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Page 1 of * 84		SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No. * SR 2025 - * 001 Amendment No. (req. for Amendments *)	
Filing by The Depository Trust Company 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 type="checkbox"/>		Section 19(b)(3)(A) * <input checked="" 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 checked="" type="checkbox"/> 19b-4(f)(6)	
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010 Section 806(e)(1) * <input type="checkbox"/>			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 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"/>		
Description Provide a brief description of the action (limit 250 characters, required when Initial is checked *). <div>Amend and Restate the Second Amended and Restated Netting Contract and Limited Cross-Guaranty between NSCC and DTC</div>					
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 action. First Name * [REDACTED] Last Name * [REDACTED] Title * [REDACTED] E-mail * RuleFilingAdmin@dtcc.com Telephone * [REDACTED] Fax [REDACTED]					
Signature Pursuant to the requirements of the Securities Exchange of 1934, The Depository Trust Company has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized. Date 01/02/2025 (Title *) By [REDACTED] [REDACTED] (Name *) <div>NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.</div> <div>Date: 2025.01.02 10:48:45 -05'00'</div>					

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SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549			
For complete Form 19b-4 instructions please refer to the EDFS website.			
<div>Form 19b-4 Information *</div> <div><div>AddRemoveView</div><div>Narrative (DTC) - DTC-NSCC Cross-C</div></div>			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.
<div>Exhibit 1 - Notice of Proposed Rule Change *</div> <div><div>AddRemoveView</div><div>Exh 1A (DTC) - DTC-NSCC Cross-Gu</div></div>			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)
<div>Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *</div> <div><div>AddRemoveView</div></div>			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)
<div>Exhibit 2- Notices, Written Comments, Transcripts, Other Communications</div> <div><div>AddRemoveView</div></div>			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. <div><input type="checkbox"/> Exhibit Sent As Paper Document</div>
<div>Exhibit 3 - Form, Report, or Questionnaire</div> <div><div>AddRemoveView</div><div>Exh 3 (Redacted) - DTC-NSCC Cross-</div></div>			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. <div><input type="checkbox"/> Exhibit Sent As Paper Document</div>
<div>Exhibit 4 - Marked Copies</div> <div><div>AddRemoveView</div></div>			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.
<div>Exhibit 5 - Proposed Rule Text</div> <div><div>AddRemoveView</div><div>Exh 5 (Redacted) - DTC-NSCC Cross-</div></div>			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
<div>Partial Amendment</div> <div><div>AddRemoveView</div></div>			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 text of the proposed changes to the rules of The Depository Trust Company (“DTC”) is attached hereto as Exhibit 5.¹

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Risk Committee of the Board of Directors of DTC at a meeting duly called and held on February 22, 2022.

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

(a) Purpose

The purpose of this proposed rule change is to amend and restate the Second Amended and Restated Netting Contract and Limited Cross-Guaranty, dated as of October 1, 2002, between NSCC and DTC (the “Cross-Guaranty Agreement”).² As part of the proposed amendment and restatement of the Cross-Guaranty Agreement, NSCC and DTC (each, a “Clearing Agency,” and, together, the “Clearing Agencies”) propose to enter into a Third Amended and Restated Netting Contract and Limited Cross-Guaranty. In that effort, NSCC and DTC have each filed with the U.S. Securities and Exchange Commission (“Commission”) rule filings to adopt the same amended and restated Cross-Guaranty Agreement. Accordingly, each respective rule filing is written from the collective perspective of the Clearing Agencies, instead of from the perspective of NSCC and DTC individually.

¹ Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (“DTC Rules”) or the National Securities Clearing Corporation (“NSCC”) Rules & Procedures (“NSCC Rules”), available at <https://www.dtcc.com/legal/rules-and-procedures>, or the Second Amended and Restated Netting Contract and Limited Cross-Guaranty, dated as of October 1, 2002, between NSCC and DTC, as applicable.

² The Cross-Guaranty Agreement (i) is a Clearing Agency Agreement as defined in the DTC Rules (DTC Rule 1, Definitions; Governing Law, supra note 1) and is subject to, inter alia, Rule 9(E) of the DTC Rules (DTC Rule 9(E), Clearing Agency Agreements, supra note 1), and (ii) is a Clearing Agency Cross-Guaranty Agreement as defined in the NSCC Rules (NSCC Rule 1, Definitions and Descriptions, supra note 1) and is subject to, inter alia, Rule 25 of the NSCC Rules (NSCC Rule 25, Cross-Guaranty Obligation, supra note 1).

(i) **Background and Core Functions of the Cross-Guaranty Agreement**

The Cross-Guaranty Agreement was originally drafted in 1993, then amended and restated in 1996³ and again in 2002.⁴ The Cross-Guaranty Agreement is made up of six sections or articles, each of which is summarized in subsection (iii), below, and has two core functions: (1) provide for the netting of certain settlement obligations of Common Members⁵ between NSCC and DTC (“Cross-Endorsement”),⁶ as addressed in Article II of the Cross-Guaranty Agreement; and (2) provide certain intraday collateral guaranties between NSCC and DTC for certain securities transactions of Common Members that are processed intraday between NSCC and DTC (“Cross-Guaranties”), as addressed in Articles III and IV of the Cross-Guaranty Agreement.

A. Cross-Endorsement

The Cross-Endorsement provisions in Article II of the Cross-Guaranty Agreement establish a netting contract between the Clearing Agencies that meets the standards for protection under FDICIA.⁷ The Cross-Endorsement provisions provide that on each Common Business Day that a Common Member has a credit balance at one Clearing Agency and a debit balance at the other Clearing Agency, the two balances will be netted, and the following payments will be made:

- the Clearing Agency with a net credit amount with respect to the Common Member will pay that amount to the Common Member and pay the other Clearing Agency its debit balance (e.g., if a Common Member has a \$100 credit balance at NSCC and a \$30 debit balance at DTC, those amounts will be netted, resulting in

³ See Securities Exchange Act Release Nos. 36866 (Feb. 21, 1996), 61 FR 7290 (Feb. 27, 1996) (SR-NSCC-96-03) and 36867 (Feb. 21, 1996), 61 FR 7288 (Feb. 27, 1996) (SR-DTC-96-06).

⁴ See Securities Exchange Act Release No. 45868 (May 2, 2002), 67 FR 31394 (May 9, 2002) (SR-DTC-2000-21; SR-NSCC-2001-13).

⁵ Common Members are DTC Participants that also are NSCC Members. NSCC itself is a Participant of DTC.

⁶ This procedure is commonly referred to as cross-endorsement because originally the crediting Clearing Agency’s check or draft payable to the Common Member was endorsed to the debiting Clearing Agency.

⁷ The Federal Deposit Insurance Corporation Improvement Act of 1991, as amended (“FDICIA”) (12 U.S.C. 4401 *et seq.*), validates netting contracts that provide for the netting of payment obligations and payment entitlements between and among clearing organizations and their members. Under FDICIA, a payment under a netting contract is generally not subject to disaffirmance by a receiver or trustee in a subsequent insolvency proceeding. 12 U.S.C. 4403-04. The netting provisions of FDICIA were designed to reduce systemic risk to the financial markets. 12 U.S.C. 4401(4).

NSCC paying the Common Member \$70 to satisfy the net credit balance and DTC \$30 to satisfy the debit balance);

- each Common Member with a net debit amount with respect to a Clearing Agency will pay that amount to the Clearing Agency and the Clearing Agency with the credit balance will pay that amount to the Clearing Agency with the net debit amount (e.g., if a Common Member has a \$100 debit balance at NSCC and a \$30 credit balance at DTC, those amounts will be netted, resulting in the Common Member paying NSCC \$70 to satisfy the net debit balance and DTC paying NSCC \$30 to satisfy the remainder of the debit amount at NSCC); and
- for each Common Member with a credit balance at one Clearing Agency that equals its debit balance at the other Clearing Agency, the Clearing Agency with the credit balance will pay that amount to the Clearing Agency with the debit balance (e.g., if a Common Member has a \$100 debit balance at NSCC and a \$100 credit balance at DTC, those amounts will be netted, resulting in DTC paying NSCC \$100 to satisfy the full net debit amount at NSCC).

B. Cross-Guaranties

As noted above, Articles III and IV of the Cross-Guaranty Agreement establish the Cross-Guaranties between the Clearing Agencies. The Cross-Guaranties enable the Clearing Agencies to retain their respective collateral rights over certain securities transactions that move between their systems throughout the day.⁸ More specifically, under the Cross-Guaranty Agreement, on any Common Business Day, DTC provides a guarantee to NSCC for the value of all Long Allocations (i.e., free-of-payment deliveries of securities from NSCC's CNS System⁹ to Participants of DTC), and NSCC provides a guarantee to DTC for the value of all Short Covers (i.e., free-of-payment deliveries of securities to the CNS System from Participants of DTC).

When Long Allocations are redelivered from the DTC Participant that received the securities through the CNS System to another DTC Participant, DTC provides a guarantee to NSCC equal to the prior day's closing price of the Long Allocations less an applicable haircut.¹⁰ The guarantee serves as a collateral substitute for such "onward delivered" Long Allocations and only will be called on to the extent a Common Member fails to settle and NSCC needs the Long Allocations, or the Collateral Value of the Long Allocations, to make settlement among non-defaulting Members. DTC applies its Collateral Monitor¹¹ control to the value of its guarantee to

⁸ These Cross-Guaranties and related arrangements constitute netting contracts between the Clearing Agencies that meet the standards for protection under FDICIA.

⁹ The CNS System is an accounting and balancing system that nets trades from various sources into one position per security per participant.

¹⁰ The haircut is designed to protect against a potential price decline in the securities.

¹¹ The Collateral Monitor is a risk management control that ensures that DTC Participants have enough collateral to cover their settlement obligations. The Collateral Monitor

NSCC to ensure that it has sufficient collateral to cover potential guarantee obligations to NSCC from a Common Member redelivering Long Allocations into DTC's system.

The value that NSCC assigns to Short Covers under its guarantee to DTC depends on how the Short Cover securities were received by DTC. When securities received versus payment into DTC's system become Short Covers on the same day, NSCC provides a guarantee to DTC equal to the prior day's closing price of the securities. If Short Covers are satisfied from securities that were not received versus payment in DTC's system (i.e., they were already in the Participant's account), NSCC provides a guarantee to DTC equal to the prior day's closing market value less an applicable haircut. DTC takes this guarantee into account for purposes of its Collateral Monitor.

Together, these guarantees ensure, among other things, that debits created in DTC's system continue to be collateralized when the securities serving as collateral are delivered into the CNS System as Short Covers and reduce risk at NSCC by ensuring that Long Allocations, or the Collateral Value of Long Allocations, will be made available to NSCC to cover certain exposures.

