

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 22	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2017 - * 015	Amendment No. (req. for Amendments *)
Filing 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"/>	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	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)	
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934	
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>		
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>			
<b>Description</b>				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="Amend and clarify a margin charge relating to CNS Fails Position."/>				
<b>Contact Information</b>				
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 action.				
First Name *	<input type="text" value="Rosa"/>	Last Name *	<input type="text" value="Chang"/>	
Title *	<input type="text" value="Executive Director and Associate General Counsel"/>			
E-mail *	<input type="text" value="rchang1@dtcc.com"/>			
Telephone *	<input type="text" value="(212) 855-4985"/>	Fax	<input type="text"/>	
<b>Signature</b>				
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.				
(Title *)				
Date	<input type="text" value="08/11/2017"/>	<input type="text" value="Managing Director and Deputy General Counsel"/>		
By	<input type="text" value="Nikki Poulos"/>	<input type="text" value="npoulos@dtcc.com"/>		
(Name *)				
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 EFFF 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 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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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, security-based swap submission, or advance notice 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**

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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**

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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**

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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**

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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 Proposed Rule Change**

(a) The proposed rule change of National Securities Clearing Corporation (“NSCC”) is attached hereto as Exhibit 5. The proposed rule change would amend provisions in NSCC’s Rules and Procedures (“Rules”)<sup>1</sup> regarding an existing margin charge that is applied when a Member fails to settle a Short Position or a Long Position by the applicable settlement date (“CNS Fails Charge”) and would clarify NSCC’s current practices with respect to the assessment and collection of the CNS Fails Charge.

(b) Not applicable.

(c) Not applicable.

## **2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Risk Committee of NSCC’s Board of Directors on August 16, 2016.

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

### **(a) Purpose**

The proposed rule change would (1) amend provisions in the Rules regarding the CNS Fails Charge, which NSCC currently imposes on each NSCC member (“Member”),<sup>2</sup> as part of each Member’s Required Deposit to the NSCC Clearing Fund, which is due at the start of each business day, when all conditions to the application of the charge, as described below, are met, and (2) clarify NSCC’s current practices with respect to the assessment and collection of the CNS Fails Charge.

#### **(i) The Required Deposit and the CNS Fails Charge**

NSCC uses a risk-based margin methodology to assess Required Deposits from all Members. The Required Deposit is comprised of a number of risk-based component charges, including the CNS Fails Charge, which are calculated and assessed daily. The objective of the Required Deposit is to mitigate potential losses to NSCC associated with the liquidation of the Member’s portfolio if NSCC ceases to act for a Member.<sup>3</sup>

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<sup>1</sup> Capitalized terms not defined herein are defined in the Rules, available at [http://www.dtcc.com/~media/Files/Downloads/legal/rules/nscc\\_rules.pdf](http://www.dtcc.com/~media/Files/Downloads/legal/rules/nscc_rules.pdf).

<sup>2</sup> The CNS Fails Charge is currently imposed by NSCC pursuant to Procedure XV, Section I.(A)(1)(f). Id.

<sup>3</sup> When NSCC restricts a Member’s access to services generally, NSCC is said to have “ceased to act” for the Member. Rule 46 (Restrictions on Access to Services) sets out the

When a Member does not satisfy its obligation to either pay the net settlement proceeds or deliver the securities due by the applicable Settlement Date, NSCC, as a central counterparty, is exposed to credit and market risks. Such exposures generally increase when the Member's risk of default increases, as reflected by the Member's credit rating derived from the Credit Risk Rating Matrix.<sup>4</sup> Therefore, in order to reduce the risk exposures to NSCC and to incentivize Members to satisfy their obligations relating to their outstanding trades on Settlement Date, NSCC currently calculates and collects the CNS Fails Charge from Members with Short Positions and/or Long Positions that did not settle on the Settlement Date ("CNS Fails Positions"). The amount of the CNS Fails Charge imposed on a Member varies based on the Member's credit rating derived from the Credit Risk Rating Matrix to reflect the potential increase in credit risk from Members with higher risk of default.

