

Proposed Rule Change by National Securities Clearing Corporation  
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial <input checked="" type="checkbox"/>	Amendment <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) <input checked="" type="checkbox"/>	Section 19(b)(3)(A) <input type="checkbox"/>	Section 19(b)(3)(B) <input type="checkbox"/>
			Rule		
			<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)	
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)	
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)	

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
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**Description**  
Provide a brief description of the proposed rule change (limit 250 characters).

The proposed rule change eliminates the NSCC payment guarantee for physical deliveries through the Envelope Settlement Service and any related clearing fund deposit

**Contact Information**  
Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name	<input type="text" value="Lois"/>	Last Name	<input type="text" value="Radisch"/>
Title	<input type="text" value="Managing Director and Senior Counsel"/>		
E-mail	<input type="text" value="lradisch@dtcc.com"/>		
Telephone	<input type="text" value="(212) 855-3220"/>	Fax	<input type="text" value="(212) 855-3215"/>

**Signature**  
Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized officer.

Date	<input type="text" value="01/04/2010"/>
By	<input type="text" value="Larry E. Thompson"/>
	(Name)
	<input type="text" value="General Counsel"/>
	(Title)

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

**Form 19b-4 Information**

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change**

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

Add Remove View

Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change.

(a) The proposed rule change is annexed hereto as Exhibit 5 and consists of modifications to the Rules & Procedures (the “Rules”) of National Securities Clearing Corporation (the “Corporation”) with regard to the elimination of a guarantee of payment with respect to the Envelope Settlement Service, provided for under Rule 9, Addendum D, Addendum K and Procedure XV of the Rules.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization.

The proposed change was approved by the Credit & Market Risk Management Committee of the Corporation at a meeting duly called and held on October 21, 2009.

3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

(a) The Envelope Settlement Service (“ESS”) is primarily provided for under Rule 9 and Addendum D of the Rules, with related provisions in Addendum K and Procedure XV, each of which is proposed to be amended as further described below and as set forth in the attached Exhibit 5.

ESS allows a Member of the Corporation to physically deliver a sealed envelope<sup>1</sup>, containing securities and such other items as the Corporation may from time to time permit, to a specified receiving Member, through the facilities of the Corporation. The Corporation then delivers the envelope to the receiving Member.

The delivering Member must attach a credit list in duplicate to each envelope, which reflects the total money value, if any, of the envelope contents. After receipt of the envelope (if the Corporation has determined that the envelope delivered is properly listed on the accompanying credit list), the Corporation will stamp the duplicate credit list and make it immediately available to the Member's representative making the delivery.

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<sup>1</sup> Rule 9 provides that except as the Corporation may determine to be appropriate or necessary, the Corporation will not examine the contents of the envelopes nor verify the amounts of money shown on the credit list, and it shall not be responsible with respect thereto, except to deliver the envelopes accepted by it to the authorized representatives of the Members to whom they are addressed.

As a related feature of the service, the related amount of payment due for the envelope, specified on the credit list, is processed as part of the Member's daily end of day net money settlement obligation in reliance on the agreement of the delivering and receiving parties, outside the Corporation, that this is the contract amount.

Pursuant to this rule change, the Corporation will amend Rule 9 and related provisions so that the Corporation does not guarantee the payment obligation of the receiving Member in an ESS delivery and credits and debits of the payment amount of an envelope may be reversed. The rationale for these changes is, in each case, to protect the Corporation against the risk of Member non-payment.

The payment reversal may be effected by the Corporation even if the receiving Member has already taken possession of the envelope; however, if the receiving Member has not yet taken possession of the envelope at the time of a payment reversal, the Corporation will return the envelope to the affected delivering Member. Any dispute between the affected delivering and receiving Members must be resolved by them outside the facilities of the Corporation.

The primary substantive changes are in Rule 9, Addendum D and Addendum K with a conforming change to Procedure XV but there are also technical clean-up changes in each.

Changes to Rule 9 affirmatively provide that ESS is not guaranteed and that payment credits and debits may be reversed. Technical and conforming changes clarify the concepts of delivering and receiving Members and that settlement processing is subject not only to the rights of the Corporation under Section 2 of Rule 12 but also to the new reversal provision in Section 4 of Rule 9.

Addendum D is similarly amended to conform to amended Rule 9, to state that ESS is not guaranteed and that payment credits and debits may be reversed as provided in Rule. Clarification that settlement processing is subject to the rights of the Corporation under Rule 9, new Section 4, and Rule 12, Section 2, is also carried over to Addendum D. Addendum D also covers other services for which no change is being made in this filing. Therefore, certain of the revisions to Addendum D clarify that the amendments are limited to ESS; historical statements have been eliminated.

The change to Addendum K deletes the provision that formerly provided a guarantee for ESS and, thereby, deemed ESS to be a "System" within the meaning of Rule 4 of the Corporation; without the guarantee, ESS will not be considered a "System".

Consistent with this change, clearing fund deposits allocated to ESS will be eliminated under Procedure XV, reducing the cost of the service to members who use ESS. The change to Procedure XV clarifies that, when the Clearing Fund component “For Other Transactions” (that is, other than for CNS Transactions and Balance Order Transactions) is computed, ESS will be excluded.