The Cross-Guaranty Agreement provides for the above-described guarantees in two ways: a liquidity guaranty and a loss guaranty. In the event of a default of a Common Member, either Clearing Agency can make a demand for some or all of their respective guaranteed amount. A demand made for liquidity purposes is calculated and provided according to Article III, while a demand for loss purposes is calculated and provided according to Article IV. As described in subsection (ii)C and D, below, the distinction between the guaranties is how the value of the guaranties is calculated, with the calculation of the loss guaranty ultimately controlling.

(ii) Summary of Proposed Changes

After an extensive review of the Cross-Guaranty Agreement, the Clearing Agencies are proposing several changes. Following is a summary of the proposed changes, which are described in greater detail in subsection (iii), below.

A. DTC's Expanded Use of Retainable Long Allocations

Currently, in the event of a Common Member default, Long Allocations at DTC that have not been transferred (i.e., onward delivered) by the Common Member are returned to NSCC upon demand. However, in satisfaction of NSCC's obligations to DTC under the Cross-Guaranty

tracks the value of collateral supporting each Participant's settlement obligation, and it prevents transactions that would cause a Participant's net debit settlement balance to exceed its available collateral.

Agreement, NSCC may permit DTC to retain Long Allocations that NSCC does not otherwise need (“Retainable Longs”) in the event of a Common Member default.¹²

Under the current Cross-Guaranty Agreement, DTC can only use Retainable Longs to secure a borrowing under its end-of-day line-of-credit facility. This proposal would expand DTC’s use of Retainable Longs to manage the default more broadly, including, but not limited to, allowing DTC to liquidate or secure an alternative borrowing through an uncommitted facility with Retainable Longs. Such expansion would provide DTC with greater flexibility in managing the default.

B. NSCC’s Selection and Expanded Use of Replacement Securities

Replacement Securities are securities with collateral value that DTC can use to “replace” onward delivered Long Allocations of a defaulting Common Member when satisfying DTC’s obligations to NSCC under the Cross-Guaranty Agreement.

Selection of Replacement Securities. Proposed revisions to the Cross-Guaranty Agreement would allow NSCC rather than DTC, as currently provided, to select from the pool of available Replacement Securities, such as securities with the greatest collateral and/or correlation value for NSCC’s purposes. The Clearing Agencies believe that NSCC is better suited than DTC to select the Replacement Securities that NSCC needs.

Use of Replacement Securities. Currently, Replacement Securities can only be used to secure a borrowing under NSCC’s end-of-day line-of-credit facility. This proposal would expand NSCC’s use of Replacement Securities to manage the default more broadly, including, but not limited to, allowing NSCC to liquidate, onward deliver, or secure an alternative borrowing through an uncommitted facility with Replacement Securities, at NSCC’s discretion. Such expansion would provide NSCC with greater flexibility in managing the default.

C. Single Collateral Value Definition

Currently, the liquidity and loss guaranties under the Cross-Guaranty Agreement are calculated differently for DTC’s obligations due to the application of two distinct Collateral Value definitions. For DTC’s liquidity obligation calculation, Article III relies on the definition provided for in Section 1 of Rule 1 of the DTC Rules. Meanwhile, for DTC’s loss obligation, Article IV relies on a definition specifically defined in the Cross-Guaranty Agreement.

This proposal would eliminate that definitional variance by removing the Cross-Guaranty Agreement’s distinct definition for DTC’s loss obligation and, instead, apply only the DTC Rule definition of Collateral Value. The historic purpose of the definitional variance is unknown, adds to a complex structure, and is not needed today.

¹² Retained Long Allocations are currently defined as “Reversible Long Allocations” but under the proposed changes, they would be redefined as “Retainable Long Allocations.”

D. Single Calculation and Obligation Concepts

The Cross-Guaranty Agreement provides that DTC's total obligation to NSCC (whether for liquidity or loss purposes, as the current Cross-Guaranty Agreement distinguishes) can never be greater than the aggregate value of the Long Allocations that the defaulted Common Member received at DTC from NSCC on the day of default. Similarly, NSCC's total obligation to DTC (whether for liquidity or loss purposes) can never be greater than the aggregate value of the defaulted Common Member's Short Covers that NSCC received from DTC on the day of default. However, under the current Cross-Guaranty Agreement, there are four different formulas to calculate those aggregate values – two for DTC and two for NSCC.

For DTC, as described above, a different definition of Collateral Value is currently used to calculate its liquidity obligation from its loss obligation. As also described above, proposed changes would eliminate that variance by removing the Cross-Guaranty Agreement's distinct definition for DTC's loss obligation and, instead, apply only the DTC Rule definition of Collateral Value. Thus, under this proposal, DTC's total obligation to NSCC (whether for liquidity or loss purposes) would be one calculation for one amount.

For NSCC, its liquidity obligation is currently calculated using only the Collateral Value of the Short Covers, while its loss obligation is calculated using both Collateral Value and Market Value of the Short Covers, depending on how the underlying securities were received. When comparing the two amounts, the loss obligation calculation produces a larger amount that more precisely reflects what the expected obligation amount would be. As such, it is proposed that the Cross-Guaranty Agreement be updated to remove the NSCC liquidity obligation calculation and, instead, only use the loss obligation calculation to set NSCC's total obligation amount to DTC. In doing so, like the proposed changes for DTC, NSCC's total obligation to DTC (whether for liquidity or loss purposes) would be one calculation for one amount.

Because these proposed changes would eliminate the distinction between liquidity and loss obligations, it is proposed that the Cross-Guaranty Agreement be updated to collapse these separate obligation concepts into a single obligation concept. That is, DTC would guaranty to NSCC the total Collateral Value (under a single Collateral Value definition) of applicable Long Allocations, while NSCC would guaranty to DTC the total Collateral and/or Market Value, as applicable, of applicable Short Covers.

E. Netted Obligations

Currently, the obligations between the Clearing Agencies are not netted under the Cross-Guaranty Agreement. As such, DTC is currently obligated to deliver to NSCC certain securities, cash, or a combination thereof in satisfaction of its guaranty to NSCC, while NSCC is obligated to do the same to DTC, for the same Common Member default.

To eliminate the inefficiency of such deliveries occurring between the Clearing Agencies at the same time, it is proposed that the obligations be netted when both Clearing Agencies are making demands on the same day, leaving only a single obligation owed from one Clearing Agency to the other.

F. General Improvement Changes

In addition to the above proposed changes, and any associated changes necessary to help effectuate those changes, several other supportive, ministerial, clarifying, and update changes are proposed throughout the Cross-Guaranty Agreement to help simplify and improve the overall readability of the agreement:

Preamble. The opening description of the Clearing Agencies, purpose, applicable law, and prior iterations of the Cross Guaranty will be updated to remove inapplicable information and better reflect current drafting practices.

Definitions. Defined terms will be updated, modified, added, or removed as needed.

Antiquated Concepts. Concepts or requirements that are no longer applicable or needed will be removed or updated.

Information Sharing. Information that can be shared pursuant to the Cross Guaranty will be clarified and expanded.

Boilerplate Terms and Conditions. Certain standard terms and conditions will be updated, modified, added, or removed to better reflect current drafting practices.

(iii) Summary of the Current Cross-Guaranty Agreement and Proposed Changes

The following is a summary of the provisions of the current Cross-Guaranty Agreement accompanied by any proposed changes to such provisions. As summarized in subsection (ii), above, and described in more detail in this subsection, the proposed changes would amend and restate the Cross-Guaranty Agreement to (1) revise the description of the Clearing Agencies' Cross-Endorsement procedures to better reflect current practices of the Clearing Agencies, (2) simplify and consolidate the liquidity and loss guaranty obligations of the Clearing Agencies under the current Cross-Guaranty Agreement into a single guaranty obligation of each Clearing Agency, (3) provide for the netting of guaranty obligations between the Clearing Agencies in certain instances, (4) provide for more up-to-date valuations of securities under the Cross-Guaranty Agreement, (5) provide for the Clearing Agency receiving securities in connection with the performance of the other Clearing Agency's guaranty obligation the ability to select the particular securities it receives, (6) enhance the information sharing between the Clearing Agencies under the Cross-Guaranty Agreement, and (7) make appropriate conforming and clarifying changes throughout the Cross-Guaranty Agreement. Ultimately, as part of the proposed amendment and restatement of the Cross-Guaranty Agreement, the Clearing Agencies would enter into a Third Amended and Restated Netting Contract and Limited Cross-Guaranty.

A. Recitals

The recitals of the current Cross-Guaranty Agreement, *inter alia*, (i) describe the Clearing Agencies and their legal and regulatory statuses, (ii) define certain terms used throughout the

Cross-Guaranty Agreement, (iii) describe certain provisions of the NSCC Rules and DTC Rules and their interoperation, (iv) provide that each of the DTC Rules and the NSCC Rules are netting contracts under FDICIA, and (v) describe the terms of the current Cross-Guaranty Agreement and the changes made to such current version.

The Clearing Agencies propose to revise the recitals of the current Cross-Guaranty Agreement to (i) update the defined terms for the NSCC Rules and DTC Rules to better reflect the current titles of such rules and that they are posted on the website of the Clearing Agencies' parent company, (ii) reflect additional legal and regulatory statuses of the Clearing Agencies as covered clearing agencies under the Commission's Standards for Covered Clearing Agencies and have each been designated as systemically important financial market utilities by the Financial Stability Oversight Council, (iii) clarify that the Cross-Guaranty Agreement is itself a netting contract under FDICIA, and (iv) remove the description of the terms of the current Cross-Guaranty Agreement and the changes made to such current version, which are not applicable to this proposed change. Collectively, these proposed changes are intended to bring the recitals up to current form.

B. Article I

Article I of the current Cross-Guaranty Agreement, entitled "Terms and Conventions," (i) lists the defined terms used in the Cross-Guaranty Agreement and the place in the Cross-Guaranty Agreement where such terms are defined, and (ii) states certain interpretive conventions with respect to terms and phrases used throughout the agreement.

The Clearing Agencies propose to revise Article I to (i) update the list of defined or proposed to be defined terms that are used or proposed to be used in the Cross-Guaranty Agreement; (ii) update or provide the references to where such terms are defined in the agreement or in the NSCC Rules or the DTC Rules; and (iii) make clarifying and technical changes to the interpretive conventions of such defined terms and other terms used throughout the agreement. Collectively, these proposed changes are intended to ensure that all defined terms are accounted for and include a proper reference to where they are defined, and that the reader understands how to read and interpret the variations of those and other terms.