This proposed rule change would amend the Rules regarding the CNS Fails Charge. Specifically, where certain percentages are used to calculate the CNS Fails Charge for a Member, the proposed rule change would amend the Rules to include such specific percentages. In doing so, the proposed rule change would add transparency as well as clarify NSCC's current practices with respect to the assessment and collection of this existing margin charge.

(ii) Calculation of the CNS Fails Charge

For a Member with CNS Fails Positions, the CNS Fails Charge is calculated by multiplying the Current Market Value for such Member's aggregate CNS Fails Positions by a percentage. For a Member that is rated 1 through 4 on the Credit Risk Rating Matrix, the CNS Fails Charge is 5 percent of the Member's aggregate CNS Fails Positions. For a Member that is rated 5 or 6 on the Credit Risk Rating Matrix, the CNS Fails Charge is 10 percent of the Member's aggregate CNS Fails Positions. For a Member that is rated 7 on the Credit Risk Rating Matrix, NSCC is currently charging such Member 20 percent of the Member's aggregate CNS Fails Positions – 10 percent of the charge is imposed pursuant to Procedure XV, Section I.(A)(1)(f) and the remaining 10 percent of the charge is imposed pursuant to Procedure XV, Section I.(B)(1). To improve the transparency of the CNS Fails Charge in the Rules and to clarify NSCC's current practices with respect to the assessment and collection of the CNS Fails Charge, NSCC is proposing to amend the Rules to provide that, for any Member that is rated 7 on the Credit Risk Rating Matrix, the CNS Fails Charge would be 20 percent of the Member's aggregate CNS Fails Positions. Members that are not rated by the Credit Risk Rating Matrix are not subject to the CNS Fails Charge; however, they can be placed on the Watch List as deemed necessary by NSCC to protect itself and its Members.<sup>5</sup> Members that are placed on the Watch

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circumstances under which NSCC may cease to act for a Member and the types of actions it may take. Supra note 1.

<sup>4</sup> See Exchange Act Release Nos. 80734 (May 19, 2017), 82 FR 24177 (May 25, 2017) (SR-NSCC-2017-002) and 80731 (May 19, 2017), 82 FR 24174 (May 25, 2017) (SR-NSCC-2017-801).

<sup>5</sup> Section 4(c) of Rule 2B (Ongoing Membership Requirements and Monitoring), supra note 1.

List are required to make additional Clearing Fund deposits when deemed necessary by NSCC from time to time.<sup>6</sup>

(iii) Detailed Description of the Proposed Rule Changes

NSCC is proposing to amend Rule 1 to add a definition for CNS Fails Position. The proposed definition would provide that the term “CNS Fails Position” means either a Long Position or a Short Position that did not settle on the Settlement Date.

NSCC is also proposing to amend Procedure XV, Section I.(A)(1)(f) to provide that a Member’s contribution to the Clearing Fund shall include an amount that is calculated by multiplying the Current Market Value for such Member’s aggregate CNS Fails Positions by (i) 5 percent for Members rated 1 through 4 on the Credit Risk Rating Matrix, (ii) 10 percent for Members rated 5 or 6 on the Credit Risk Rating Matrix, or (iii) 20 percent for Members rated 7 on the Credit Risk Rating Matrix.

(b) Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended (“Act”) and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>7</sup> and Rules 17Ad-22(e)(4), (e)(6)(i), and (e)(23)(i),<sup>8</sup> each as promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible.<sup>9</sup> The proposed rule changes to clarify NSCC’s current practices regarding the assessment and collection of the CNS Fails Charge would provide transparency in the Rules with respect to the charge. By doing so, these proposed rule changes would ensure that the Rules remain transparent, accurate and clear, which would enable all stakeholders to readily understand their respective rights and obligations regarding NSCC’s clearance and settlement of securities transactions. Therefore, NSCC believes that these proposed rule changes would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act. In addition, the proposed rule changes to amend provisions in the Rules regarding the CNS Fails Charge would protect NSCC from potential losses in the event that a Member defaults. Specifically, the CNS Fails Charge is calculated and collected by NSCC from Members with CNS Fails Positions in order to mitigate the credit exposures to NSCC resulting

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<sup>6</sup> Section I.(B)(1) of Procedure XV (Clearing Fund Formula and Other Matters), supra note 1.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>8</sup> 17 CFR 240.17Ad-22(e)(4), (e)(6)(i), and (e)(23)(i).

