

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-88092; File No. SR-NSCC-2020-001)

January 30, 2020

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Enhance National Securities Clearing Corporation's Automated Customer Account Transfer Service (ACATS) Transfer Processes and Make Certain Clarifications in Rule 50

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 24, 2020, 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) of the Act<sup>3</sup> and Rule 19b-4(f)(4) thereunder.<sup>4</sup> 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 consists of amendments to NSCC's Rules & Procedures ("Rules") in order to (i) make proposed enhancements to NSCC's Automated Customer Account Transfer Service ("ACATS") transfer processes relating to

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(4).

acceleration, Reclaims, Residual Credits and Partial Accounts and (ii) make certain clarifications to the Rules, as described in greater detail below.<sup>5</sup>

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

The proposed rule change consists of modifications to NSCC’s Rules in order to (i) make proposed enhancements to ACATS transfer processes relating to acceleration, Reclaims, Residual Credits and Partial Accounts and (ii) make certain clarifications to the Rules, as described in greater detail below.

(a) Background – ACATS

ACATS is a non-guaranteed service that enables Members to effect automated transfers of customer accounts among themselves.<sup>6</sup> Pursuant to Rule 50, an NSCC

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<sup>5</sup> Capitalized terms not defined herein are defined in the Rules, available at [http://dtcc.com/~media/Files/Downloads/legal/rules/nsc\\_rule.pdf](http://dtcc.com/~media/Files/Downloads/legal/rules/nsc_rule.pdf).

<sup>6</sup> ACATS complements Financial Industry Regulatory Authority (“FINRA”) Rule 11870 (“FINRA Rule 11870”) regarding customer account transfers, which requires FINRA members to use automated clearing agency customer account transfer services and to effect customer account transfers within specified time

Member to whom a customer’s full account will be transferred (the “Receiving Member”) will initiate the transfer by submitting a transfer initiation request to NSCC, which contains the customer detail information that the NSCC Member who currently has the account (the “Delivering Member”) requires to transfer the account. Delivering Members that have not rejected the account transfer request or requested corrections to the request within the allotted time must submit to NSCC certain detailed customer account asset data.

Generally, under current practice, a full account transfer through ACATS completes in five business days or, if “accelerated”, four business days, as follows:

- **Day 1** – Receiving Member sends request for transfer of a customer account<sup>7</sup>
- **Day 2** – Delivering Member submits customer account asset data list to NSCC<sup>8</sup>
- **Day 3** – Receiving Member has one business day to review the customer account asset data list<sup>9</sup>
- **Day 4** – NSCC prepares to settle<sup>10</sup>
- **Day 5** – NSCC settles the transfer through ACATS and generates reports<sup>11</sup>

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frames. See FINRA Rule 11870, available at <https://www.finra.org/rules-guidance/rulebooks/finra-rules/11870>.

<sup>7</sup> See Section 2 of Rule 50, supra note 5.

<sup>8</sup> See Section 5 of Rule 50, supra note 5.

<sup>9</sup> See Section 8 of Rule 50, supra note 5.

<sup>10</sup> See Section 9 of Rule 50, supra note 5.

<sup>11</sup> See Sections 9(ii) and 10 of Rule 50, supra note 5.

Except as noted with respect to the Receiving Member's review day on Day 3 above, which specifies one business day to review, the five-day timing set forth above reflects NSCC's and the Members' current practice and is not specifically set forth in the Rules. The timing and procedures with respect to customer account transfers is intended to be consistent with the timing set forth in FINRA Rule 11870. While the five-day timing is illustrative of typical timing, variations may occur if the Members that are party to the transfer agree. For instance, the Delivering Member may deliver the asset list on Day 1 rather than Day 2, or, as discussed below, the Receiving Member may accept the assets on Day 2 rather than Day 3.