Following are the key additions, deletions, or modifications to the list of terms provided in Article I:

- "Account Family" – existing term but not previously listed or defined, now defined pursuant to the DTC Rules;
- "Clearing Fund" – existing term but not previously listed or defined, now defined pursuant to the NSCC Rules;
- "CNS Accounting Operating" – existing term but not previously listed or defined, now defined pursuant to the NSCC Rules;
- "Collateral Monitor" – existing term but not previously listed or defined, now defined pursuant to the DTC Rules;

- “DTC Collateral Substitute Guaranty” and “DTC Collateral Substitute Guaranty Maximum Amount” – existing and listed terms to be renamed “DTC Guaranty” and “DTC Gross Guaranty Amount,” respectively, with modified definitions (discussed in subsection E3, below);
- “DTC Liquidity Obligation,” “DTC Liquidity Obligation Maximum Amount,” and “DTC Net Loss” – existing and listed terms that would be deleted because, as described in subsection (ii), above, and subsections D and E, below, the agreement would no longer distinguish between a liquidity or loss obligation; therefore, these terms are no longer needed;
- “DTC Net Guaranty Amount” – new term, defined to mean, generally, the outstanding obligation that DTC owes to NSCC after considering any prior “payments” (discussed in subsection E3, below);
- “Market Value” – existing defined term but previously not listed in Article I;
- “Member” – existing term but not previously listed or defined, now defined pursuant to the NSCC Rules;
- “Netting Facilitator” – existing and listed term that would be deleted because the concept is not used (discussed in subsection C, below);
- “NSCC Collateral Substitute Guaranty” and “NSCC Collateral Substitute Guaranty Maximum Amount” – existing and listed terms to be renamed “NSCC Guaranty” and “NSCC Gross Guaranty Amount,” respectively, with modified definitions (discussed in subsection E3, below);
- “NSCC Liquidity Obligation,” “NSCC Liquidity Obligation Maximum Amount,” and “NSCC Net Loss” – existing and listed terms that would be deleted because, as described in subsection (ii), above, and subsections D and E, below, the agreement would no longer distinguish between a liquidity or loss obligation; therefore, these terms are no longer needed;
- “NSCC Net Guaranty Amount” – new term, defined to mean, generally, the outstanding obligation that NSCC owes to DTC after considering any prior “payments” (discussed in subsection E3, below);
- “Participant” and “Participants Fund” – existing terms but not previously listed or defined, now defined pursuant to the DTC Rules;
- “Reversible Long Allocation” – existing and listed term to be renamed “Retainable Long Allocations,” with a modified definition (discussed in subsection E3, below); and
- “Securities” – existing term but not previously listed or defined, now defined pursuant to the DTC Rules.

C. Article II

Article II of the current Cross-Guaranty Agreement, entitled “Netting Contract Between NSCC and DTC,” (i) defines certain terms used throughout Article II and the rest of the Cross-Guaranty Agreement, (ii) provides that on each Common Business Day each Clearing Agency will determine the credit amount or debit amount for each Common Member under its rules and will report such amount to the Common Member and a Netting Facilitator¹³ designated by the Clearing Agencies, and (iii) provides that the Netting Facilitator will compare the credit amount or debit amount determined by each Clearing Agency for each Common Member and establish which Common Members have a credit amount at one Clearing Agency and a debit amount at the other Clearing Agency.

Article II then provides that for each Common Member with a credit amount at one Clearing Agency and a debit amount at the other Clearing Agency, the Netting Facilitator will net such amounts, and (1) the Clearing Agency with a net credit amount with respect to a Common Member will pay that amount to the Common Member and pay the other Clearing Agency its debit balance; (2) each Common Member with a net debit amount will pay that amount to the Clearing Agency with the net debit amount and the Clearing Agency with the credit balance will pay the credit balance to the Clearing Agency with the net debit amount; and (3) for each Common Member with a credit balance that equals its debit balance, the Clearing Agency with the credit balance will pay that amount to the Clearing Agency with the debit balance.

Article II further provides, *inter alia*, that (i) in order to reduce the number of payments to be made, the Netting Facilitator may aggregate or net the payment to be made by the Clearing Agencies to each other and instruct the Clearing Agencies to make such aggregated or netted payments accordingly, (ii) the Clearing Agencies will share with each other and the Netting Facilitator information regarding the credit amounts and debit amounts of Common Members, and (iii) the provisions of Article II will be given effect notwithstanding that a Common Member becomes a defaulting member under either the NSCC Rules or the DTC Rules.

The Clearing Agencies propose to revise Article II to (i) remove references to a Netting Facilitator and the functions to be performed by a Netting Facilitator (i.e., comparing the Credit Amount or Debit Amount calculated by each Clearing Agency for each Common Member, determining which Common Members have a Credit Amount at one Clearing Agency and a Debit Amount at the other Clearing Agency, and then netting such amounts and the associated payments to be made), as such functions are already performed by the Clearing Agencies themselves; therefore, removing the concept of a Netting Facilitator does not materially change the operation of the agreement; (ii) remove provisions regarding the sharing of the credit amounts and debit amounts of Common Members from Article II, which are proposed to be relocated to Article IV; and (iii) make certain other conforming and clarifying changes to reflect

¹³ The Netting Facilitator is the person or persons designated by the Clearing Agencies to perform the functions described. The Clearing Agencies have not designated anyone as a Netting Facilitator but, instead, perform the functions themselves.

changes made in Article I relating to defined terms and interpretive conventions. Collectively, these proposed changes also help to streamline and simplify Article II.

D. Article III – “Liquidity Guaranty”

Article III of the current Cross-Guaranty Agreement, entitled “Certain Arrangements Between NSCC and DTC,” establishes the liquidity guaranty between the Clearing Agencies.

Article III begins by defining certain terms used throughout the Article and the rest of the Cross-Guaranty Agreement, then it specifies certain arrangements, namely that (i) securities delivered as Short Covers by a Common Member to NSCC, including securities delivered versus payment to a Common Member that are redelivered as Short Covers to NSCC, will not be pledged by DTC to secure an advance under the committed revolving line of credit facility maintained by the Clearing Agencies with one or more banks or other lenders (“LOC Facility”), (ii) securities delivered as Long Allocations by NSCC to a Common Member will not be given any Collateral Value for purposes of the Collateral Monitor and, except with respect to Reversible Long Allocations (which would be redefined as Retainable Long Allocations, as discussed in subsections (iii)B, above, and E, below) that NSCC permits DTC to retain and pledge, will not be pledged by DTC to secure an advance under the LOC Facility, and (iii) if a Common Member becomes a defaulting member under the NSCC Rules or DTC Rules (“Defaulting Member”), DTC will redeliver all Long Allocations not transferred, withdrawn or pledged by the Common Member (i.e., Reversible Long Allocations) credited by DTC to the Common Member on the day on which NSCC makes a demand therefor, provided that the Common Member is still a Defaulting Member on that day.

Article III then proceeds to describe the liquidity obligations of the Clearing Agencies to each other:

1. Liquidity Obligation of DTC

If a Common Member becomes a Defaulting Member, then:

- a. DTC shall make available to NSCC, on demand, liquidity (the “DTC Liquidity Obligation”) in an amount up to (i) the aggregate Collateral Value of all Long Allocations credited by DTC to the Defaulting Member on the day on which NSCC makes a demand therefor (provided that the Defaulting Member is still a Defaulting Member on that day) minus (ii) the sum of (A) the Collateral Value of the Reversible Long Allocations redelivered that day by DTC to NSCC and (B) any credit amount of the Defaulting Member at DTC applied that day against any debit amount of the Defaulting Member at NSCC (the “DTC Liquidity Obligation Maximum Amount”).
- b. In satisfaction of the DTC Liquidity Obligation, DTC shall, until such time as NSCC no longer needs such liquidity or as otherwise provided in the Cross-Guaranty Agreement, without interest or other charge,
 - (i) advance immediately available funds to NSCC in an amount up to the DTC Liquidity Obligation Maximum Amount; or
 - (ii) deliver free to NSCC

securities with Collateral Value that DTC may segregate if a Common Member becomes a Defaulting Member and either pledge to secure an advance under the LOC Facility or use to satisfy certain obligations of DTC to NSCC under the Cross-Guaranty Agreement (such securities, “Replacement Securities”) selected by DTC having an aggregate Collateral Value up to the DTC Liquidity Obligation Maximum Amount; or (iii) provide NSCC with a combination of immediately available funds and Replacement Securities (selected and valued as set forth in clause (ii) above) in a total amount up to the DTC Liquidity Obligation Maximum Amount. In satisfaction of the DTC Liquidity Obligation, DTC shall have the option of determining whether the DTC Liquidity Obligation shall be satisfied in accordance with the provisions of clause (i), (ii) or (iii) of this paragraph (b). DTC may, at any time, substitute cash for Replacement Securities provided by DTC to NSCC in accordance with clause (ii) or (iii) of this paragraph (b).

- c. NSCC shall use Replacement Securities provided by DTC to NSCC in accordance with paragraph (b) above only for the purpose of securing an advance from its lenders in accordance with the NSCC Rules, and DTC acknowledges that NSCC may use such Replacement Securities for such purpose.
- d. NSCC shall promptly redeliver to DTC any Replacement Securities provided by DTC to NSCC in accordance with paragraph (b) above (i) if NSCC does not need such Replacement Securities for the purpose specified in paragraph (c) above, (ii) upon the satisfaction of the obligations of DTC to NSCC pursuant to the DTC Collateral Substitute Guaranty (which would be redefined as the DTG Guaranty, as discussed in subsections (iii)B, above, and E, below) or (iii) to enable DTC to deliver the Replacement Securities in connection with a liquidation thereof for the purpose of applying the proceeds to the satisfaction of the obligations of DTC to NSCC pursuant to the DTC Collateral Substitute Guaranty. NSCC shall promptly repay to DTC any cash provided by DTC to NSCC pursuant to paragraph (b) above upon the satisfaction of the obligations of DTC to NSCC pursuant to the DTC Collateral Substitute Guaranty.

2. Liquidity Obligation of NSCC

If a Common Member becomes a Defaulting Member and if the funds available to DTC from the LOC Facility are insufficient to meet its needs:

- a. NSCC shall make available to DTC, on demand, liquidity (the “NSCC Liquidity Obligation”) in an amount up to (i) the aggregate Collateral Value of all securities delivered free as Short Covers from the Defaulting Member to NSCC on the day of the default minus (ii) any credit amount of the Defaulting Member at NSCC applied that day against any debit

amount of the Defaulting Member at DTC (the “NSCC Liquidity Obligation Maximum Amount”).

- b. In satisfaction of the NSCC Liquidity Obligation, NSCC shall, until such time as DTC no longer needs such additional liquidity, without interest or other charge, (i) advance immediately available funds to DTC in an amount up to the NSCC Liquidity Obligation Maximum Amount; or (ii) permit DTC to retain and pledge to its lenders Reversible Long Allocations selected by DTC (otherwise required to be redelivered to NSCC) having an aggregate Collateral Value up to the NSCC Liquidity Obligation Maximum Amount; or (iii) provide DTC with a combination of immediately available funds and Reversible Long Allocations (selected, valued and applied as set forth in clause (ii) above) in a total amount up to the NSCC Liquidity Obligation Maximum Amount. In satisfaction of the NSCC Liquidity Obligation, NSCC shall have the option of determining whether the NSCC Liquidity Obligation shall be satisfied in accordance with the provisions of clause (i), (ii) or (iii) of this paragraph (b).
- c. DTC shall promptly deliver to NSCC any Reversible Long Allocations retained by DTC in accordance with paragraph (b) above (i) upon the satisfaction of the obligations of NSCC to DTC pursuant to the NSCC Collateral Substitute Guaranty (which would be redefined as the NSCC Guaranty, as discussed in subsections (iii)B, above, and E, below) or (ii) to enable NSCC to deliver the Reversible Long Allocations in connection with a liquidation thereof for the purpose of applying the proceeds to the satisfaction of the obligations of NSCC to DTC pursuant to the NSCC Collateral Substitute Guaranty. DTC shall promptly repay to NSCC any cash provided by NSCC to DTC pursuant to paragraph (b) above upon the satisfaction of the obligations of NSCC to DTC pursuant to the NSCC Collateral Substitute Guaranty.