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

from those positions. Mitigating NSCC's risk exposures from CNS Fails Positions would promote the safeguarding of securities and funds that are within NSCC's custody or control, consistent with the requirements of Section 17A(b)(3)(F) of the Act.

Rule 17Ad-22(e)(4) under the Act requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor and manage its credit exposures to participants and those exposures arising from its payment, clearing and settlement processes.<sup>10</sup> The CNS Fails Charge is being imposed on Members with CNS Fails Positions in order to reduce credit exposures to NSCC resulting from those positions. As proposed, it is designed to obtain from such Member financial resources commensurate with the credit exposures posed to NSCC by such Member's CNS Fails Positions. Therefore, NSCC believes that management of its credit exposures to its Members through the CNS Fails Charge is consistent with Rule 17Ad-22(e)(4) under the Act.

Rule 17Ad-22(e)(6)(i) under the Act requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its Members by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio and market.<sup>11</sup> When applicable, the CNS Fails Charge is a component of a Member's Required Deposit and is designed to cover NSCC's credit exposures to Members with CNS Fails Positions. As described above, the CNS Fails Charge is determined based on the amount of CNS Fails Positions in a Member's portfolio and is commensurate with the Member's default risk. Therefore, NSCC believes the coverage of its credit exposures to its Members through the CNS Fails Charge is consistent with Rule 17Ad-22(e)(6)(i) under the Act.

Rule 17Ad-22(e)(23)(i) under the Act requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to publicly disclose all relevant rules and material procedures.<sup>12</sup> The proposed rule change to clarify NSCC's current practices with respect to the assessment and collection of the CNS Fails Charge would also improve the transparency of the Rules regarding the CNS Fails Charge. As such, NSCC believes that the proposed rule change would promote disclosure of relevant rules and material procedures relating to the CNS Fails Charge and therefore is consistent with Rule 17Ad-22(e)(23)(i) under the Act.

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

NSCC does not believe that the proposed rule change to amend the provisions in the Rules relating to the CNS Fails Charge would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.<sup>13</sup> NSCC believes that the CNS Fails Charge is

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<sup>10</sup> 17 CFR 240.17Ad-22(e)(4).

<sup>11</sup> 17 CFR 240.17Ad-22(e)(6)(i).

<sup>12</sup> 17 CFR 240.17Ad-22(e)(23)(i).

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(I).

necessary for NSCC to limit its exposures to potential losses from defaults by Members with CNS Fails Positions. Additionally, NSCC believes that the CNS Fails Charge is appropriate because it is imposed on Members on an individualized basis and is reasonably calculated based on the Members' default risks as well as the risks posed to NSCC by the Members' CNS Fails Positions. Therefore, NSCC believes any burden on competition imposed by the CNS Fails Charge would be necessary and appropriate in furtherance of the Act in order to limit NSCC's exposures to the risks being mitigated by such charge.

NSCC does not believe that the proposed rule change to clarify NSCC's current practices with respect to the assessment and collection of the CNS Fails Charge would impact competition.<sup>14</sup> The proposed rule change would increase the transparency of the Rules regarding this existing charge and codify NSCC's current practices with respect to the assessment and imposition of the charge. As such, NSCC believes that this proposed rule change would not impact Members or have any impact 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 this proposed rule change have not been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

#### **6. Extension of Time Period for Commission Action**

NSCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act<sup>15</sup> for Commission action.

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

- (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.

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<sup>14</sup> Id.

<sup>15</sup> 15 U.S.C. 78s(b)(2).

**9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act**

Not applicable.

**11. Exhibits**

Exhibit 1 – Not applicable.

Exhibit 1A – Notice of proposed rule change for publication in the Federal Register.