In considering the elimination of the guarantee, the Corporation surveyed selected members and learned that they did not consider it vital that the Corporation be responsible for their payment obligations and they do not rely on the Corporation to “stand behind” such payments. The proposed rule changes should therefore conform the Rules and Procedures to current market custom and practice.

Members did, however, express a strong desire for the Corporation to maintain the central delivery service. The proposed changes are designed to meet this expressed need of certain Members but to reduce risk to the Corporation and its Members generally. The burden of risk is shifted to the contracting parties who should bear it, outside the Corporation. The changes will also insulate other Members from any impact on net settlement due to an ESS payment dispute.

(b) The proposed rule changes facilitate the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of Section 17A of the Securities Exchange Act of 1934, as amended. The revised rules protect the Corporation’s net settlement process while continuing to provide a central delivery point for physical deliveries of envelopes with constrained payment processing. The changes will reduce the Corporation’s exposure to potential losses from Member defaults, insolvencies, mistakes and fraud, appropriately shifting the risk outside the Corporation, to the contracting Members in an ESS transaction. The proposal is also consistent with the CPSS/IOSCO Recommendations for Central Counterparties for the same reasons.

4. Self-Regulatory Organization's Statement on Burden on Competition.

The Corporation does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

5. Self-Regulatory Organization’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. The Corporation will notify the Commission of any written comments received by the Corporation.

6. Extension of Time Period for Commission Action.

The Corporation does not consent to an extension of the time period specified in Section 19(b)(2) of the Act for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D).

- (a) Not applicable.
- (b) Not applicable.
- (c) Not applicable.
- (d) Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission.

The proposed rule change is not based on the rules of another self-regulatory organization or the Commission.

9. Exhibits

- Exhibit 1 - Notice of proposed rule change for publication in the Federal Register.
- Exhibit 2 – N/A
- Exhibit 3 – N/A
- Exhibit 4 – N/A
- Exhibit 5 - Proposed Rule Text

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-[\_\_\_\_\_]; File No. SR-NSCC-2010-01)

January 4, 2010

Self-Regulatory Organizations; National Securities Clearing Corporation; Proposed Rule Change with regard to the elimination of a guarantee of payment with respect to the Envelope Settlement Service

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”), notice is hereby given that on January 4, 2010, the National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

(a) The purpose of the proposed rule change is to make modifications to the Rules & Procedures (the “Rules”) of National Securities Clearing Corporation (the “Corporation”) with regard to the elimination of a guarantee of payment with respect to the Envelope Settlement Service, provided for under Rule 9, Addendum D, Addendum K and Procedure XV of the Rules.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The Envelope Settlement Service ("ESS") is primarily provided for under Rule 9 and Addendum D of the Rules, with related provisions in Addendum K and Procedure XV, each of which is proposed to be amended as further described below and as set forth in the attached Exhibit 5.

ESS allows a Member of the Corporation to physically deliver a sealed envelope<sup>1</sup>, containing securities and such other items as the Corporation may from time to time permit, to a specified receiving Member, through the facilities of the Corporation. The Corporation then delivers the envelope to the receiving Member.

The delivering Member must attach a credit list in duplicate to each envelope, which reflects the total money value, if any, of the envelope contents. After receipt of the envelope (if the Corporation has determined that the envelope delivered is properly listed on the accompanying credit list), the Corporation will stamp the duplicate credit list and make it immediately available to the Member's representative making the delivery.

As a related feature of the service, the related amount of payment due for the envelope, specified on the credit list, is processed as part of the Member's daily end of day net money settlement obligation in reliance on the agreement of the delivering and receiving parties, outside the Corporation, that this is the contract amount.

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<sup>1</sup> Rule 9 provides that except as the Corporation may determine to be appropriate or necessary, the Corporation will not examine the contents of the envelopes nor verify the amounts of money shown on the credit list, and it shall not be responsible with respect thereto, except to deliver the envelopes accepted by it to the authorized representatives of the Members to whom they are addressed.

Pursuant to this rule change, the Corporation will amend Rule 9 and related provisions so that the Corporation does not guarantee the payment obligation of the receiving Member in an ESS delivery and credits and debits of the payment amount of an envelope may be reversed. The rationale for these changes is, in each case, to protect the Corporation against the risk of Member non-payment.

The payment reversal may be effected by the Corporation even if the receiving Member has already taken possession of the envelope; however, if the receiving Member has not yet taken possession of the envelope at the time of a payment reversal, the Corporation will return the envelope to the affected delivering Member. Any dispute between the affected delivering and receiving Members must be resolved by them outside the facilities of the Corporation.

The primary substantive changes are in Rule 9, Addendum D and Addendum K with a conforming change to Procedure XV but there are also technical clean-up changes in each.

Changes to Rule 9 affirmatively provide that ESS is not guaranteed and that payment credits and debits may be reversed. Technical and conforming changes clarify the concepts of delivering and receiving Members and that settlement processing is subject not only to the rights of the Corporation under Section 2 of Rule 12 but also to the new reversal provision in Section 4 of Rule 9.

Addendum D is similarly amended to conform to amended Rule 9, to state that ESS is not guaranteed and that payment credits and debits may be reversed as provided in Rule. Clarification that settlement processing is subject to the rights of the Corporation under Rule 9, new Section 4, and Rule 12, Section 2, is also carried over to Addendum D.

Addendum D also covers other services for which no change is being made in this filing. Therefore, certain of the revisions to Addendum D clarify that the amendments are limited to ESS; historical statements have been eliminated.