Article III further provides that each Clearing Agency will indemnify and hold harmless the other Clearing Agency from and against any claim, loss, cost, or expense suffered or incurred by the other Clearing Agency as a result of any law, rule, regulation, order, or judgment that requires or obligates the other Clearing Agency to deliver to the Defaulting Member, its legal representative, or any other person the securities provided in satisfaction of the Clearing Agency’s liquidity obligation under Article III, or make a payment on account thereof.

The Clearing Agencies propose to revise and consolidate Articles III and IV of the current Cross-Guaranty Agreement. The Clearing Agencies propose to revise the title of Article III to read “Limited Cross-Guaranties between NSCC and DTC,” delete much of the remainder of current Article III and the title of current Article IV, and then update and renumber the remainder of current Article IV which would make up much of the new Article III. The remaining Articles of the current Cross-Guaranty Agreement would be renumbered accordingly. A detailed description of that revision and consolidation follows the summary of the existing Article IV immediately below.

E. Article IV – Collateral Substitute or “Loss Guaranty”

Article IV of the current Cross-Guaranty Agreement, entitled “Limited Collateral Substitute Cross-Guaranties,” establishes the loss guaranty between the Clearing Agencies.

Article IV begins by defining the following terms:

- “DTC Collateral Substitute Guaranty Maximum Amount” to mean, with respect to securities transferred through the facilities of DTC on any Common Business Day, an amount equal to (i) the aggregate Collateral Value of all securities delivered free as Long Allocations by NSCC to a Common Member, whether or not such Long Allocations have been transferred, withdrawn or pledged by the Common Member, minus (ii) the sum of (A) the Collateral Value of any Reversible Long Allocations redelivered by DTC to NSCC and (B) any credit amount of the Common Member at DTC applied that day against any debit amount of the Common Member at NSCC.
- “DTC Net Loss” to mean any loss incurred by DTC with respect to a Common Member which has failed to satisfy any obligation to DTC after application of (i) the netting payments made pursuant to Article II and (ii) the failure to settle procedures incorporated into the DTC Rules.
- “NSCC Collateral Substitute Guaranty Maximum Amount” to mean, with respect to securities transferred through the facilities of DTC on any Common Business Day, an amount equal to (i) the sum of (A) the aggregate Market Value of all securities delivered versus payment to a Common Member which are redelivered free as Short Covers by the Common Member to NSCC plus (B) the aggregate Collateral Value of all other securities delivered free as Short Covers by the Common Member to NSCC minus (ii) the sum of (A) the excess (if any) of 90% of the aggregate Market Value of the securities constituting the portion of the scheduled aggregate Short Covers of the Common Member attributable to non-fail ACATS items over 80% (or such other percentage as NSCC shall from time to time specify to DTC in writing) of the aggregate Market Value of the securities constituting the portion of the scheduled aggregate Long Allocations of the Common Member attributable to non-fail ACATS items and (B) any credit amount of the Common Member at NSCC applied that day against any debit amount of the Common Member at DTC.
- “NSCC Net Loss” to mean any loss incurred by NSCC with respect to a Common Member which has failed to satisfy any obligation to NSCC after application of (i) the netting payments made pursuant to Article II and (ii) the close out of transactions in accordance with the NSCC Rules.

Article IV then proceeds to describe the loss guaranty obligations of the Clearing Agencies to each other.

1. DTC Collateral Substitute Guaranty

- a. DTC guarantees (the “DTC Collateral Substitute Guaranty”) the obligations of Defaulting Members to NSCC; provided, however, that, as a condition to the effectiveness of such DTC Collateral Substitute Guaranty (i) as between NSCC and the Defaulting Member, the “effective time” (as defined in the NSCC Rules) on the day of the default shall not have occurred, and (ii) NSCC shall give DTC notice, prior to the completion of money settlement at both Clearing Agencies on the day of the default, that NSCC intends to make a claim against DTC on the DTC Collateral Substitute Guaranty but (A) NSCC shall not be required to give such notice to DTC as a condition to the effectiveness of the DTC Collateral Substitute Guaranty if NSCC has received a notice from DTC pursuant to the NSCC Collateral Substitute Guaranty and (B) any failure of NSCC to give a timely notice pursuant to this paragraph (a) shall be deemed waived if DTC nevertheless makes a guaranty payment to NSCC pursuant to paragraph (b) immediately below.
- b. In satisfaction of the DTC Collateral Substitute Guaranty, DTC shall pay NSCC, on demand (which demand shall be made no later than one year after the day of the failure) in immediately available funds, an amount equal to the lesser of (i) the DTC Collateral Substitute Guaranty Maximum Amount or (ii) the NSCC Net Loss; provided, however, that, if DTC and NSCC both agree (on a case by case basis), in lieu of such payment, DTC shall deliver free to NSCC available Replacement Securities selected by DTC having a Collateral Value (as specifically defined in the Cross-Guaranty Agreement) equal to the amount of such payment, and the DTC Collateral Substitute Guaranty shall be discharged to the extent of the Collateral Value of such Replacement Securities.

2. NSCC Collateral Substitute Guaranty

- a. NSCC guarantees (the “NSCC Collateral Substitute Guaranty”) the obligations of Defaulting Members to DTC; provided, however, that, as a condition to the effectiveness of such NSCC Collateral Substitute Guaranty, DTC shall give NSCC notice, prior to the completion of money settlement at both Clearing Agencies on the day of the default, that DTC intends to make a claim against NSCC on the NSCC Collateral Substitute Guaranty but (i) DTC shall not be required to give such notice to NSCC as a condition to the effectiveness of the NSCC Collateral Substitute Guaranty if DTC has received a notice from NSCC pursuant to the DTC Collateral Substitute Guaranty and (ii) any failure of DTC to give a timely notice pursuant to this paragraph (a) shall be deemed waived if NSCC nevertheless makes a guaranty payment to DTC pursuant to paragraph (b) immediately below.

- b. In satisfaction of the NSCC Collateral Substitute Guaranty, NSCC shall pay DTC, on demand (which demand shall be made no later than one year after the day of the failure) in immediately available funds, an amount equal to the lesser of (i) the NSCC Collateral Substitute Guaranty Maximum Amount or (ii) the DTC Net Loss.

Article IV further provides that, notwithstanding anything in the DTC Rules to the contrary, the amount of the NSCC Collateral Substitute Guaranty with respect to the obligations of a Common Member, shall be given Collateral Value for purposes of calculating the Collateral Monitor.

3. Revision and Consolidation of Articles III and IV

As noted above, the Clearing Agencies propose to revise and consolidate Articles III and IV of the current Cross-Guaranty Agreement. Much of the current liquidity guaranty under Article III would be deleted, while much of loss guaranty under Article IV would be updated to make up much of the new Article III. The proposed revision and consolidation of Articles III and IV is described immediately below.

(I) Defined Terms

The Clearing Agencies propose to consolidate the defined terms in Articles III and IV of the current Cross-Guaranty Agreement into a single section, in new Article III, that would provide the following defined terms:

- “Collateral Value” to have the meaning provided in the DTC Rules, as in effect at the time that a Common Member became a Defaulting Member. As noted above, the current liquidity and loss guaranties under the Cross-Guaranty Agreement are calculated differently for DTC’s obligations due to the application of two distinct Collateral Value definitions. For DTC’s liquidity obligation calculation, current Article III relies on the definition provided for in Section 1 of Rule 1 of the DTC Rules. Meanwhile, for DTC’s loss obligation, current Article IV relies on a definition specifically defined in the Cross-Guaranty Agreement. This proposal would eliminate that definitional variance by removing the Cross-Guaranty Agreement’s distinct definition for DTC’s loss obligation and, instead, apply the DTC Rule definition of Collateral Value. It is not exactly known why DTC’s loss obligation had a separate definition from its liquidity obligation when the agreement was originally drafted but, when looking at the guaranties today, such a difference is unnecessary and relying only on the DTC definition would help simplify the agreement and add consistency with current collateral valuation practices at DTC and NSCC.
- “DTC Gross Guaranty Amount” to mean, for any Common Member on any Common Business Day, an amount equal to (i) the aggregate Collateral Value of all securities delivered as Long Allocations to the Common Member, whether or not such Long Allocations have been transferred, withdrawn or pledged by the Common Member, minus (ii) the sum of (A) the Collateral Value of the Long

Allocations redelivered that day by DTC to NSCC and (B) any credit amount of the Common Member at DTC applied that day against any debit amount of the Common Member at NSCC pursuant to Article II. This definition is a slightly modified version of the existing definition of “DTC Collateral Substitute Guaranty Maximum Amount.” The modifications are to simplify the definition and to reflect other changes being made to the agreement.

- “DTC Net Guaranty Amount” to mean, an amount equal to (i) the DTC Gross Guaranty Amount for the Defaulting Member on the Common Business Day that is the day of default, minus (ii) any amount that DTC previously provided to NSCC in satisfaction of a demand made by NSCC, under the agreement, for such Defaulting Member for such Common Business Day, provided that if (i) minus (ii) is zero or less than zero, then the DTC Net Guaranty Amount shall be zero. This is a new definition to help ensure that any previously satisfied demands are subtracted out from any later demands, so that DTC does not pay out an amount greater than the DTC Gross Guaranty Amount.
- “LOC Facility” to mean the committed revolving line of credit facility maintained by the Clearing Agencies with one or more banks or other lenders, as the same may exist from time to time. This definition is a slightly modified version of the existing definition to clarify that the LOC Facility is applicable to both DTC and NSCC, not just DTC.
- “Long Allocations” to mean securities that have been delivered free of payment (resulting from the CNS Accounting Operation) by NSCC to a Common Member through the facilities of DTC. This definition is effectively the same as the current definition, with a slight technical update for readability.
- “Market Value” to have the meaning provided in the DTC Rules, as in effect at the time that a Common Member became a Defaulting Member. Although presented as a defined term in the existing agreement, Market Value is not actually defined; therefore, a definition is now being proposed, which, like the definition of Collateral Value, would align to the DTC Rules for consistency and simplicity purposes.
- “NSCC Gross Guaranty Amount” to mean, for any Common Member on any Common Business Day, an amount equal to (i) the sum of (A) the aggregate Market Value of all securities delivered versus payment to the Common Member which are redelivered as Short Covers by the Common Member and (B) the aggregate Collateral Value of all other securities delivered as Short Covers by the Common Member minus (ii) any credit amount of the Common Member at NSCC applied that day against any debit amount of the Common Member at DTC pursuant to Article II. This definition is a modified version of the existing definition of “NSCC Collateral Substitute Guaranty Maximum Amount.” The

modifications are to remove a valuation associated with ACATS¹⁴ transactions, simplify the definition, and to reflect other changes being made to the agreement. The ACATS valuation reference is being removed because ACATS transactions are no longer processed through CNS;¹⁵ thus, such transactions are outside the purview of the Cross-Guaranty Agreement.