Exhibit 2 – Not applicable.

Exhibit 3 – Not applicable.

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed changes to the Rules.

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-[\_\_\_\_\_]; File No. SR-NSCC-2017-015)

[DATE]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change to Amend and Clarify a Margin Charge Relating to CNS Fails Position

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 August \_\_, 2017, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The proposed rule change would amend provisions in NSCC’s Rules and Procedures (“Rules”)<sup>3</sup> regarding an existing margin charge that is applied when a Member fails to settle a Short Position or a Long Position by the applicable settlement date (“CNS Fails Charge”) and would clarify NSCC’s current practices with respect to the assessment and collection of the CNS Fails Charge.

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

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 would (1) amend provisions in the Rules regarding the CNS Fails Charge, which NSCC currently imposes on each NSCC member ("Member"),<sup>4</sup> as part of each Member's Required Deposit to the NSCC Clearing Fund, which is due at the start of each business day, when all conditions to the application of the charge, as described below, are met, and (2) clarify NSCC's current practices with respect to the assessment and collection of the CNS Fails Charge.

(i) The Required Deposit and the CNS Fails Charge

NSCC uses a risk-based margin methodology to assess Required Deposits from all Members. The Required Deposit is comprised of a number of risk-based component charges, including the CNS Fails Charge, which are calculated and assessed daily. The

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<sup>4</sup> The CNS Fails Charge is currently imposed by NSCC pursuant to Procedure XV, Section I.(A)(1)(f). Id.

objective of the Required Deposit is to mitigate potential losses to NSCC associated with the liquidation of the Member's portfolio if NSCC ceases to act for a Member.<sup>5</sup>

When a Member does not satisfy its obligation to either pay the net settlement proceeds or deliver the securities due by the applicable Settlement Date, NSCC, as a central counterparty, is exposed to credit and market risks. Such exposures generally increase when the Member's risk of default increases, as reflected by the Member's credit rating derived from the Credit Risk Rating Matrix.<sup>6</sup> Therefore, in order to reduce the risk exposures to NSCC and to incentivize Members to satisfy their obligations relating to their outstanding trades on Settlement Date, NSCC currently calculates and collects the CNS Fails Charge from Members with Short Positions and/or Long Positions that did not settle on the Settlement Date ("CNS Fails Positions"). The amount of the CNS Fails Charge imposed on a Member varies based on the Member's credit rating derived from the Credit Risk Rating Matrix to reflect the potential increase in credit risk from Members with higher risk of default.

This proposed rule change would amend the Rules regarding the CNS Fails Charge. Specifically, where certain percentages are used to calculate the CNS Fails Charge for a Member, the proposed rule change would amend the Rules to include such specific percentages. In doing so, the proposed rule change would add transparency as

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<sup>5</sup> When NSCC restricts a Member's access to services generally, NSCC is said to have "ceased to act" for the Member. Rule 46 (Restrictions on Access to Services) sets out the circumstances under which NSCC may cease to act for a Member and the types of actions it may take. Supra note 3.

<sup>6</sup> See Exchange Act Release Nos. 80734 (May 19, 2017), 82 FR 24177 (May 25, 2017) (SR-NSCC-2017-002) and 80731 (May 19, 2017), 82 FR 24174 (May 25, 2017) (SR-NSCC-2017-801).

well as clarify NSCC's current practices with respect to the assessment and collection of this existing margin charge.