Under current practice, a Receiving Member may accept all or a portion of the assets prior to the end of the review period and forego its right to review the asset list for the remaining review period, which is referred to as "accelerating the transfer". For instance, in the above five-day example, if a Receiving Member accepts all or a portion of the assets in Day 2, when it receives the asset data list, it is choosing not to review the assets on Day 3 and removing a day from the overall timing of a customer account transfer process. This acceleration process is not explicitly stated in the Rules, except for a reference to an "acceleration instruction" in Section 8 of Rule 50 which is referring to an instruction by the Receiving Member that the Receiving Member accepts all or a portion of the assets and wishes to accelerate the transfer.<sup>12</sup>

During the Receiving Member's review period, the Delivering Member can add, delete or change an item on the asset list which, in each case, adds another business day

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<sup>12</sup> Section 8 of Rule 50, supra note 5.

to the transfer cycle by giving the Receiving Member one additional business day to review.<sup>13</sup>

During the transfer period, an investor's assets will remain invested in the market but trading may be restricted.<sup>14</sup> The inability to trade may expose the investor to additional market risk. Currently there is an industry initiative underway to shorten the ACATS settlement cycle and create a more streamlined ACATS process.<sup>15</sup> In conjunction with the industry initiative, NSCC is proposing to modify the Rules to formalize the acceleration process by explicitly stating the right of the Receiving Member to accelerate a transfer, and to restrict the ability of Members to adjust accounts that are being transferred once an ACATS transfer is in accelerated status in order to reduce delays in transfers in accelerated status. In addition, NSCC is proposing to modify the Rules

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<sup>13</sup> Id.

<sup>14</sup> During the period when an account transfer is pending, some firms will freeze trading on the client account until the account transfer is complete. Firms regulated by FINRA are required to freeze the account, by cancelling all open orders with the exception of option positions that expire within seven (7) business days, upon validation of an instruction to transfer securities account assets in whole. See FINRA Rule 11870(d), supra note 6.

<sup>15</sup> The industry initiative to shorten the ACATS settlement cycle and streamline the ACATS process is being led by the Customer Account Transfer forum ("SIFMA CAT Forum") of the Securities Industry and Financial Markets Association, an industry trade group representing securities firms, banks, and asset management companies.

relating to transfers upon Reclaims,<sup>16</sup> Residual Credits<sup>17</sup> and Partial Accounts<sup>18</sup> to provide for a more efficient process for ACATS account transfers. NSCC is also proposing to modify the Rules to make some clarifications to improve readability of the Rules.

(b) Proposed Rule Change

NSCC is proposing to modify the Rules to add a provision providing for the right of the Receiving Member to accelerate the transfer by either (a) providing an acceleration instruction to NSCC upon receipt of the customer account asset data list from NSCC and accepting all assets or (b) deleting MF/IPS Products<sup>19</sup> and accepting the remaining assets. NSCC is proposing to add that the transfer that has been accelerated will be in accelerated status. NSCC is also proposing to modify the Rules to (i) reduce the adjustments that Delivering Members can make during an ACATS transfer in accelerated

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<sup>16</sup> A Reclaim is a non-standard transfer initiated by a Delivering Member requesting the transfer of assets that were mistakenly delivered as part of ACATS. See Section 12(iv) of Rule 50, supra note 5.

<sup>17</sup> Residual Credits are residual credit positions which are received for the benefit of a customer's account by the Delivering Member after the ACAT process is completed or which, due to a restriction, were not included in the original asset transfer. See Section 12 of Rule 50, supra note 5.

<sup>18</sup> Partial Accounts are partial accounts held by a Delivering Member (in the form of cash or securities). Id. For instance, if a Delivering Member held four asset classes on behalf of a client, a Partial Account could be a transfer of one of the asset classes.

<sup>19</sup> Section 8 of Rule 50 provides that the Receiving Member may delete "MF/IPS Products" upon receipt of an asset list. See Section 8 of Rule 50, supra note 5. MF/IPS Products are defined as Fund/Serv Eligible Fund assets and/or IPS Eligible Products. Id. IPS Eligible Products are defined as an insurance product or a retirement or other benefit plan or program included in the list for which provision is made in Section 1.(d) of Rule 3. See definition of "IPS Eligible Products" in Rule 1, supra note 5.

status, (ii) provide that Reclaims may be initiated with respect to transfers where a non-Member ACATS participant is a party to the delivery, (iii) add a provision allowing Receiving Members to delete Fund/Serv Eligible Fund<sup>20</sup> assets upon transfer requests for Residual Credits and Partial Accounts and (iv) make certain clarifications described below.