- “NSCC Net Guaranty Amount” to mean an amount equal to (i) the NSCC Gross Guaranty Amount for the Defaulting Member on the Common Business Day that is the day of default minus (ii) any amount that NSCC previously provided to DTC in satisfaction of a demand made by DTC, under the agreement, for such Defaulting Member for such Common Business Day, provided that if (i) minus (ii) is zero or less than zero, then the NSCC Net Guaranty Amount shall be zero. This is a new definition to help ensure that any previously satisfied demands are subtracted out from any later demands, so that NSCC does not pay out an amount greater than the NSCC Gross Guaranty Amount.
- “Replacement Securities” to mean securities (i) that have Collateral Value in the Collateral Monitor of a Defaulting Member, (ii) that DTC does not need to secure an advance under the LOC Facility or otherwise use to manage the default of the Defaulting Member, and (iii) that DTC may, therefore, use to satisfy certain obligations of DTC to NSCC under the Cross-Guaranty Agreement. This definition is a modified version of the existing definition. The current definition is broad, describing how DTC may use Replacement Securities to pledge to its LOC Facility or otherwise satisfy its obligation to NSCC. The new definition is narrower by not considering securities to be Replacement Securities until they are no longer needed by DTC (e.g., securities that DTC needs to pledge to its LOC Facility would not be considered Replacement Securities). This change simplifies the scope and use of these securities. The definition also was modified to make technical and clarifying corrections.
- “Retainable Long Allocations” to mean Long Allocations (i) that have not been transferred, withdrawn, or pledged by a Defaulting Member through the facilities of DTC, (ii) that NSCC does not need to secure an advance under the LOC Facility or otherwise use to manage the default of the Defaulting Member, and (iii) that NSCC may, therefore, use to satisfy certain obligations of NSCC to DTC under the Cross-Guaranty Agreement. This definition is an updated version of the

¹⁴ The Automated Customer Account Transfer Service (“ACATS”) is a system that automates and standardizes procedures for the transfer of assets in a customer account from one brokerage firm and/or bank to another. DTCC, ACATS, <https://www.dtcc.com/clearing-and-settlement-services/equities-clearing-services/acats#:~:text=The%20Automated%20Customer%20Account%20Transfer,and%20For%20bank%20to%20another>.

¹⁵ Securities Exchange Act Release No. 34-72223 (May 22, 2014), 79 FR 30912 (May 29, 2014) (SR-NSCC-2014-04).

existing “Reversible Long Allocation” definition. Unlike the new proposed definition of Replacement Securities, which would narrow the existing definition, the new proposed definition of Retainable Long Allocations expands the definition to more fully describe the purpose of the securities – to be available for NSCC to satisfy its obligations to DTC because NSCC would not need the securities for its own purposes. In that way, however, the new definition does mirror the new definitional structure of Replacement Securities, given that they both serve similar functions, just from different perspectives (i.e., NSCC or DTC). The name itself also would be updated to better reflective the purpose and function of the securities.

- “Short Covers” to mean securities that have been delivered free of payment (resulting from the CNS Accounting Operation) by a Common Member to NSCC through the facilities of DTC. This definition is effectively the same as the current definition, with a slight technical update for readability.

As noted above, the current defined terms DTC Liquidity Obligation, NSCC Liquidity Obligation, DTC Liquidity Obligation Maximum Amount, NSCC Liquidity Obligation Maximum Amount, DTC Net Loss, and NSCC Net Loss would each be deleted because, as described throughout this filing, it is proposed that the Cross-Guaranty Agreement would no longer distinguish between a liquidity obligation and a loss obligation. As such, those terms would no longer be needed.

(II) Certain Arrangements

The Clearing Agencies propose to relocate and update the existing provisions of Article III relating to the redelivery of Long Allocations to NSCC to provide that, notwithstanding anything in the NSCC Rules or DTC Rules to the contrary, with respect to securities transferred through the facilities of DTC on any Common Business Day, if a Common Member fails to satisfy any obligation and becomes a Defaulting Member and the “effective time” (as defined in the NSCC Rules) between NSCC and the Defaulting Member did not occur on the Common Business Day, then DTC shall redeliver free of payment to NSCC all Long Allocations (i) that were delivered to the Defaulting Member on such Common Business Day, and (ii) that have not been transferred, withdrawn or pledged by the Defaulting Member through the facilities of DTC. The updates made were non-substantive and simply reflect other changes to the agreement.

The Clearing Agencies also propose to relocate and update the existing provisions of Article III restricting DTC’s ability to pledge Short Covers and Reversible Long Allocations to provide (i) that securities delivered as Short Covers, to include securities delivered versus payment to a Common Member which are redelivered as Short Covers, may not be pledged by DTC to secure an advance under the LOC Facility or otherwise used by DTC to manage the default of a Common Member, and (ii) that securities delivered as Long Allocations are not to be given any Collateral Value for purposes of the Collateral Monitor and, except with respect to Retainable Long Allocations, may not be pledged by DTC to secure an advance under the LOC Facility or otherwise used by DTC to manage the default of a Common Member. Again, the updates here are non-substantive and simply reflect other changes to the agreement. However, instead of dedicating specific subsections to each of these provisions, these provisions would be

included as footnotes to the definitions of Short Covers and Long Allocations, respectively. The Clearing Agencies believe the footnotes are adequate because the provisions simply reflect standard practices at the Clearing Agencies, separate from the Cross-Guaranty Agreement, and moving the provisions to footnotes helps focus the agreement on more material provisions.

(III) DTC Guaranty

As described above, the Clearing Agencies propose to consolidate DTC's current liquidity obligations from Article III of the current Cross-Guaranty Agreement and its current loss guaranty obligations from Article IV of the current Cross-Guaranty Agreement into a single guaranty obligation of DTC (the "DTC Guaranty") that would function in effectively the same manner as today's guaranties. Pursuant to the DTC Guaranty, DTC would guarantee the applicable Long Allocation obligations of Defaulting Members to NSCC; provided, however, that, as a condition to the effectiveness of such DTC Guaranty, as between NSCC and the Defaulting Member, the "effective time" (as defined in the NSCC Rules) on the day of the default must not have occurred as is the case under the current agreement. Meanwhile, NSCC would continue to have up to one year following the day of default to make one or more demands for the DTC Guaranty.

As is the case today, in satisfaction of the DTC Guaranty, DTC could (i) pay NSCC in immediately available funds an aggregate amount up to the DTC Net Guaranty Amount, (ii) deliver free of payment to NSCC available Replacement Securities having an aggregate Collateral Value up to the DTC Net Guaranty Amount, or (iii) provide NSCC with a combination of immediately available funds and Replacement Securities in an aggregate amount up to the DTC Net Guaranty Amount. DTC would continue to have the option of determining whether the DTC Guaranty would be satisfied with immediately available funds, Replacement Securities, or a combination thereof.

The Replacement Securities to be delivered free of payment by DTC to NSCC in satisfaction of DTC's obligation to NSCC, in part or in whole, would be selected by NSCC. This would be a change from the current process, under which DTC makes such selection. The Clearing Agencies propose this change because they believe NSCC is better situated to choose the securities that fit its needs best and, by the proposed definition, Replacement Securities would not be needed by DTC. Upon the delivery of such Replacement Securities to NSCC, NSCC would continue to acquire full legal title thereto, subject to no adverse claim, lien or other interest in or right to such Replacement Securities of any person other than NSCC.

(IV) NSCC Guaranty

The Clearing Agencies propose to consolidate NSCC's current liquidity obligations from Article III of the current Cross-Guaranty Agreement and its current loss guaranty obligations from Article IV of the current Cross-Guaranty Agreement into a single guaranty obligation of NSCC (the "NSCC Guaranty") that would function in effectively the same manner as today's guaranties. Pursuant to the NSCC Guaranty, NSCC would guarantee the applicable Short Covers of the Defaulting Members to DTC. Meanwhile, DTC would continue to have one year following the day of default to make one or more demands for the NSCC Guaranty.

As is the case today, in satisfaction of the NSCC Guaranty, NSCC could (i) pay DTC in immediately available funds an aggregate amount up to the NSCC Net Guaranty Amount, (ii) permit DTC to retain Retainable Long Allocations having an aggregate Collateral Value up to the NSCC Net Guaranty Amount, or (iii) provide DTC with a combination of immediately available funds and Retainable Long Allocations in an aggregate amount up to the NSCC Net Guaranty Amount. NSCC would continue to have the option of determining whether the NSCC Guaranty would be satisfied with immediately available funds, Retainable Long Allocations, or a combination thereof.

The Retainable Long Allocations to be retained by DTC in satisfaction of NSCC's obligation to DTC, in part or in whole, would continue to be selected by DTC. Upon DTC's retention of such Retainable Long Allocations, DTC would continue to acquire full legal title thereto, subject to no adverse claim, lien or other interest in or right to such Retainable Long Allocations of any person other than DTC.

(V) Netting Demands

To reduce the amount and number of transactions to be made between the Clearing Agencies in satisfaction of demands made by each on the same day, under the new Article III, the Clearing Agencies propose to add a new section that would allow the Clearing Agencies to net such demands and then satisfy such netted demands, if any, accordingly.

(VI) Collateral Value and Certain Indemnities

The Clearing Agencies propose to make conforming changes and relocate to the new Article III the concept in existing Article IV that, notwithstanding anything in the DTC Rules to the contrary, the amount of the NSCC Guaranty with respect to the obligations of a Common Member are to be given Collateral Value for purposes of calculating the Collateral Monitor.

The Clearing Agencies propose to make conforming changes and retain in Article III the provisions of the Cross-Guaranty Agreement specifying that each Clearing Agency will indemnify and hold harmless the other Clearing Agency from and against any claim, loss, cost, or expense suffered or incurred by the other Clearing Agency as a result of any law, rule, regulation, order, or judgment that requires or obligates the other Clearing Agency to deliver to the Defaulting Member, its legal representative, or any other person the securities provided in satisfaction of the Clearing Agency's guaranty obligation under Article III, or make a payment on account thereof.