The change to Addendum K deletes the provision that formerly provided a guarantee for ESS and, thereby, deemed ESS to be a “System” within the meaning of Rule 4 of the Corporation; without the guarantee, ESS will not be considered a “System”.

Consistent with this change, clearing fund deposits allocated to ESS will be eliminated under Procedure XV, reducing the cost of the service to members who use ESS. The change to Procedure XV clarifies that, when the Clearing Fund component “For Other Transactions” (that is, other than for CNS Transactions and Balance Order Transactions) is computed, ESS will be excluded.

In considering the elimination of the guarantee, the Corporation surveyed selected members and learned that they did not consider it vital that the Corporation be responsible for their payment obligations and they do not rely on the Corporation to “stand behind” such payments. The proposed rule changes should therefore conform the Rules and Procedures to current market custom and practice.

Members did, however, express a strong desire for the Corporation to maintain the central delivery service. The proposed changes are designed to meet this expressed need of certain Members but to reduce risk to the Corporation and its Members generally. The burden of risk is shifted to the contracting parties who should bear it, outside the Corporation. The changes will also insulate other Members from any impact on net settlement due to an ESS payment dispute.

(b) The proposed rule changes facilitate the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of Section 17A of the Securities Exchange Act of 1934, as amended. The revised rules protect the Corporation's net settlement process while continuing to provide a central delivery point for physical deliveries of envelopes with constrained payment processing. The changes will reduce the Corporation's exposure to potential losses from Member defaults, insolvencies, mistakes and fraud, appropriately shifting the risk outside the Corporation, to the contracting Members in an ESS transaction. The proposal is also consistent with the CPSS/IOSCO Recommendations for Central Counterparties for the same reasons.

B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact on or impose any burden on competition.

(C) Self-Regulatory Organization'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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

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](mailto:rule-comments@sec.gov). Please include File No. SR-NSCC-2010-01 on the subject line.

Paper comments:

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

All submissions should refer to File No. SR-NSCC-2010-01. These file numbers 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 Web site (<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 inspection and copying in the Commission's Public Reference Section, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and

3:00 pm. Copies of such filings also will be available for inspection and copying at NSCC's principal office and on its Web site at < [http://www.dtcc.com/legal/rule\\_filings/](http://www.dtcc.com/legal/rule_filings/) >. 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 No. SR-NSCC-2010-01 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.

Elizabeth M. Murphy  
Secretary

**Bold, Underlined Text denotes additional language**

**~~Bold, Strikethrough Text denotes deleted language.~~**

## RULE 9. DELIVERY AND RECEIPT OF SECURITIES

SEC. 1. The Corporation may, at its facilities in New York, New York ("New York facilities") or at other of its facilities, receive envelopes, of the type approved by the Corporation, from Members **(each, a "delivering Member")** addressed to Members **(each, a "receiving Member")** on business days. Such envelopes will be sorted and made available, at the same facility, to the authorized representatives of the Members to whom they are addressed as provided in this Section 1. **The delivery of envelopes and the related processing of payments by the Corporation are not guaranteed services of the Corporation and are subject to reversal as provided in Section 4.**

1. Deliveries of envelopes to the Corporation shall be made in accordance with the schedule from time to time specified by the Corporation.
2. An envelope delivered to the Corporation shall contain only such securities as permitted by the Corporation from time to time; tickets relating to such securities contained in the envelope; or such other items as the Corporation may from time to time permit. Envelopes which contain securities other than as permitted by the Corporation are subject to return by the Corporation to the delivering Member **and the related credit and debit of the payment amount therefor may be reversed in accordance with Section 4.**
3. The envelopes shall be accompanied by a credit list, in duplicate, in such form prescribed by the Corporation. The credit list shall list each of the envelopes delivered with it and shall show the number of the Member to whom each envelope is addressed and the total money value, if any, of the items contained in that envelope, and each credit list shall be totaled.
4. Each separate item in an envelope shall be accompanied by tickets or orders, in duplicate, containing such information as may be necessary for the receiving Member to identify the item. An envelope containing more than one item must also contain an adding machine tape of the money value of the items included in such envelope. The total shown on such tape must be the same as the **total** money value recorded on the credit list for that envelope.
5. All envelopes delivered to the Corporation will be checked against the credit list which accompanies them to see that each envelope on the credit list has been received. If the envelopes delivered are properly listed on the accompanying credit list, the Corporation will stamp the duplicate credit list and make it immediately available to the **delivering** Member's representative making the delivery. All envelopes listed on a credit list shall be deemed to have been accepted by the Corporation when the Corporation stamps the duplicate credit

list on which such envelopes are listed, and at the time of such stamping the envelope shall be deemed for all purposes, subject to the rights of the Corporation under **Section 4 of this Rule and** Section 2 of Rule 12, to have been delivered to the receiving Member, **unless any such envelope shall be found by the Corporation to contain impermissible items, in which case subsection 2 of this Section 1 shall apply.** Prior to the stamping of the credit list, envelopes will be held by the Corporation for the delivering Member and after stamping for the receiving Member.

