸ In the 2009 Fee Filing, NSCC reduced the fees applicable to settling NSCC Members for APP resulting in the fees in the first two tiers being identical to the fees in the tiers for the non-settling NSCC Members.¹⁹ In addition, in the 2009 Fee Filing, NSCC reduced the fees in the third tier for settling NSCC Members. The result of these changes is that currently, settling NSCC Members that process more than 3,499 items a month receive a discount per item while non-settling NSCC Members do not.²⁰

NSCC believes the discount tier for processing more than 3,499 items a month was not added in the category for non-settling NSCC Members because these firms are unlikely to process transactions with more than 1,999 items per month and a tier for processing more items per month above 1,999 was unnecessary. Although NSCC believes it is unlikely that non-settling NSCC Members will process more than 1,999 items per month, NSCC is proposing to remove the separate fee categories for settling

¹⁷ See Securities Exchange Act Release No. 48284 (August 5, 2003), 68 FR 48430 (August 13, 2003) (File No. SR-NSCC-2003-13).

¹⁸ See *id.* The fees for settling NSCC Members contained three tiers: (1) 0 - 1,999 items per month, (2) 2,000 - 3,499 items per month and (3) more than 3,499 per month. The fees for non-settling NSCC Members contained only two tiers: (1) 0 - 1,999 items per month, and (2) more than 1,999 items per month.

¹⁹ 2009 Fee Filing, *supra* note 12.

²⁰ Subsection 2.d. Section IV.K. of Addendum A, *supra* note 6 (provides that settling NSCC Members that process more than 3,499 items per month in APP are charged \$0.50 per item compared to \$1.00 per item for processing 2,000 to 3,499 items per month).

and non-settling NSCC Members in order to provide that the same fees apply to both settling NSCC Members and non-settling NSCC Members. The cost to NSCC for processing APP files for settling NSCC Members and non-settling NSCC Members is the same. Therefore, NSCC proposes to amend subsection 2.d. of Section IV.K of Addendum A to provide non-settling NSCC Members with the same discount that settling NSCC Members receive if they process more than 3,499 items per month.

(ii) *Proposed Changes to the Organization of Addendum A*

NSCC is also proposing to make the following changes to the organization of Section IV.K. of Addendum A, as described below:

A. *Proposed Change to Location of Fees for Producer Management Portal*

NSCC is proposing to revise Addendum A, Section IV.K., by deleting subsection 4. and moving the fees under the heading “Batch Service Fees” in that subsection to subsection 2.h.²¹ These fees would be renamed “Distributor Batch Service Fees.” These fees are charged in connection with use of the Producer Management Portal and are only charged to NSCC Members that are distributors, which include broker-dealers, banks and insurance agencies that act as intermediaries for insurance companies. The proposed change would include these fees with the other fees charged for use of the Producer Management Portal, so such fees are identified in one section, and would further clarify that these fees are only charged to distributors. This proposed change would clarify this section of Addendum A, and would not change the fees charged for any services or products.

²¹ Subsections 2. and 4., Section IV.K. of Addendum A, supra note 6.

B. Proposed Change to Location of Fees Listed Under TIER 6

NSCC is proposing to revise Addendum A, Section IV.K., subsection 3., by deleting TIER 6, and moving each of the fees listed under this TIER into TIERS 3 and 5 based on the fees being charged.²² As a result of the proposed change, each product would be listed together with other products for which the same fee is being charged under one TIER.²³ The proposed rule change would move fees for “Values Inquiry” and “Policy Administration Inquiry” to TIER 3 and move fees for “Policy Administration Request,” “Death Notification Request,” “Fund Transfer,” “Withdrawals,” and “Arrangements” to TIER 5. Each of the fees moved from TIER 6 would be identified as being subject to the “In Force Transaction Chart,” which is currently set forth at the end of subsection 3., and would continue to apply to these fees. This proposed change would clarify this subsection of Addendum A, and would not change the fees charged for any services or products.

2. Statutory Basis

Section 17A(b)(3)(D) of the Act requires, in part, that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.²⁴

The proposed changes to Addendum A set forth in item II(A)(1)(i)(A) above are consistent with 17A(b)(3)(D) of the Act²⁵ because the proposed fees would be equitably allocated among NSCC Members based on each NSCC Member’s utilization of directing

²² Subsection 3., Section IV.K. of Addendum A of the Rules, supra note 6.