(ii) Calculation of the CNS Fails Charge

For a Member with CNS Fails Positions, the CNS Fails Charge is calculated by multiplying the Current Market Value for such Member's aggregate CNS Fails Positions by a percentage. For a Member that is rated 1 through 4 on the Credit Risk Rating Matrix, the CNS Fails Charge is 5 percent of the Member's aggregate CNS Fails Positions. For a Member that is rated 5 or 6 on the Credit Risk Rating Matrix, the CNS Fails Charge is 10 percent of the Member's aggregate CNS Fails Positions. For a Member that is rated 7 on the Credit Risk Rating Matrix, NSCC is currently charging such Member 20 percent of the Member's aggregate CNS Fails Positions – 10 percent of the charge is imposed pursuant to Procedure XV, Section I.(A)(1)(f) and the remaining 10 percent of the charge is imposed pursuant to Procedure XV, Section I.(B)(1). To improve the transparency of the CNS Fails Charge in the Rules and to clarify NSCC's current practices with respect to the assessment and collection of the CNS Fails Charge, NSCC is proposing to amend the Rules to provide that, for any Member that is rated 7 on the Credit Risk Rating Matrix, the CNS Fails Charge would be 20 percent of the Member's aggregate CNS Fails Positions. Members that are not rated by the Credit Risk Rating Matrix are not subject to the CNS Fails Charge; however, they can be placed on the Watch List as deemed necessary by NSCC to protect itself and its Members.<sup>7</sup>

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<sup>7</sup> Section 4(c) of Rule 2B (Ongoing Membership Requirements and Monitoring), supra note 3.

Members that are placed on the Watch List are required to make additional Clearing Fund deposits when deemed necessary by NSCC from time to time.<sup>8</sup>

(iii) Detailed Description of the Proposed Rule Changes

NSCC is proposing to amend Rule 1 to add a definition for CNS Fails Position. The proposed definition would provide that the term “CNS Fails Position” means either a Long Position or a Short Position that did not settle on the Settlement Date.

NSCC is also proposing to amend Procedure XV, Section I.(A)(1)(f) to provide that a Member’s contribution to the Clearing Fund shall include an amount that is calculated by multiplying the Current Market Value for such Member’s aggregate CNS Fails Positions by (i) 5 percent for Members rated 1 through 4 on the Credit Risk Rating Matrix, (ii) 10 percent for Members rated 5 or 6 on the Credit Risk Rating Matrix, or (iii) 20 percent for Members rated 7 on the Credit Risk Rating Matrix.

2. Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>9</sup> and Rules 17Ad-22(e)(4), (e)(6)(i), and (e)(23)(i),<sup>10</sup> each as promulgated under the Act, for the reasons described below.

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<sup>8</sup> Section I.(B)(1) of Procedure XV (Clearing Fund Formula and Other Matters), supra note 3.

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>10</sup> 17 CFR 240.17Ad-22(e)(4), (e)(6)(i), and (e)(23)(i).

Section 17A(b)(3)(F) of the Act requires that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible.<sup>11</sup> The proposed rule changes to clarify NSCC's current practices regarding the assessment and collection of the CNS Fails Charge would provide transparency in the Rules with respect to the charge. By doing so, these proposed rule changes would ensure that the Rules remain transparent, accurate and clear, which would enable all stakeholders to readily understand their respective rights and obligations regarding NSCC's clearance and settlement of securities transactions. Therefore, NSCC believes that these proposed rule changes would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act. In addition, the proposed rule changes to amend provisions in the Rules regarding the CNS Fails Charge would protect NSCC from potential losses in the event that a Member defaults. Specifically, the CNS Fails Charge is calculated and collected by NSCC from Members with CNS Fails Positions in order to mitigate the credit exposures to NSCC resulting from those positions. Mitigating NSCC's risk exposures from CNS Fails Positions would promote the safeguarding of securities and funds that are within NSCC's custody or control, consistent with the requirements of Section 17A(b)(3)(F) of the Act.

Rule 17Ad-22(e)(4) under the Act requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor and manage its credit exposures to participants and those

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<sup>11</sup> 15 U.S.C. 78q-1(b)(3)(F).

exposures arising from its payment, clearing and settlement processes.<sup>12</sup> The CNS Fails Charge is being imposed on Members with CNS Fails Positions in order to reduce credit exposures to NSCC resulting from those positions. As proposed, it is designed to obtain from such Member financial resources commensurate with the credit exposures posed to NSCC by such Member's CNS Fails Positions. Therefore, NSCC believes that management of its credit exposures to its Members through the CNS Fails Charge is consistent with Rule 17Ad-22(e)(4) under the Act.