(i) Acceleration

Acceleration is a current practice pursuant to which a Receiving Member will accept all or a portion of the assets in a transfer and choose not to use its right to review during the remaining review period. When a Receiving Member accelerates on the same day that a Delivering Member loads the asset list with respect to a transfer request, the transfer cycle is reduced by one day. Currently, after a Receiving Member accelerates the transfer, ACATS allows a Delivering Member to adjust the asset list, which results in the extension of the review period for an additional day.<sup>21</sup> For example, if a Delivering Member adjusts assets after acceleration by a Receiving Member, ACATS adds back a review day to the transfer timeline. To restore the acceleration and maintain the same timeline, the Receiving Member must accelerate again on that same day.

NSCC is proposing to formalize the current acceleration process by providing a right of the Receiving Member to accelerate the transfer which will place the transfer in accelerated status. A Receiving Member would accelerate a transfer of a customer

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<sup>20</sup> A Fund/Serv Eligible Fund is a fund or other pooled investment entity included in the list for which provision is made in Section 1.(c) of Rule 3 of the Rules. See definition of “Fund/Serv Eligible Fund” in Rule 1, supra note 5.

<sup>21</sup> See Section 8 of Rule 50, supra note 5, providing that “[e]ach business day that a Delivering Member causes an adjustment to be made to the account will give the Receiving Member an additional one (1) business day to review the account.”

account by either (i) providing an acceleration instruction to NSCC upon receipt of the customer account asset data list from NSCC and accepting all assets or (ii) deleting MF/IPS Products and accepting the remaining assets.

In addition, NSCC is proposing to change the adjustment process for transfers such that once a transfer is in accelerated status, no additional adjustments would be allowed to be made by either the Delivering Member or the Receiving Member, except for deletions of MF/IPS Products<sup>22</sup> by the Receiving Member. The proposed change has been requested by SIFMA CAT Forum, on behalf of the industry, which believes the change would make the acceleration process more certain by preventing adjustments during the accelerated status by a Delivering Member. Preventing adjustments for account transfers in accelerated status would put the onus on Delivering Members to ensure that the asset list they are initially providing is accurate. If an asset list is incorrect, and a Receiving Member accelerates, a Delivering Member would be able to initiate a Reclaim (discussed below) to retrieve any assets that were mistakenly added to the initial asset list and transferred to the Receiving Member.

NSCC is proposing to effect the proposed change by (i) adding in a right of the Receiving Member to accelerate in Section 8 of Rule 50 and to place a transfer in accelerated status and (ii) modifying three provisions of Section 8 of Rule 50 to restrict the Delivering Member from making additional modifications once a transfer is in accelerated status.

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<sup>22</sup> See supra note 19.

(ii) Reclaims

A Reclaim is a non-standard transfer initiated by a Delivering Member requesting the transfer of assets that were mistakenly delivered as part of ACATS.<sup>23</sup> Reclaims provide a process through ACATS by which Delivering Members can retrieve assets that were incorrectly sent to the Receiving Firm through ACATS. The Rules currently provide that a Reclaim may only be initiated to the extent that the delivery is between a Member and another Member.<sup>24</sup> NSCC is proposing to modify the Rules to provide that a Reclaim may be initiated even if a party to the delivery is not a Member but is a participant of The Depository Trust Company (“DTC”).

In 1998, NSCC modified ACATS to allow DTC participants that are not Members to participate in ACATS.<sup>25</sup> As a result of the 1998 change, entities that are not Members, but that are DTC participants, can participate in ACATS through the use of DTC’s services; however, DTC participants were precluded from using certain non-standard processes, such as Fail Reversals and Reclaims during its initial implementation. As usage by DTC participants has increased and matured, the industry has provided feedback indicating the desire to allow additional capabilities such as Reclaims to be used for DTC participants.

In response to client requests, NSCC is proposing to modify Section 12(iv) of Rule 50 to remove the requirement that Reclaims may only be initiated to the extent the

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<sup>23</sup> See supra note 16.

<sup>24</sup> Id.

<sup>25</sup> Securities Exchange Act Release No. 40657 (November 10, 1998), 63 FR 63952 (November 17, 1998) (SR-NSCC-98-06).

delivery is between a Member and another Member. This proposed change would provide that Reclaims could be made for assets being delivered to or from DTC participants that participate in ACATS as well as deliveries to or from Members. Based on industry feedback, it is believed that allowing Reclaims for deliveries where a DTC participant is a party to the delivery would improve the efficiency of the account transfer process by allowing such parties requesting such Reclaims to use the already established automated ACATS process currently available for Reclaims between Members and Members.