F. Article V

Article V of the current Cross-Guaranty Agreement, entitled "Certain Undertakings of NSCC and DTC," *inter alia*, (i) defines certain terms used in Article V, (ii) provides that, for purposes of Article IV, (A) performance obligations may be liquidated and reduced to a payment obligation, (B) if a Defaulting Member has a debit amount at each Clearing Agency on any Common Business Day, so that the provisions of Article II do not apply to reduce either debit amount to a net debit amount, each such debit amount shall constitute an obligation of the Defaulting Member and each Clearing Agency shall be entitled to treat the amount thereof as an unpaid obligation of the Defaulting Member, and (C) if a Clearing Agency makes a guaranty

payment to the other Clearing Agency in accordance with the provisions of Article IV, such guaranty payment shall constitute an obligation of the Defaulting Member to the Clearing Agency that makes the guaranty payment, (iii) provides that adjustments may be made to guaranty amounts and payments based on later information received or the judgment of a court of competent jurisdiction, (iv) provides that the guaranties in Article IV are separate and independent guaranties and claims with respect thereto shall not be offset or netted, (v) requires each Clearing Agency to promptly notify the other Clearing Agency if it (A) ceases to act for a Common Member, or (B) learns of any other reason why a Common Member would be a Defaulting Member, (vi) provides for advance notice of either Clearing Agency proposing to enter into a netting contract (as defined in FDICIA) which provides for netting or guaranty arrangements similar or comparable to the arrangements in the Cross-Guaranty Agreement, and (vii) requires each Clearing Agency to incorporate the Cross-Guaranty Agreement into its rules and provides that the Cross-Guaranty Agreement prevails in the event of any conflict with the other rules of a Clearing Agency.

As noted above, the Clearing Agencies propose to delete current Article IV and renumber the remaining Articles of the current Cross-Guaranty Agreement accordingly. Accordingly, Article V of the current Cross-Guaranty Agreement is proposed to be renumbered as Article IV. However, the Clearing Agencies propose to retain the provisions of current Article V as the new Article IV, subject to (i) making certain conforming changes related to the renumbering of the remaining Articles and changes in defined terms and interpretive conventions; (ii) enhancing the required sharing of information between the Clearing Agencies pursuant to the Cross-Guaranty Agreement to cover (A) information with respect to the credit amounts and debit amounts of Common Members needed to perform the netting obligations set forth in Article II (relocated from Article II), (B) information needed to calculate, validate, perform, and discharge the guaranty and other obligations of the Clearing Agencies set forth in Article III, and (C) information needed to facilitate any regulatory or other obligations of the Clearing Agencies arising out of or relating to the Cross-Guaranty Agreement, including daily liquidity coverage provisioning and periodic testing; and (iii) excluding netting contracts (as defined in FDICIA) to which both Clearing Agencies would be party to from the netting contracts for which each Clearing Agency must notify the other Clearing Agency before entering into.

G. Article VI

Article VI of the current Cross-Guaranty Agreement, entitled “Miscellaneous,” provides inter alia, (i) each Clearing Agency the right to terminate the Cross-Guaranty Agreement, with certain provisions surviving termination, (ii) requirements for delivering notices to the other Clearing Agency, (iii) that neither Clearing Agency may assign any right, interest, or obligation under the Cross-Guaranty Agreement without the prior written consent of the other Clearing Agency, (iv) that the terms and provisions of the Cross-Guaranty Agreement are intended solely for the benefit of each Clearing Agency and that the Cross-Guaranty Agreement does not confer third-party beneficiary rights upon any other person, including without limitation any Member of NSCC or Participant of DTC, (v) for New York law to govern the Cross-Guaranty Agreement, and (vi) for certain other provisions that are customary in contractual agreements.

As noted above, the Clearing Agencies propose to delete current Article IV and renumber the remaining Articles of the current Cross-Guaranty Agreement accordingly. Accordingly,

Article VI of the current Cross-Guaranty Agreement is proposed to be renumbered as Article V. However, the Clearing Agencies propose to retain the provisions of current Article VI as the new Article V, subject to, (i) making certain conforming changes related to the renumbering of the remaining Articles and changes in defined terms and interpretive conventions; (ii) changing the manner in which notices may be provided to the other Clearing Agency under the Cross-Guaranty Agreement, and removing provisions allowing for verbal notices in certain circumstances; and (iii) requiring a Clearing Agency to take further actions requested by the other Clearing Agency that are necessary or desirable to give effect to any of the Cross-Guaranty Agreement or to carry out the intent and accomplish the purposes of the Cross-Guaranty Agreement and the matters contemplated thereby.

(b) Statutory Basis

The Clearing Agencies believe that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 (the “Exchange Act”), and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, the Clearing Agencies believe that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Exchange Act¹⁶ and Rule 17ad-22(e)(20) under the Exchange Act¹⁷ for the reasons described below.

Section 17A(b)(3)(F) of the Exchange Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.¹⁸

As described above, the proposed changes would amend and restate the Cross-Guaranty Agreement to (i) revise the description of the Clearing Agencies’ cross-endorsement procedures to better reflect current practices of the Clearing Agencies, (ii) simplify and consolidate the liquidity and guaranty obligations of the Clearing Agencies under the current Cross-Guaranty Agreement into a single guaranty obligation of each Clearing Agency, (iii) provide for the netting of guaranty obligations between the Clearing Agencies’ in certain instances, (iv) provide for more up-to-date valuations of securities under the Cross-Guaranty Agreement, (v) provide for the Clearing Agency receiving securities in connection with the performance of the other Clearing Agency’s guaranty obligation the ability to select the particular securities it receives, (vi) enhance the information sharing between the Clearing Agencies under the Cross-Guaranty Agreement, and (vii) make appropriate conforming and clarifying changes to the Cross-Guaranty Agreement.

Although the current Cross-Guaranty Agreement creates a sound framework for the management of risks inherent in transactions between the DTC system and the CNS System of

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ 17 CFR 240.17ad-22(e)(20).

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

NSCC in a collateralized environment, the framework is complex (e.g., use of varying definitions of Collateral Value and splitting the guaranty amount into two separate but related calculations and purposes – one for liquidity and one for loss). The Clearing Agencies believe that the proposed changes described above to establish an amended and restated Cross-Guaranty Agreement would continue to provide a sound framework for the management of Common Member defaults, but it would provide a clearer, simpler framework (e.g., using only one definition of Collateral Value and establishing a single, netted guaranty amount) for the Clearing Agencies' responsibilities to each other in Common Member default scenarios, which would help minimize the risk of interruptions to the Clearing Agencies' respective clearance and settlement operations (i.e., an agreement that is easier to understand and execute reduces risk). In this way, the Clearing Agencies believe that the proposed changes would promote the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination between DTC and NSCC in the settlement of securities transactions.

The Clearing Agencies believe that the greater clarity that would be achieved as to how the Clearing Agencies would manage cash and securities collateral in a Common Member default scenario, including clarity around the valuation (i.e., use of a single Collateral Value definition) and selection of securities collateral (i.e., the authority for each Clearing Agency to select its own securities in satisfaction of an owed guaranty, as applicable) would strengthen the Clearing Agencies' ability to plan for and manage, and thereby mitigate, the risks presented by Common Member defaults (i.e., being able to rely on a single Collateral Value definition and being able to select their own securities puts the Clearing Agencies in better position to manage a default and associated risks). In this way, the Clearing Agencies believe that the proposed changes to the Cross-Guaranty Agreement are designed to better safeguard the securities and funds that are in the custody or control of the Clearing Agencies or for which they are responsible.

In addition, the Clearing Agencies believe that the proposal to enhance the information sharing between the Clearing Agencies under the Cross-Guaranty Agreement as to Common Members would foster cooperation and coordination between DTC and NSCC in the settlement of securities transactions.

Therefore, the Clearing Agencies believe the proposed changes described above are consistent with Section 17A(b)(3)(F) of the Exchange Act, cited above.

Rule 17ad-22(e)(20) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, identify, monitor, and manage risks related to any link the covered clearing agency establishes with one or more other clearing agencies, financial market utilities, or trading markets.¹⁹ The Cross-Guaranty Agreement constitutes part of a link between DTC and NSCC, each a financial market utility, for purposes of Rule 17ad-22(e)(20).

As noted above, the Clearing Agencies believe that some of the language and structure of the current Cross-Guaranty Agreement creates a complex albeit sound framework for the

¹⁹ 17 CFR 240.17ad-22(e)(20).

management of risks inherent in transactions between the DTC system and the CNS System of NSCC in a collateralized environment, which could lead to an unanticipated disruption to the Clearing Agencies' respective clearing and settlement operations.

The Clearing Agencies believe that the proposed amendment and restatement of the Cross-Guaranty Agreement is designed to better mitigate and manage the risks related to the link that the Clearing Agencies have established with each other. In particular, the Clearing Agencies believe that the proposed changes would provide for a clearer, simpler framework for the Clearing Agencies' responsibilities to each other in Common Member default scenarios, which, in turn, would help

improve the Clearing Agencies' ability to plan for and manage the risks presented by the default of a Common Member and the effects that such a default could have on other, non-defaulting Common Members and the markets that the Clearing Agencies serve.

Moreover, the Clearing Agencies believe that the proposal to enhance the information sharing between the Clearing Agencies under the Cross-Guaranty Agreement as to Common Members would enhance the ability of each Clearing Agency to identify, monitor, and manage risks that may be presented by certain Common Members, which, in turn, could help ensure that the Clearing Agencies are better able to mitigate and manage the manner and extent to which such risks could be transmitted through the link between the Clearing Agencies.

Therefore, the Clearing Agencies believe that these proposed changes are consistent with Rule 17ad-22(e)(20) under the Exchange Act.

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

The Clearing Agencies do not believe that the adoption of the proposed changes to the Cross-Guaranty Agreement will have any impact, or impose any burden, on competition. As described above, the proposed changes would amend and restate the Cross-Guaranty Agreement, which governs certain aspects of the relationship between DTC and NSCC and does not directly affect Participants of DTC or Members of NSCC.²⁰ The proposed changes relate to the operation of the Cross-Guaranty Agreement as between DTC and NSCC and/or are technical in nature. In addition, none of the proposed changes, either individually or together, would affect Common Members' access to the Clearing Agencies' services, nor would any of the proposed changes disadvantage or favor any particular user in relation to another user. As such, the Clearing Agencies do 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

The Clearing Agencies have not received or solicited any written comments relating to this proposal. If any written comments are received, the Clearing Agencies will amend their

²⁰ Neither a DTC Participant's Participant Fund requirement nor an NSCC Member's Clearing Fund requirement would be affected by the proposed changes.

respective filing to publicly file such comments as an Exhibit 2 to their filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting written comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on *How to Submit Comments*, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

The Clearing Agencies reserve the right to not respond to any comments received.

6. Extension of Time Period for Commission Action

Not applicable.

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

(a) The proposed rule change is to take effect pursuant to paragraph A of Section 19(b)(3) of the Exchange Act²¹ and subparagraph (f)(6) of Rule 19b-4²² thereunder.