6. The Corporation will sort the envelopes accepted by it and, subject to the rights of the Corporation under **Section 4 of this Rule and** Section 2 of Rule 12, will make such envelopes available to the authorized representatives of the **receiving** Members to whom they are addressed through the Corporation's facilities. Except as the Corporation may determine to be appropriate or necessary, the Corporation will not examine the contents of the envelopes nor verify the **payment** amounts **of money** shown on the credit list, and it shall not be responsible with respect thereto, except to deliver the envelopes accepted by it to the authorized representatives of the **receiving** Members to whom they are addressed.
7. The Corporation when it stamps a credit list is authorized to, and will, credit the delivering Member's account with the **payment** amount shown on such stamped credit list and debit the receiving Member's account with the same amount.
8. Each **receiving** Member shall send to the Corporation at the times on business days specified by the Corporation and, in addition, at frequent intervals on business days a representative authorized, pursuant to Rule 27, to receive envelopes delivered through the Corporation's facilities.
9. In case of any irregularity in an item, the receiving Member may return such item to the delivering Member **outside the Corporation, or through the service provided under this Rule** by putting such item in an envelope and delivering the envelope in the same manner as provided by this Section 1 for the delivery by Members, except that the tickets in the envelope and the credit list accompanying the envelope, which are used in connection therewith, shall bear the legend "Reclamation". If such delivery of returned items is to be made through the Corporation it shall be made on the day received or on the next business day in accordance with the schedule specified by the Corporation. An irregularity in an item shall be deemed to exist only when the receiving **partyMember** does not know the delivery, such as deliveries of the wrong securities, deliveries of the wrong number of shares or units, deliveries for the wrong **payment** amount **of money**, or deliveries which do not meet the requirements of Rule 44. No irregularity in an item shall be deemed to exist solely by reason of the delivery having been effected through the Corporation, rather than by another means, unless the delivering **partyMember** and the receiving **partyMember** shall have entered into a prior agreement providing for such delivery by another means or the rules of a self regulatory organization, as

defined in the Securities Exchange Act of 1934, require delivery of such item through other means.

10. **Payment A** amounts which the Corporation has agreed to credit to a Member on account of deliveries made to ~~other~~**receiving** Members and **payment** amounts which the Corporation has agreed to debit to a **receiving** Member on account of receipts from ~~other~~ **delivering** Members pursuant to this Section shall be credited or debited from time to time during each business day and shall be included in the settlement for that day, pursuant to Rule 12, **subject to the rights of the Corporation pursuant Section 4 of this Rule and Section 2 of Rule 12.**

SEC. 2. The Corporation may provide the services described in Section 1 of this Rule in respect of envelopes received by it from Members at its New York facilities or a branch facility which envelopes are to be delivered to another Member at a facility other than the facility at which the envelope is received (an "intercity delivery"). Such services shall be limited to such securities, tickets and items as specified in subsection 2 of Section 1 **and any other Rules or Procedures of the Corporation with respect thereto**, and shall be provided in the same manner as specified in Section 1 of this Rule, except that:

1. Each envelope delivered to the Corporation which involves an intercity delivery must be sealed.
2. The value of the securities contained in all envelopes which involve intercity deliveries by a Member on a single day shall not exceed the amount of the insurance provided by the delivering Member's blanket bond which covers such securities, or, in any event, the amount of the insurance provided by the Corporation's blanket bond which covers such securities.
3. The provisions of paragraphs 5, 6 and 7 of Section 1 of this Rule to the contrary notwithstanding, if an envelope which involves an intercity delivery is properly sealed, the Corporation will stamp the duplicate credit list as received and make it immediately available to the party making the delivery. When the Corporation's facility at which the envelope is to be received (the "receiving facility") receives the envelope and the accompanying credit list, it shall stamp such credit list and make the envelope available to the receiving party. A sealed envelope with its accompanying credit list shall be deemed to have been accepted by the Corporation when stamped at the facility at which the Corporation receives it from the delivering party (the "delivering facility"). An envelope shall be deemed, subject to **subsection 2 of Section 1 and to** the rights of the Corporation under **Section 4 of this Rule and** Section 2 of Rule 12, to have been delivered to the receiving party as of the time when the Corporation stamps the credit list at the receiving facility.

Before the Corporation has stamped the accompanying credit list at the receiving facility, it will hold the envelope as the property of the delivering party and, after such stamping, it will hold the envelope as the property of the receiving party.

The Corporation shall be responsible for an envelope up to the amount indicated on the accompanying credit list between the time the Corporation has stamped a copy of the credit list attached to the envelope at the delivering facility and the time at which the envelope is deemed, subject to the rights of the Corporation under Section 2 of Rule 12 **and Section 4 of this Rule**, delivered to the receiving party if:

- (a) the seal on the envelope is broken; or
- (b) the sealed envelope with its accompanying credit list is lost, stolen, destroyed or the like; provided, however, that in no event shall the Corporation be liable for any amount in excess of the value indicated on the accompanying credit list.

In any event, it shall be the responsibility of the delivering party to furnish the Corporation with certificate numbers and such other information as the Corporation shall deem appropriate.

4. The Corporation, after it has stamped a credit list at the receiving facility, will credit the delivering party's account with the amount shown on such stamped credit list and debit the receiving party's account with the same amount. Such debits and credits shall be included in the settlement for the day on which such credits and debits are made.
5. Returned items which are received by the Corporation prior to the final reclamation or delivery times designated by the Corporation, and appropriate debits and credits therefor, will be entered on the same day they are received in the case of a reclamation.