Rule 17Ad-22(e)(6)(i) under the Act requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its Members by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio and market.<sup>13</sup> When applicable, the CNS Fails Charge is a component of a Member's Required Deposit and is designed to cover NSCC's credit exposures to Members with CNS Fails Positions. As described above, the CNS Fails Charge is determined based on the amount of CNS Fails Positions in a Member's portfolio and is commensurate with the Member's default risk. Therefore, NSCC believes the coverage of its credit exposures to its Members through the CNS Fails Charge is consistent with Rule 17Ad-22(e)(6)(i) under the Act.

Rule 17Ad-22(e)(23)(i) under the Act requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to publicly

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<sup>12</sup> 17 CFR 240.17Ad-22(e)(4).

<sup>13</sup> 17 CFR 240.17Ad-22(e)(6)(i).

disclose all relevant rules and material procedures.<sup>14</sup> The proposed rule change to clarify NSCC's current practices with respect to the assessment and collection of the CNS Fails Charge would also improve the transparency of the Rules regarding the CNS Fails Charge. As such, NSCC believes that the proposed rule change would promote disclosure of relevant rules and material procedures relating to the CNS Fails Charge and therefore is consistent with Rule 17Ad-22(e)(23)(i) under the Act.

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

NSCC does not believe that the proposed rule change to amend the provisions in the Rules relating to the CNS Fails Charge would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.<sup>15</sup> NSCC believes that the CNS Fails Charge is necessary for NSCC to limit its exposures to potential losses from defaults by Members with CNS Fails Positions. Additionally, NSCC believes that the CNS Fails Charge is appropriate because it is imposed on Members on an individualized basis and is reasonably calculated based on the Members' default risks as well as the risks posed to NSCC by the Members' CNS Fails Positions. Therefore, NSCC believes any burden on competition imposed by the CNS Fails Charge would be necessary and appropriate in furtherance of the Act in order to limit NSCC's exposures to the risks being mitigated by such charge.

NSCC does not believe that the proposed rule change to clarify NSCC's current practices with respect to the assessment and collection of the CNS Fails Charge would

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<sup>14</sup> 17 CFR 240.17Ad-22(e)(23)(i).

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

impact competition.<sup>16</sup> The proposed rule change would increase the transparency of the Rules regarding this existing charge and codify NSCC's current practices with respect to the assessment and imposition of the charge. As such, NSCC believes that this proposed rule change would not impact Members or have any impact on competition.

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

Written comments relating to this proposed rule change have not 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 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove 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:

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<sup>16</sup> Id.

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-2017-015 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-2017-015. 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; the Commission does not edit personal identifying information from submissions. You should submit

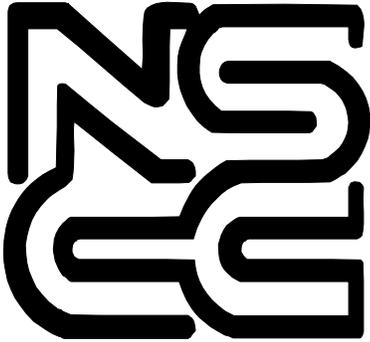
only information that you wish to make available publicly. All submissions should refer to File Number SR-NSCC-2017-015 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

Secretary

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



NATIONAL  
SECURITIES  
CLEARING  
CORPORATION

RULES & PROCEDURES

TEXT OF PROPOSED RULE CHANGE

**Bold and underlined text** indicates proposed added language

**~~Bold and strikethrough text~~** indicates proposed deleted language

## RULE 1. DEFINITIONS AND DESCRIPTIONS

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

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### **CNS Fails Position**

**The term “CNS Fails Position” means either a Long Position or a Short Position that did not settle on the Settlement Date.**

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## 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

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plus

**(f) An amount that is calculated by multiplying the Current Market Value for such Member's aggregate CNS Fails Positions by (i) 5% for Members rated 1 through 4 on the Credit Risk Rating Matrix, (ii) 10% for Members rated 5 or 6 on the Credit Risk Rating Matrix, or (iii) 20% for Members rated 7 on the Credit Risk Rating Matrix 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;**

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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.