(b) The proposed rule change (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. As noted above, the proposed changes to the Cross-Guaranty Agreement do not directly affect Participants of DTC or Members of NSCC. Rather, the proposed changes relate solely to the operation of the Cross-Guaranty Agreement as between DTC and NSCC and/or are technical in nature, and there is no change to the ultimate amount of the guaranties provided. In addition, none of the proposed changes, either individually or together, would affect Common Members' access to the Clearing Agencies' services, nor would any of the proposed changes disadvantage or favor any particular user in relation to another user.

The Clearing Agencies have given the Commission written notice of their intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f)(6).

least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.²³

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule should be approved or disapproved.

(c) Not applicable.

(d) Not applicable.

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

While the proposed rule change is not based on the rules of another self-regulatory organization or of the Commission, the Cross-Guaranty Agreement is applicable to both DTC and NSCC, and each have made concurrent filings for the same proposed changes.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Exchange 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 – Cross-Guaranty Agreement. **Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 3 is being requested pursuant to 17 CFR 240.24b-2.**

²³ 17 CFR 240.19b-4(f)(6).

Exhibit 4 – Not applicable.

Exhibit 5 – Proposed changes to the Cross-Guaranty Agreement. **Omitted and filed separately with the Commission. Confidential treatment of this Exhibit 5 is being requested pursuant to 17 CFR 240.24b-2.**

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-[____]; File No. SR-DTC-2025-001)

[DATE]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend and Restate the Second Amended and Restated Netting Contract and Limited Cross-Guaranty between NSCC and DTC

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on January __, 2025, The Depository Trust Company (“DTC”) 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. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Exchange Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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 purpose of this proposed rule change⁵ is to amend and restate the Second Amended and Restated Netting Contract and Limited Cross-Guaranty, dated as of

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (“DTC Rules”) or the National Securities Clearing Corporation (“NSCC”) Rules & Procedures (“NSCC Rules”), available at <https://www.dtcc.com/legal/rules-and-procedures>, or the Second Amended and

October 1, 2002, between NSCC and DTC (the “Cross-Guaranty Agreement”).⁶ As part of the proposed amendment and restatement of the Cross-Guaranty Agreement, NSCC and DTC (each, a “Clearing Agency,” and, together, the “Clearing Agencies”) propose to enter into a Third Amended and Restated Netting Contract and Limited Cross-Guaranty, as described in greater detail below.

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 purpose of this proposed rule change is to amend and restate the Cross-Guaranty Agreement. As part of the proposed amendment and restatement of the Cross-

Restated Netting Contract and Limited Cross-Guaranty, dated as of October 1, 2002, between NSCC and DTC, as applicable.

⁶ The Cross-Guaranty Agreement (i) is a Clearing Agency Agreement as defined in the DTC Rules (DTC Rule 1, Definitions; Governing Law, supra note 5) and is subject to, inter alia, Rule 9(E) of the DTC Rules (DTC Rule 9(E), Clearing Agency Agreements, supra note 5), and (ii) is a Clearing Agency Cross-Guaranty Agreement as defined in the NSCC Rules (NSCC Rule 1, Definitions and Descriptions, supra note 5) and is subject to, inter alia, Rule 25 of the NSCC Rules (NSCC Rule 25, Cross-Guaranty Obligation, supra note 5).

Guaranty Agreement, the Clearing Agencies propose to enter into a Third Amended and Restated Netting Contract and Limited Cross-Guaranty. In that effort, NSCC and DTC have each filed with the Commission rule filings to adopt the same amended and restated Cross-Guaranty Agreement. Accordingly, each respective rule filing is written from the collective perspective of the Clearing Agencies, instead of from the perspective of NSCC and DTC individually.

(i) **Background and Core Functions of the Cross-Guaranty Agreement**

The Cross-Guaranty Agreement was originally drafted in 1993, then amended and restated in 1996⁷ and again in 2002.⁸ The Cross-Guaranty Agreement is made up of six sections or articles, each of which is summarized in subsection (iii), below, and has two core functions: (1) provide for the netting of certain settlement obligations of Common Members⁹ between NSCC and DTC (“Cross-Endorsement”),¹⁰ as addressed in Article II of the Cross-Guaranty Agreement; and (2) provide certain intraday collateral guaranties between NSCC and DTC for certain securities transactions of Common Members that are

⁷ See Securities Exchange Act Release Nos. 36866 (Feb. 21, 1996), 61 FR 7290 (Feb. 27, 1996) (SR-NSCC-96-03) and 36867 (Feb. 21, 1996), 61 FR 7288 (Feb. 27, 1996) (SR-DTC-96-06).

⁸ See Securities Exchange Act Release No. 45868 (May 2, 2002), 67 FR 31394 (May 9, 2002) (SR-DTC-2000-21; SR-NSCC-2001-13).

⁹ Common Members are DTC Participants that also are NSCC Members. NSCC itself is a Participant of DTC.

¹⁰ This procedure is commonly referred to as cross-endorsement because originally the crediting Clearing Agency’s check or draft payable to the Common Member was endorsed to the debiting Clearing Agency.

processed intraday between NSCC and DTC (“Cross-Guaranties”), as addressed in Articles III and IV of the Cross-Guaranty Agreement.

A. Cross-Endorsement

The Cross-Endorsement provisions in Article II of the Cross-Guaranty Agreement establish a netting contract between the Clearing Agencies that meets the standards for protection under FDICIA.¹¹ The Cross-Endorsement provisions provide that on each Common Business Day that a Common Member has a credit balance at one Clearing Agency and a debit balance at the other Clearing Agency, the two balances will be netted, and the following payments will be made:

- the Clearing Agency with a net credit amount with respect to the Common Member will pay that amount to the Common Member and pay the other Clearing Agency its debit balance (e.g., if a Common Member has a \$100 credit balance at NSCC and a \$30 debit balance at DTC, those amounts will be netted, resulting in NSCC paying the Common Member \$70 to satisfy the net credit balance and DTC \$30 to satisfy the debit balance);
- each Common Member with a net debit amount with respect to a Clearing Agency will pay that amount to the Clearing Agency and the Clearing Agency with the credit balance will pay that amount to the Clearing

¹¹ The Federal Deposit Insurance Corporation Improvement Act of 1991, as amended (“FDICIA”) (12 U.S.C. 4401 *et seq.*), validates netting contracts that provide for the netting of payment obligations and payment entitlements between and among clearing organizations and their members. Under FDICIA, a payment under a netting contract is generally not subject to disaffirmance by a receiver or trustee in a subsequent insolvency proceeding. 12 U.S.C. 4403-04. The netting provisions of FDICIA were designed to reduce systemic risk to the financial markets. 12 U.S.C. 4401(4).

Agency with the net debit amount (e.g., if a Common Member has a \$100 debit balance at NSCC and a \$30 credit balance at DTC, those amounts will be netted, resulting in the Common Member paying NSCC \$70 to satisfy the net debit balance and DTC paying NSCC \$30 to satisfy the remainder of the debit amount at NSCC); and

- for each Common Member with a credit balance at one Clearing Agency that equals its debit balance at the other Clearing Agency, the Clearing Agency with the credit balance will pay that amount to the Clearing Agency with the debit balance (e.g., if a Common Member has a \$100 debit balance at NSCC and a \$100 credit balance at DTC, those amounts will be netted, resulting in DTC paying NSCC \$100 to satisfy the full net debit amount at NSCC).

B. Cross-Guaranties

As noted above, Articles III and IV of the Cross-Guaranty Agreement establish the Cross-Guaranties between the Clearing Agencies. The Cross-Guaranties enable the Clearing Agencies to retain their respective collateral rights over certain securities transactions that move between their systems throughout the day.¹² More specifically, under the Cross-Guaranty Agreement, on any Common Business Day, DTC provides a guarantee to NSCC for the value of all Long Allocations (i.e., free-of-payment deliveries

¹² These Cross-Guaranties and related arrangements constitute netting contracts between the Clearing Agencies that meet the standards for protection under FDICIA.

of securities from NSCC's CNS System¹³ to Participants of DTC), and NSCC provides a guarantee to DTC for the value of all Short Covers (i.e., free-of-payment deliveries of securities to the CNS System from Participants of DTC).

When Long Allocations are redelivered from the DTC Participant that received the securities through the CNS System to another DTC Participant, DTC provides a guarantee to NSCC equal to the prior day's closing price of the Long Allocations less an applicable haircut.¹⁴ The guarantee serves as a collateral substitute for such "onward delivered" Long Allocations and only will be called on to the extent a Common Member fails to settle and NSCC needs the Long Allocations, or the Collateral Value of the Long Allocations, to make settlement among non-defaulting Members. DTC applies its Collateral Monitor¹⁵ control to the value of its guarantee to NSCC to ensure that it has sufficient collateral to cover potential guarantee obligations to NSCC from a Common Member redelivering Long Allocations into DTC's system.

The value that NSCC assigns to Short Covers under its guarantee to DTC depends on how the Short Cover securities were received by DTC. When securities received versus payment into DTC's system become Short Covers on the same day, NSCC provides a guarantee to DTC equal to the prior day's closing price of the securities. If

¹³ The CNS System is an accounting and balancing system that nets trades from various sources into one position per security per participant.

¹⁴ The haircut is designed to protect against a potential price decline in the securities.

¹⁵ The Collateral Monitor is a risk management control that ensures that DTC Participants have enough collateral to cover their settlement obligations. The Collateral Monitor tracks the value of collateral supporting each Participant's settlement obligation, and it prevents transactions that would cause a Participant's net debit settlement balance to exceed its available collateral.

Short Covers are satisfied from securities that were not received versus payment in DTC's system (i.e., they were already in the Participant's account), NSCC provides a guarantee to DTC equal to the prior day's closing market value less an applicable haircut. DTC takes this guarantee into account for purposes of its Collateral Monitor.

Together, these guarantees ensure, among other things, that debits created in DTC's system continue to be collateralized when the securities serving as collateral are delivered into the CNS System as Short Covers and reduce risk at NSCC by ensuring that Long Allocations, or the Collateral Value of Long Allocations, will be made available to NSCC to cover certain exposures.

The Cross-Guaranty Agreement provides for the above-described guarantees in two ways: a liquidity guaranty and a loss guaranty. In the event of a default of a Common Member, either Clearing Agency can make a demand for some or all of their respective guaranteed amount. A demand made for liquidity purposes is calculated and provided according to Article III, while a demand for loss purposes is calculated and provided according to Article IV. As described in subsection (ii)C and D, below, the distinction between the guaranties is how the value of the guaranties is calculated, with the calculation of the loss guaranty ultimately controlling.

(ii) Summary of Proposed Changes

After an extensive review of the Cross-Guaranty Agreement, the Clearing Agencies are proposing several changes. Following is a summary of the proposed changes, which are described in greater detail in subsection (iii), below.