SEC. 3. In the event a Member receives an envelope that contains only part of the securities described by the accompanying ticket or order and the Member does not reclaim the envelope within the time frame prescribed by the Corporation, the Member may request the delivering Member to furnish certificate numbers of the missing securities.

In the event a receiving Member does not receive an envelope or receives an envelope that does not contain any securities and the receiving Member determines that he has been charged for the delivery, the receiving Member may request the delivering Member to identify the securities and furnish certificate numbers related to the delivery.

Requests for certificate numbers should be made promptly.

If a request is made on the day of delivery, the delivering Member must furnish certificate numbers no later than the end of the second business day following delivery. If a request is made on the day following delivery or any subsequent day, the delivering Member must furnish certificate numbers no later than the end of the first business day following the request. If certificate numbers are not furnished to the receiving Member within the requisite time frame and if the Corporation determines that the receiving Member's request was made promptly, the charges related to the delivery will be subject to reversal.

#### **Sec.4. Reversal of Payment Amount Credits and Debits.**

**1. The Corporation may reverse, in whole or in part in its sole discretion, any payment amount credited to a delivering Member and debited to a respective receiving Member with respect to any envelope delivery under this Rule 9 if, on any business day:**

**(a) An envelope has been found to contain anything other than permitted securities, tickets relating thereto and other items, as provided in subsection 2 of Section 1 of this Rule 9, or that the contents of an envelope are otherwise inappropriate for delivery through the facilities of the Corporation; or**

**(b) The Corporation reasonably believes that the respective receiving Member will not pay or has not paid the payment amount in respect of an envelope, whether by net settlement or otherwise, and regardless of whether the receiving party that is, or is acting on behalf of, the receiving Member has taken delivery of the envelope prior to such reversal; or**

**(c) If the Corporation ceases to act for the delivering Member, the receiving Member or both.**

**2. The delivering Member and the receiving Member shall resolve any disputes or claims with respect to any such reversal outside the Corporation, including, but not limited to, any dispute arising because the receiving Member has taken delivery of the envelope prior to the reversal. If the receiving Member has not, at the time of a reversal of payment, taken delivery of the envelope, the Corporation shall return the affected envelope to the appropriate delivering Member.**

ADDENDUM D

STATEMENT OF POLICY

ENVELOPE SETTLEMENT SERVICE, MUTUAL FUND SERVICES, INSURANCE AND RETIREMENT PROCESSING SERVICES AND OTHER SERVICES OFFERED BY THE CORPORATION

As authorized by Rule 9, the Corporation provides an Envelope Settlement Service ("**ESS**") for the delivery and receipt between Members of securities in New York City and for the delivery and receipt of securities between the Corporation's branch facilities and its New York City facility. **As provided in Rule 9, ESS is not a guaranteed service of the Corporation and the Corporation does not and will not stand behind any credit of any payment amount appearing on any credit list attached to any envelope delivered by a Member under Rule 9.**

Paragraph 2 of Section 1 **of Rule 9 further** provides that:

An envelope delivered to the Corporation shall contain only such securities as permitted by the Corporation from time to time; tickets relating to such securities contained in the envelope; or such other items as the Corporation may from time to time permit. Envelopes which contain securities other than as permitted by the Corporation are subject to return by the Corporation to the delivering Member **and the related payment amount debits and credits may be reversed in accordance with Section 4 [of Rule 9].**

Paragraph 3 of Section 1 provides that the credit list attached to an envelope shall show "the total money value, if any, of the items contained in that envelope". Since Paragraph 2 of Section 1 of Rule 9 authorizes the Corporation to permit Members to include "other items" in envelopes, credit lists may also include charges other than for securities contained in the envelope. Pursuant to Paragraph 7 of Section 1, the Corporation credits the delivering Member's account with the **payment** amount shown on the credit list and debits the receiving Member's account. Under Paragraph 10 of Section 1, **payment** amounts so debited and credited are included in the settlement for that day pursuant to Rule 12, **subject to the rights of the Corporation under Section 2 of Rule 12 and Section 4 of Rule 9.**

~~**As Members are aware, the Corporation stands behind amounts so debited or credited which are included pursuant to Rule 12 in the daily settlement. This, however, is subject to the Corporation's rights under Section 2 of Rule 12, pursuant to which the Corporation may take specific actions with respect to securities or money which are or may be due a Member, Mutual Fund/Insurance Services Member, Insurance Carrier/Retirement Services Member or Fund Member for whom the Corporation determines, or may determine, to cease to act.**~~

~~In reviewing the protections available to the Corporation and its assumption of responsibility for envelope deliveries, t~~The Corporation has determined that, ~~concurrent with the implementation of the FOSS service,~~ it will not ~~continue to~~ permit Members to utilize the envelope system pursuant to Section 1 of Rule 9 as a debiting and crediting vehicle for charges arising other than for permitted securities delivered in the envelopes to which the credit list, which includes the charge, is attached except for charges for due bills (which are contained in the envelopes) related to securities. The Corporation will, ~~however, continue to~~ permit Members to utilize the envelope service pursuant to Section 2 of Rule 9 for such inter-city deliveries debiting and crediting purposes. Nevertheless, the Corporation will not stand behind any charges appearing on a credit list attached to envelopes delivered by a Member pursuant to Rule 9, ~~Section 1 and 2 which are not for permitted securities contained in such envelopes~~ nor will the Corporation stand behind any charges appearing on a credit list attached to envelopes delivered through the Funds Only Settlement Service, Commission Bill Service or Dividend Settlement Service. In the event of the default of a Member, the Corporation, within such time frame as determined by the Corporation from time to time, ~~will~~may reverse all ESS and FOSS debits and credits of that Member due for settlement.