²³ TIER 6, subsection 3., Section IV.K. of Addendum A of the Rules, supra note 6.

²⁴ 15 U.S.C. 78q-1(b)(3)(D).

²⁵ Id.

NSCC to send files to multiple destinations. In addition, NSCC believes that the proposed fee changes are reasonable because the proposed \$50 additional fee is less than the \$100 additional fee currently charged for delivering to five destinations, while continuing to allow NSCC to recover the costs associated with delivering to five destinations. Therefore, NSCC believes the proposed fee modifications set forth in item II(A)(1)(i)(A) above are consistent with the requirements of Section 17A(b)(3)(D) of the Act.²⁶

The proposed changes to Addendum A set forth in items II(A)(1)(i)(B) and (D) above are consistent with 17A(b)(3)(D) of the Act²⁷ because the proposed fees would be allocated equitably among the NSCC Members that subscribe for those services based on each NSCC Member's use of such services. In addition, NSCC believes that the proposed fees are reasonable because they would enable NSCC to better align its revenue with the costs and expenses required for NSCC to provide the services to NSCC Members. Specifically, with respect to II(A)(1)(i)(B), the costs of processing the Positions for Retirement Plans file type are similar to the cost of processing other full data file types and NSCC has determined that charging the same fee as is charged for other full data file types would enable it to recover its costs for processing the Positions for Retirement Plans file type. With respect to II(A)(1)(i)(D), the cost to NSCC of processing over 3,499 items per month in APP is the same for settling NSCC Members and non-settling NSCC Members and therefore the fees for settling NSCC Members and non-settling NSCC Members for APP should be the same. Therefore, by establishing

²⁶ Id.

²⁷ Id.

fees that align with the cost of delivery of these products and services and allocating those fees equitably among the subscribing NSCC Members, the proposed changes to Addendum A set forth in items II(A)(1)(i)(B) and (D) are consistent with the requirements of Section 17A(b)(3)(D) of the Act.²⁸

NSCC believes the proposed fees set forth in item II(A)(1)(i)(C) above are also consistent with the requirements of 17A(b)(3)(D) of the Act.²⁹ Specifically, the proposed fees would be equitably allocated among NSCC Members that choose to process the file type for Positions Focused. NSCC also believes the proposed fees set forth in item II(A)(1)(i)(C) above are reasonable because the proposed fee for processing Position Focused files from 2,000,001 to 4,000,000 items per month is less than the fee currently charged, while continuing to allow NSCC to recover the costs associated with processing such items. In addition, the proposed fee changes were previously approved by NSCC management,³⁰ and NSCC Members were previously notified of the fee changes,³¹ at the time the fee changes were originally contemplated for 2009. Therefore, NSCC believes the proposed fee modifications are consistent with the requirements of Section 17A(b)(3)(D) of the Act.³²

²⁸ Id.

²⁹ Id.

³⁰ See supra, note 16.

³¹ See supra, note 15.

³² 15 U.S.C. 78q-1(b)(3)(D).

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules promote the prompt and accurate clearance and settlement of securities transactions.³³ The proposed changes to Addendum A set forth in item II(A)(1)(ii) above would enhance NSCC Members' ability to understand the fees associated with the I&RS services. Specifically, the proposed rule change relating to Addendum A described above in item II(A)(1)(ii) would clarify the meaning of certain provisions of Addendum A relating to the fees and enhance clarity and consistency in the Rules in this regard. As such, the proposed rule change would allow NSCC Members to have a better understanding of the Rules in relation to their I&RS activity, and thereby assist in promoting the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of Section 17A(b)(3)(F) of the Act.³⁴

Rule 17Ad-22(e)(23)(i) under the Act requires, in part, that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for publicly disclosing all relevant rules and material procedures.³⁵ Rule 17Ad-22(e)(23)(ii) under the Act requires, in part, that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for providing sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in NSCC.³⁶ The proposed rule change set forth in item II(A)(1)(ii) above would enhance clarity and consistency with respect to the

³³ 15 U.S.C. 78q-1(b)(3)(F).

³⁴ Id.

³⁵ 17 CFR 240.17Ad-22(e)(23)(i).