(iii) Deletion of Fund/Serv Eligible Fund assets upon Residual Credits/Partial Accounts transfer request

ACATS allows the Delivering Member to initiate a transfer of, among other things, Residual Credits and Partial Accounts. If a Delivering Member initiates a transfer of Residual Credits or Partial Accounts, the Receiving Member may either reject or accept the transfer request but may not submit corrections to the transfer request.<sup>26</sup> For full account transfer requests, in addition to rejecting or accepting the transfer request, Receiving Members may delete mutual fund products and insurance products from the transfer request.<sup>27</sup> Receiving Members may delete such assets in situations where the Receiving Member is unable to hold the assets, such as when it is in violation of its credit policy to hold such assets. NSCC is proposing to add a provision allowing Receiving Members to delete mutual fund products, or Fund/Serv Eligible Fund assets, from a

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<sup>26</sup> Clause 2, Section 12 of Rule 50, supra note 5.

<sup>27</sup> See supra note 19.

transfer request for Partial Accounts and Residual Credits consistent with the ability to delete such assets from a full account transfer request.

The proposed Rule change would modify clause 2, Section 12 of Rule 50 to provide an exception allowing a Receiving Member to delete Fund/Serv Eligible Fund assets upon a transfer request for Partial Accounts and Residual Credits. The proposed change would align the transfer requests for Partial Accounts and Residual Credits with full account transfer requests with respect to deleting Fund/Serv Eligible Fund assets from the transfer requests. Allowing Receiving Members to delete Fund/Serv Eligible Fund assets would allow Receiving Members to reject specific assets that they are unable to hold rather than rejecting the entire transfer request.

Allowing a partial rejection of mutual fund products in a transfer request is consistent with full transfer requests and would increase efficiency in the account transfer process. Without the proposed change, Receiving Firms that receive a request for transfer that contains mutual fund products that cannot be held by the Receiving Firm must reject the transfer request. The Delivering Firm would then be required to send another transfer request for transfer of Partial Accounts and Residual Credits through ACATS containing only assets that can be held by the Receiving Member which would delay the process or require the transfer of assets outside of the ACATS process. Allowing the Receiving Members to delete the assets that they are unable to hold from the transfer requests would prevent unnecessary delay in the transfer process for Partial Accounts and Residual Credits.

(iv) Clarifications

NSCC is also proposing to make the following clarifications to the Rules. NSCC is proposing to change the defined term “ACAT Service” to “ACATS” and replace the phrase “the ACAT Service” with “ACATS” in several places to reflect current conventional use of the name of the service. NSCC is proposing to add “Receiving” in the first sentence of Section 8 of Rule 50 in order to clarify that the Member referenced in that clause is a Receiving Member. NSCC is proposing to delete “(as defined below)” after MF/IPS Products in Section 8 of Rule 50 because the new proposed language relating to a Receiving Member’s ability to accelerate a transfer would first reference that the defined term MF/IPS Products is defined below. NSCC is proposing to move the defined term “Reclaims” in Section 12(iv) of Rule 50 to make it clear that Reclaims refer to transfers of “cash or securities mistakenly delivered as part of ACATS.” NSCC is proposing to replace “Fund/SERV eligible assets” with “Fund/Serv Eligible Fund assets” in Section 12(3)(ii) and Section 13 of Rule 50, and replace “Fund/SERV Eligible Fund asset” with “Fund/Serv Eligible Fund asset” in footnote 4 of Rule 50, in each case, in order to use the correct defined term for Fund/Serv Eligible Fund. NSCC is also proposing to delete “(as defined in Section 8)” in footnote 4 of Rule 50 as the definition of Fund/Serv Eligible Fund asset is not contained in Section 8.

(c) Implementation Timeframe

NSCC expects to implement the proposed rule changes on February 21, 2020. As proposed, a legend would be added to Rule 50 stating there are changes that became effective upon filing with the Commission but have not yet been implemented. The proposed legend also would include February 21, 2020, as the date on which such

changes would be implemented and the file number of this proposal, and state that, once this proposal is implemented, the legend would automatically be removed from Rule 50.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.<sup>28</sup>

NSCC believes that each of the proposed rule changes set forth above are consistent with this provision.