In the absence of a showing, satisfactory to the Corporation, that the charges appearing on the credit list are for permitted securities actually contained in such envelopes to which such credit lists are attached, the Corporation in its discretion, may promptly reverse credits previously given to delivering Members. For the purpose of Rule 9 and this Rule Addendum, it shall be presumed that charges appearing on a credit list attached to an envelope shall not be for permitted securities contained in such envelope if the charges are not approximately equal to either the current market price or contract price of the securities so included.

Furthermore, to the extent that the Corporation offers or will offer any other service not covered herein whether to Members or others (e.g., Mutual Fund/Insurance Services Members, Fund Members or Insurance Carrier/Retirement Services Members or AIP Members), through or pursuant to which the Corporation permits charges, unless the Corporation specifically provides otherwise, the Corporation shall also not stand behind such charges. The Corporation shall stand behind final Cash Amount charges submitted by an Index Receipt Agent pursuant to Rule 7 and the Procedures. (For the purposes of this Rule, the Corporation has determined that due bills are not securities.)

Specifically, but not in limitation of the foregoing, Members, Mutual Fund/Insurance Services Members, Insurance Carrier/Retirement Services Members and Fund Members are hereby advised that with respect to the Mutual Fund Services and Insurance and Retirement Processing Services, if at any time the Corporation fails to receive payment from a Member, Mutual Fund/Insurance Services Member, Insurance

Carrier/Retirement Services Member or Fund Member which payment was to be used to make payment to the contra side of the Mutual Fund Services or Insurance and Retirement Processing Services transaction, the Corporation, in its discretion, may reverse in whole or in part any credit previously given to any Member, Mutual Fund/Insurance Services Member, Insurance Carrier/Retirement Services Member or Fund Member who is the contra side to the Mutual Fund Services or Insurance and Retirement Processing Services transaction within such time frame as determined by the Corporation from time to time.

Notwithstanding the foregoing, the Corporation may, in its discretion, apportion on a pro rata basis, to delivering Members or any other Member, Mutual Fund/Insurance Services Member, Insurance Carrier/Retirement Services Member or Fund Member whose credit positions have been reversed, any excess credit position remaining, after all liabilities to the Corporation are satisfied, of a receiving Member or other Member, Mutual Fund/Insurance Services Member, Insurance Carrier/Retirement Services Member or Fund Member for whom the Corporation has ceased to act.

With respect to the AIP Service, at any time the Corporation fails to receive payment from an AIP Member which payment was to be used to make payment to the contra side AIP Member, the Corporation will reverse any credit previously given to any AIP Member who is the contra side to the AIP Member whose payment was not received by the Corporation.

This statement of policy is not inconsistent with the Corporation's policy on Member-to-Member adjustments which, while permitted by the Corporation generally, are subject to reversal in the Corporation's discretion.

## 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:
  - a)** 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. CNS transactions are guaranteed as of the 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 T-Contracts for locked-in trades. With respect to 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 contracts and, in either case, 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 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.

~~**b). Subject to the restriction in Addendum D to the Rules, the Corporation guarantees that a Member will be paid for an envelope delivery which is made pursuant to Rule 9 unless the envelope is returned to the Member by the Corporation.**~~

3. In connection with the expansion by the Corporation of its clearance and settlement business, it has become desirable for the Corporation to make formal designations of the services constituting Systems within the definition of Section 1 of Rule 4. Accordingly, the Board hereby designates the services referred to in paragraph I.2. above as services for which the Corporation assumes the responsibility for the completion of transactions, and therefore as Systems within the Rule 4, Section 1 definition. These services are the only services so designated as of this date.

## II. APPLICATION OF THE CLEARING FUND TO EXCESS LOSSES AND LOSSES OUTSIDE OF A SYSTEM

1. Section 2(b) of Rule 4 provides that the use of the Clearing Fund in its entirety (which consists in part of all the Funds) shall be limited to satisfaction of losses or liabilities of the Corporation incident to the operation of the clearance and settlement business of the Corporation other than losses or liabilities of a System.
2. Pursuant to Section 2(b) of Rule 4, the entire Clearing Fund must be available to satisfy losses arising outside of a System. There are various circumstances pursuant to which the entire Clearing Fund may be available to satisfy losses outside of a System:
  - One circumstance arises out of the Mutual Fund Services. Members that do not participate in the Mutual Fund Services are shielded from exposures to the Mutual Fund Services losses as long as the Corporation continues to have active participants in Mutual Fund Services.

If the Corporation were to have an unsatisfied Mutual Fund Services loss, such loss may be satisfied from the entire Clearing

Fund (less the amounts paid in respect of the Mutual Fund Services).

- An additional circumstance arises out of the Insurance and Retirement Processing Services. If the Corporation were to have an unsatisfied loss due to a Member's, Mutual Fund/Insurance Services Member's or Insurance Carrier/Retirement Services Member's use of the Insurance and Retirement Processing Services, such loss may be satisfied from the entire Clearing Fund.