³⁶ 17 CFR 240.17Ad-22(e)(23)(ii).

fees described herein. In this way, the proposed rule change would provide for the public disclosure of these fees through the proposed changes to Addendum A. The proposed rule change would allow NSCC to further provide its participants with sufficient information to enable those participants to identify and evaluate the fees incurred through their participation in NSCC. As such, NSCC believes the proposed rule change is consistent with both Rule 17Ad-22(e)(23)(i) and (ii) under the Act.³⁷

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed changes to Addendum A set forth in items II(A)(1)(i)(A), (C) and (D) above would have an adverse impact, or impose any burden, on competition because, in each case, the proposed fee changes would be a reduction in fees as currently set forth in the Rules that would not disproportionately impact any NSCC Members. As a reduction to the fees currently in the Addendum A for these services, the proposed changes would not impede any NSCC Members from engaging in the services or have an adverse impact on any NSCC Members.

Moreover, the proposed rule changes may promote competition because, in each case, the proposed fee modifications would allow NSCC Members to engage in a greater number of transactions with lower fee costs than they would incur today for the same number of transactions. For instance, the proposed changes in item II(A)(1)(i)(A) above would allow NSCC Members that are currently sending to three or four destinations to begin to send to five destinations without incurring a higher fee than if files were sent to only three or four destinations because, as a result of the proposed rule change, the additional fee incurred by NSCC Members to send to five destinations would be the same

³⁷ 17 CFR 240.17Ad-22(e)(23)(i), (ii).

as the additional fee to send to three or four destinations. Similarly, the proposed changes in item II(A)(1)(i)(C) above could result in NSCC Members that are currently sending 500,001 to 2,000,000 items per month to begin to send 2,000,001 to 4,000,000 items per month in order to take advantage of the proposed stated fee of \$1.00 per 1,000 items rather than \$1.50 per 1,000 items which is the current fee. In addition, the proposed change in item II(A)(1)(i)(D) above could result in non-settling NSCC Members that are currently sending less than 3,499 items per month to be more likely to send more than 3,499 items per month in order to take advantage of the proposed stated fee of \$0.50 per item rather than \$1.00 per item which is the current fee for non-settling NSCC Members. NSCC Members sending data to more destinations and sending additional data items relating to Positions and APP products and services would enhance participation in the marketplace by providing NSCC Members and their counterparties with more data. Finally, as discussed above, NSCC believes that the proposed fee changes are appropriate in light of the expenses incurred by NSCC in providing its services.

NSCC believes that the proposed changes to Addendum A set forth in item II(A)(1)(i)(B), could have an impact on competition because NSCC Members would need to pay the fees for a full file type in order to deliver Positions for Retirement Plan file types similar to Positions Full and Position New file types rather than paying the reduced fee that NSCC Members pay to deliver the Positions Focused file type. The higher fee may make it less likely for some NSCC Members to deliver the Position for Retirement Plan file type rather than the Position Focused file type. NSCC believes, however, that any burden on competition that would be created by the proposed rule change would be

necessary and appropriate in furtherance of the Act. Specifically, the proposed rule change is necessary to align the fees charged for sending the Positions for Retirement Plans file type feature with the costs and expenses required for NSCC to process that file type. As stated above, NSCC believes the costs of processing the Positions for Retirement Plans file type for NSCC are similar to the cost of processing the Positions Full and the Positions New file types. As such, NSCC believes that the fee for processing the Positions Full and the Positions for Retirement Plans file type should be the same as the fee for processing the Positions Full and Positions New file types and is appropriate given the costs to NSCC of delivering the full data file types.

NSCC does not believe that the proposed changes to Addendum A set forth in item II(A)(1)(ii) above would have any impact on competition because such changes are clarifications of the Rules which would not affect the rights or obligations of NSCC Members. Moreover, the proposed changes set forth in item II(A)(1)(ii) are revenue neutral and would not affect one set of NSCC Members in favor of another.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)³⁸

³⁸ 15 U.S.C 78s(b)(3)(A).

of the Act and subparagraphs (f)(2)³⁹ and (f)(4)⁴⁰ of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the 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-2017-011 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NSCC-2017-011. 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

³⁹ 17 CFR 240.19b-4(f)(2).

⁴⁰ 17 CFR 240.19b-4(f)(4).

(<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change 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 DTCC'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-2017-011 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴¹

Eduardo A. Aleman
Assistant Secretary

⁴¹ 17 CFR 200.30-3(a)(12).