First, providing for a right of a Receiving Member to accelerate a transfer and to shorten its review period after it has agreed to accept assets and no longer needs to review would reduce delays in the transfer cycle by removing unnecessary review time from the process. In addition, reducing the adjustments that Delivering Members can make during an ACATS transfer in accelerated status would further reduce delays caused by such adjustments in a transfer that is in accelerated status. Reducing delays in the transfer cycle is consistent with the industry initiative to reduce the ACATS settlement cycle and to streamline the ACATS process and would bring greater efficiencies to the account transfer process.

Second, providing that Reclaims of assets may be initiated for transfers where a non-Member participant is a party to the delivery would allow ACATS participants to initiate Reclaims using ACATS for deliveries where a DTC participant is a party. Allowing such Reclaims to be processed through the automated ACATS system would be a more streamlined method of processing the delivery of such assets as opposed to

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<sup>28</sup> 15 U.S.C. 78q-1(b)(3)(F).

manually delivering such assets not using ACATS and as such would bring greater efficiencies to the account transfer process.

Third, adding a provision allowing Receiving Members to delete Fund/Serv Eligible Fund assets upon transfer requests for Residual Credits and Partial Accounts would align such rights with the rights Receiving Members have to delete such assets in full account transfers. In addition, the ability to delete such assets would make the process more efficient by allowing Receiving Members to make such deletions in the ACATS system rather than having to reject such transfer requests, requiring the Delivering Member to either resend another transfer request through ACATS or to manually transfer assets without such mutual fund products not using ACATS. As such, allowing Receiving Members to delete Fund/Serv Eligible Fund assets upon transfer requests for Residual Credits and Partial Accounts would bring greater efficiencies to the account transfer process.

Therefore, by bringing greater efficiencies to the account transfer process as set forth above, NSCC believes the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act.<sup>29</sup>

The clarification changes set forth in II(A)(i)(b)(iv) above are also consistent with this provision because the proposed clarification changes would enhance clarity and transparency for participants with respect to services offered by NSCC allowing ACATS participants to have a better understanding of the Rules relating to ACATS and the customer account transfer process. Having clear and accurate Rules would help

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<sup>29</sup>

Id.

Members to better understand their rights and obligations regarding NSCC's clearance and settlement services. NSCC believes that when Members better understand their rights and obligations regarding NSCC's services, they can act in accordance with the Rules. NSCC believes that better enabling Members to comply with the Rules would promote the prompt and accurate clearance and settlement of securities transactions by NSCC consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act.<sup>30</sup>

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

NSCC does not believe that the proposed rule change would have any adverse impact, or impose any burden, on competition. NSCC believes that the proposed changes set forth in II(A)(1)(b)(i) – (iii) above would bring greater efficiencies to the account transfer process as discussed above consistent with the industry initiatives to streamline ACATS and would promote competition by allowing ACATS participants to process account transfers in a faster, more efficient manner. Allowing ACATS participants to process account transfers in a more efficient manner would result in client assets being transferred to the appropriate Members and DTC participants more quickly. NSCC believes that reducing the time it takes to transfer account assets to the appropriate Member or DTC participant using ACATS would allow the Members' or DTC participants' respective clients to transfer securities in their transferred accounts more quickly, promoting the ability to trade such securities and therefore promoting competition in the marketplace.

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<sup>30</sup> Id.

NSCC does not believe that the proposed clarification changes set forth in II(A)(1)(b)(iv) above would have any impact on competition because such changes are clarifications of the Rules which would improve the Member's understanding of the Rules and would not otherwise affect the rights or obligations of NSCC Members.

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

NSCC has not received or solicited any written comments relating to this proposal. 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)<sup>31</sup> of the Act and paragraph (f)<sup>32</sup> 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:

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<sup>31</sup> 15 U.S.C 78s(b)(3)(A).

<sup>32</sup> 17 CFR 240.19b-4(f).

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](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2020-001 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NSCC-2020-001. 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 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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information

from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NSCC-2020-001 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.<sup>33</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>33</sup> 17 CFR 200.30-3(a)(12).