## PROCEDURE XV. CLEARING FUND FORMULA AND OTHER MATTERS<sup>1</sup>

### 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

(a)(i) The volatility of such Member's net of unsettled Regular Way, When-Issued and When-Distributed pending positions (i.e., net positions that have not yet passed Settlement Date) and fail positions (i.e., net positions that did not settle on Settlement Date), hereinafter collectively referred to as Net Unsettled Positions. When the Corporation deems it appropriate, the volatility of such positions shall be determined after taking into account offsetting pending transactions that: (x) have been confirmed and/or affirmed through an institutional delivery system acceptable to the Corporation<sup>2</sup>, and (y) have not been submitted for processing through the ID Net service. Such calculation shall be made in accordance with any generally accepted portfolio volatility model, including, but not limited to, any margining formula employed by any other clearing agency registered under Section 17A of the Securities Exchange Act of 1934, provided, however, that not less than two standard deviations' volatility shall be calculated under any model chosen. Such calculation shall be made utilizing such assumptions and based on such historical data as the Corporation deems reasonable and shall cover such range of historical volatility as the Corporation from time to time deems appropriate.

(ii) The Corporation shall have the discretion to exclude from the above calculations Net Unsettled Positions in classes of securities whose volatility is (x) less amenable to statistical analysis, such as OTC Bulletin Board or Pink Sheet issues or issues trading below a designated dollar threshold (e.g., five dollars), or (y) amenable to generally accepted statistical analysis only in a complex manner, such as illiquid municipal or corporate bonds. The amount of Clearing Fund required with respect to such Net Unsettled Positions shall be determined by multiplying the absolute value of such positions by a percentage designated by the Corporation, which percentage shall be not less than 10% in respect of the positions covered by subsection x of this paragraph and shall be not less than 2% in respect of the positions covered by subsection y of this paragraph;

plus

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

<sup>2</sup> The Corporation may, in its discretion, decline to consider any such transactions, as well as other similar transactions referred to in respect of this Procedure, if it has reason to believe that the institutional counter party may not or cannot settle the transaction.

(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 positions<sup>3</sup> (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

(d) If such Member clears for one or more Market Makers<sup>4</sup> (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

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<sup>3</sup> For fail positions, the contract price used for this purpose is the prior day's Market Price.

<sup>4</sup> As used in this Procedure, the term "Market Maker" shall mean a member firm of the National Association of Securities Dealers, Inc. (NASD) that is registered by the NASD as a Market Maker.

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 3<sup>5</sup>;

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.

(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,<sup>6</sup> 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

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<sup>5</sup> 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).

<sup>6</sup> 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.

(a)(i) The volatility of such Member's net of unsettled Regular Way, When-Issued and When-Distributed positions that have not yet passed Settlement Date, hereinafter collectively referred to as Net Balance Order Unsettled Positions. When the Corporation deems it appropriate, the volatility of such positions shall be determined after taking into account offsetting pending transactions that have been confirmed and/or affirmed through an institutional delivery system acceptable to the Corporation. Such calculation shall be made in accordance with any generally accepted portfolio volatility model, including, but not limited to, any margining formula employed by any other clearing agency registered under Section 17A of the Securities Exchange Act of 1934, provided, however, that not less than two standard deviations' volatility shall be calculated under any model chosen. Such calculation shall be made utilizing such assumptions and based on such historical data as the Corporation deems reasonable and shall cover such range of historical volatility as the Corporation from time to time deems appropriate.

(ii) The Corporation shall have the discretion to exclude from the above calculations Net Balance Order Unsettled Positions in classes of securities whose volatility is (x) less amenable to statistical analysis, such as OTC Bulletin Board or Pink Sheet issues or issues trading below a designated dollar threshold (e.g., five dollars), or (y) amenable to generally accepted statistical analysis only in a complex manner, such as illiquid municipal or corporate bonds. The amount of Clearing Fund required with respect to such Net Balance Order Unsettled Positions shall be determined by multiplying the absolute value of such positions by a percentage designated by the Corporation, which percentage shall be not less than 10% in respect of the positions covered by subsection x of this paragraph and shall be not less than 2% in respect of the positions covered by subsection y of this paragraph;

plus

(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, 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

(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,<sup>7</sup> 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.

### (3) For Other Transactions

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<sup>7</sup> 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.

The greater of (i) 2-1/2% of such Member's average daily settlement debits and credits other than CNS, ~~and~~ Mutual Fund Services and Envelope Settlement Service debits and credits ~~or~~ (ii) 5% of such Member's average daily settlement debits other than CNS, ~~and~~ Mutual Fund Services and Envelope Settlement Service debits, for other transactions (Other Transactions) as determined by the Corporation from time to time, adjusted for broker/dealer Members by a factor that shall be calculated as follows:

Average Daily Settlement Debits As Determined by the Corporation  
Excess Net Capital

The factor calculation shall be adjusted in order to provide a minimum of one with a maximum of three.

(4) For Mutual Fund Transactions

(a) \$5,000 if such Member has daily Mutual Fund Services settlement debits of no more than \$100,000 with respect to any one Fund Member;

or

(b) \$10,000 if such Member has daily Mutual Fund Services settlement debits of no more than \$500,000 with respect to any one Fund Member;

or

(c) \$20,000 if such Member has daily Mutual Fund Services settlement debits of more than \$500,000 with respect to any one Fund Member.

I.(B) Additional Clearing Fund Formula

(1) Additional Deposits for Members on Surveillance

Any Member who is placed on surveillance status shall be required to make such additional Clearing Fund deposits as determined by the Corporation on the same day as requested by the Corporation within such timeframe as required by the Corporation from time to time.

## (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)(c), I.(A)(1)(d), I.(A)(2)(c), and I.(A)(2)(d) 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.<sup>8</sup>

### I.(C) Clearing Fund Formula for Mutual Fund/Insurance Services Members who use the Mutual Fund Services.<sup>9</sup>

Each Mutual Fund/Insurance Services Member is required to contribute to the Clearing Fund maintained by the Corporation an amount, in cash, approximately equal to:

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<sup>8</sup> 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.

<sup>9</sup> 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).

(a) \$5,000 if the Mutual Fund/Insurance Services Member has daily Mutual Fund Services settlement debits of no more than \$100,000 with respect to any one Fund Member;

or

(b) \$10,000 if the Mutual Fund/Insurance Services Member has daily Mutual Fund Services settlement debits of no more than \$500,000 with respect to any one Fund Member;

or

(c) \$20,000 if the Mutual Fund/Insurance Services Member has daily Mutual Fund Services settlement debits of more than \$500,000 with respect to any one Fund Member.

#### I.(D) Clearing Fund Formula for Fund Members, Insurance Carrier/Retirement Services Members and Certain Mutual Fund/Insurance Services Members

The Clearing Fund Formula for each Fund Member, Insurance Carrier/Retirement Services Member and those Mutual Fund/Insurance Services Members who use the Corporation's Insurance and Retirement Processing Services shall be established at such time as the Corporation determines appropriate.

#### 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 Securities<sup>10</sup> or Eligible Clearing Fund Mortgage-Backed Securities<sup>11</sup>, 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 specified in the proposed haircut schedule detailed in subsection III below, and

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<sup>10</sup> A Member that is an Agency may not pledge Eligible Clearing Fund Agency Securities of which it is the issuer.

<sup>11</sup> 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.

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

- (B) All Clearing Fund requirements and other deposit requirements shall be made by Members and Mutual Fund/Insurance Services Members, within one hour of demand unless otherwise determined by the Corporation; provided, however, that to the extent the Member and Mutual Fund/Insurance Services Member is meeting such obligation with a (1) deposit of cash, such deposit shall be made by Federal Funds wire transfer and be received no later than fifteen minutes prior to the close of the Federal Funds wire, and (2) delivery of eligible securities, such delivery shall be received within the deadlines established by a Qualified Securities Depository. At the discretion of the Corporation, cash deposits may be included as part of the Member's or Mutual Fund/Insurance Services Member's, daily settlement obligation.
- (C) Additional Clearing Fund deposits shall not be requested unless they exceed such threshold as determined by the Corporation from time to time.
- (D) Where the amount of a Member's and Mutual Fund/Insurance Services Member's deficiency is in excess of \$1,000 but less than \$5,000, the Corporation may require payment in multiples of \$1,000. Where the amount of the deficiency is in excess of \$5,000, the Corporation may require payment in multiples of \$5,000.

III. Collateral Value of Eligible Clearing Fund Securities

- (A) Eligible Clearing Fund Securities pledged to secure Clearing Fund deposits shall, for collateral valuation purposes, be haircut as follows, or as otherwise determined by the Corporation from time to time:

<u>Security Type</u>	<u>Remaining Maturity</u>	<u>Haircut</u>
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1. Treasury

Bills, Notes, Bonds, TIPS	Zero to 1 year	2.0%
	1 year to 2 years	2.0%
	2 years to 5 years	3.0%

	5 years to 10 years	4.0%
	10 years to 15 years	6.0%
	15 years or greater	6.0%
Zero Coupon	Zero to 1 year	5.0%
	1 year to 2 years	5.0%
	2 years to 5 years	5.0%
	5 years to 10 years	12.0%
	10 years to 15 years	12.0%
	15 years or greater	12.0%
2. Agency*		
Notes, Bonds	Zero to 1 year	2.0%
	1 year to 2 years	3.0%
	2 years to 5 years	4.0%
	5 years to 10 years	5.0%
	10 years to 15 years	6.0%
	15 years or greater	7.0%
Zero Coupon	Zero to 1 year	5.0%
	1 year to 2 years	5.0%
	2 years to 5 years	5.0%
	5 years to 10 years	12.0%

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\* Any deposits of Eligible Clearing Fund Agency Securities or Eligible Clearing Fund Mortgage-Backed Securities in excess of 25 percent of a Member's Required Clearing Fund deposit will be subject to a haircut that is twice the amount of the percentage noted in the haircut schedule. Eligibility requirements will be announced by the Corporation from time to time.

	10 years to 15 years	12.0%
	15 years or greater	12.0%
3. Mortgage-Backed Security Pass-Throughs*	Ginnie Mae	6.0%
	Fannie Mae/Freddie Mac	7.0%
Self-issued**		14% (or 21% if Concentration limit is exceeded)

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\*\* A Member may deposit Eligible Clearing Fund Mortgage-Backed Securities of which it is the issuer, however such securities will be subject to a premium haircut. This haircut shall be 14% as an initial matter. If a Member also exceeds the 25% concentration limit, the haircut shall be 21%.