A. DTC's Expanded Use of Retainable Long Allocations

Currently, in the event of a Common Member default, Long Allocations at DTC that have not been transferred (i.e., onward delivered) by the Common Member are returned to NSCC upon demand. However, in satisfaction of NSCC's obligations to DTC under the Cross-Guaranty Agreement, NSCC may permit DTC to retain Long Allocations that NSCC does not otherwise need ("Retainable Longs") in the event of a Common Member default.¹⁶

Under the current Cross-Guaranty Agreement, DTC can only use Retainable Longs to secure a borrowing under its end-of-day line-of-credit facility. This proposal would expand DTC's use of Retainable Longs to manage the default more broadly, including, but not limited to, allowing DTC to liquidate or secure an alternative borrowing through an uncommitted facility with Retainable Longs. Such expansion would provide DTC with greater flexibility in managing the default.

B. NSCC's Selection and Expanded Use of Replacement Securities

Replacement Securities are securities with collateral value that DTC can use to "replace" onward delivered Long Allocations of a defaulting Common Member when satisfying DTC's obligations to NSCC under the Cross-Guaranty Agreement.

Selection of Replacement Securities. Proposed revisions to the Cross-Guaranty Agreement would allow NSCC rather than DTC, as currently provided, to select from the pool of available Replacement Securities, such as securities

¹⁶ Retained Long Allocations are currently defined as "Reversible Long Allocations" but under the proposed changes, they would be redefined as "Retainable Long Allocations."

with the greatest collateral and/or correlation value for NSCC's purposes. The Clearing Agencies believe that NSCC is better suited than DTC to select the Replacement Securities that NSCC needs.

Use of Replacement Securities. Currently, Replacement Securities can only be used to secure a borrowing under NSCC's end-of-day line-of-credit facility. This proposal would expand NSCC's use of Replacement Securities to manage the default more broadly, including, but not limited to, allowing NSCC to liquidate, onward deliver, or secure an alternative borrowing through an uncommitted facility with Replacement Securities, at NSCC's discretion. Such expansion would provide NSCC with greater flexibility in managing the default.

C. Single Collateral Value Definition

Currently, the liquidity and loss guaranties under the Cross-Guaranty Agreement are calculated differently for DTC's obligations due to the application of two distinct Collateral Value definitions. For DTC's liquidity obligation calculation, Article III relies on the definition provided for in Section 1 of Rule 1 of the DTC Rules. Meanwhile, for DTC's loss obligation, Article IV relies on a definition specifically defined in the Cross-Guaranty Agreement.

This proposal would eliminate that definitional variance by removing the Cross-Guaranty Agreement's distinct definition for DTC's loss obligation and, instead, apply only the DTC Rule definition of Collateral Value. The historic purpose of the definitional variance is unknown, adds to a complex structure, and is not needed today.

D. Single Calculation and Obligation Concepts

The Cross-Guaranty Agreement provides that DTC's total obligation to NSCC (whether for liquidity or loss purposes, as the current Cross-Guaranty Agreement distinguishes) can never be greater than the aggregate value of the Long Allocations that the defaulted Common Member received at DTC from NSCC on the day of default. Similarly, NSCC's total obligation to DTC (whether for liquidity or loss purposes) can never be greater than the aggregate value of the defaulted Common Member's Short Covers that NSCC received from DTC on the day of default. However, under the current Cross-Guaranty Agreement, there are four different formulas to calculate those aggregate values – two for DTC and two for NSCC.

For DTC, as described above, a different definition of Collateral Value is currently used to calculate its liquidity obligation from its loss obligation. As also described above, proposed changes would eliminate that variance by removing the Cross-Guaranty Agreement's distinct definition for DTC's loss obligation and, instead, apply only the DTC Rule definition of Collateral Value. Thus, under this proposal, DTC's total obligation to NSCC (whether for liquidity or loss purposes) would be one calculation for one amount.

For NSCC, its liquidity obligation is currently calculated using only the Collateral Value of the Short Covers, while its loss obligation is calculated using both Collateral Value and Market Value of the Short Covers, depending on how the underlying securities were received. When comparing the two amounts, the loss obligation calculation produces a larger amount that more precisely reflects what the expected obligation amount would be. As such, it is proposed that the Cross-Guaranty Agreement be updated

to remove the NSCC liquidity obligation calculation and, instead, only use the loss obligation calculation to set NSCC's total obligation amount to DTC. In doing so, like the proposed changes for DTC, NSCC's total obligation to DTC (whether for liquidity or loss purposes) would be one calculation for one amount.

Because these proposed changes would eliminate the distinction between liquidity and loss obligations, it is proposed that the Cross-Guaranty Agreement be updated to collapse these separate obligation concepts into a single obligation concept. That is, DTC would guaranty to NSCC the total Collateral Value (under a single Collateral Value definition) of applicable Long Allocations, while NSCC would guaranty to DTC the total Collateral and/or Market Value, as applicable, of applicable Short Covers.

E. Netted Obligations

Currently, the obligations between the Clearing Agencies are not netted under the Cross-Guaranty Agreement. As such, DTC is currently obligated to deliver to NSCC certain securities, cash, or a combination thereof in satisfaction of its guaranty to NSCC, while NSCC is obligated to do the same to DTC, for the same Common Member default.

To eliminate the inefficiency of such deliveries occurring between the Clearing Agencies at the same time, it is proposed that the obligations be netted when both Clearing Agencies are making demands on the same day, leaving only a single obligation owed from one Clearing Agency to the other.

F. General Improvement Changes

In addition to the above proposed changes, and any associated changes necessary to help effectuate those changes, several other supportive, ministerial, clarifying, and

update changes are proposed throughout the Cross-Guaranty Agreement to help simplify and improve the overall readability of the agreement:

Preamble. The opening description of the Clearing Agencies, purpose, applicable law, and prior iterations of the Cross Guaranty will be updated to remove inapplicable information and better reflect current drafting practices.

Definitions. Defined terms will be updated, modified, added, or removed as needed.

Antiquated Concepts. Concepts or requirements that are no longer applicable or needed will be removed or updated.

Information Sharing. Information that can be shared pursuant to the Cross Guaranty will be clarified and expanded.

Boilerplate Terms and Conditions. Certain standard terms and conditions will be updated, modified, added, or removed to better reflect current drafting practices.

(iii) **Summary of the Current Cross-Guaranty Agreement and Proposed Changes**

The following is a summary of the provisions of the current Cross-Guaranty Agreement accompanied by any proposed changes to such provisions. As summarized in subsection (ii), above, and described in more detail in this subsection, the proposed changes would amend and restate the Cross-Guaranty Agreement to (1) revise the description of the Clearing Agencies' Cross-Endorsement procedures to better reflect current practices of the Clearing Agencies, (2) simplify and consolidate the liquidity and loss guaranty obligations of the Clearing Agencies under the current Cross-Guaranty Agreement into a single guaranty obligation of each Clearing Agency, (3) provide for the

netting of guaranty obligations between the Clearing Agencies' in certain instances, (4) provide for more up-to-date valuations of securities under the Cross-Guaranty Agreement, (5) provide for the Clearing Agency receiving securities in connection with the performance of the other Clearing Agency's guaranty obligation the ability to select the particular securities it receives, (6) enhance the information sharing between the Clearing Agencies under the Cross-Guaranty Agreement, and (7) make appropriate conforming and clarifying changes throughout the Cross-Guaranty Agreement. Ultimately, as part of the proposed amendment and restatement of the Cross-Guaranty Agreement, the Clearing Agencies would enter into a Third Amended and Restated Netting Contract and Limited Cross-Guaranty.

A. Recitals

The recitals of the current Cross-Guaranty Agreement, inter alia, (i) describe the Clearing Agencies and their legal and regulatory statuses, (ii) define certain terms used throughout the Cross-Guaranty Agreement, (iii) describe certain provisions of the NSCC Rules and DTC Rules and their interoperation, (iv) provide that each of the DTC Rules and the NSCC Rules are netting contracts under FDICIA, and (v) describe the terms of the current Cross-Guaranty Agreement and the changes made to such current version.

The Clearing Agencies propose to revise the recitals of the current Cross-Guaranty Agreement to (i) update the defined terms for the NSCC Rules and DTC Rules to better reflect the current titles of such rules and that they are posted on the website of the Clearing Agencies' parent company, (ii) reflect additional legal and regulatory statuses of the Clearing Agencies as covered clearing agencies under the Commission's Standards for Covered Clearing Agencies and have each been designated as systemically

important financial market utilities by the Financial Stability Oversight Council, (iii) clarify that the Cross-Guaranty Agreement is itself a netting contract under FDICIA, and (iv) remove the description of the terms of the current Cross-Guaranty Agreement and the changes made to such current version, which are not applicable to this proposed change. Collectively, these proposed changes are intended to bring the recitals up to current form.

B. Article I

Article I of the current Cross-Guaranty Agreement, entitled “Terms and Conventions,” (i) lists the defined terms used in the Cross-Guaranty Agreement and the place in the Cross-Guaranty Agreement where such terms are defined, and (ii) states certain interpretive conventions with respect to terms and phrases used throughout the agreement.

The Clearing Agencies propose to revise Article I to (i) update the list of defined or proposed to be defined terms that are used or proposed to be used in the Cross-Guaranty Agreement; (ii) update or provide the references to where such terms are defined in the agreement or in the NSCC Rules or the DTC Rules; and (iii) make clarifying and technical changes to the interpretive conventions of such defined terms and other terms used throughout the agreement. Collectively, these proposed changes are intended to ensure that all defined terms are accounted for and include a proper reference to where they are defined, and that the reader understands how to read and interpret the variations of those and other terms.

Following are the key additions, deletions, or modifications to the list of terms provided in Article I:

- “Account Family” – existing term but not previously listed or defined, now defined pursuant to the DTC Rules;
- “Clearing Fund” – existing term but not previously listed or defined, now defined pursuant to the NSCC Rules;
- “CNS Accounting Operating” – existing term but not previously listed or defined, now defined pursuant to the NSCC Rules;
- “Collateral Monitor” – existing term but not previously listed or defined, now defined pursuant to the DTC Rules;
- “DTC Collateral Substitute Guaranty” and “DTC Collateral Substitute Guaranty Maximum Amount” – existing and listed terms to be renamed “DTC Guaranty” and “DTC Gross Guaranty Amount,” respectively, with modified definitions (discussed in subsection E3, below);
- “DTC Liquidity Obligation,” “DTC Liquidity Obligation Maximum Amount,” and “DTC Net Loss” – existing and listed terms that would be deleted because, as described in subsection (ii), above, and subsections D and E, below, the agreement would no longer distinguish between a liquidity or loss obligation; therefore, these terms are no longer needed;
- “DTC Net Guaranty Amount” – new term, defined to mean, generally, the outstanding obligation that DTC owes to NSCC after considering any prior “payments” (discussed in subsection E3, below);
- “Market Value” – existing defined term but previously not listed in Article I;

- “Member” – existing term but not previously listed or defined, now defined pursuant to the NSCC Rules;
- “Netting Facilitator” – existing and listed term that would be deleted because the concept is not used (discussed in subsection C, below);
- “NSCC Collateral Substitute Guaranty” and “NSCC Collateral Substitute Guaranty Maximum Amount” – existing and listed terms to be renamed “NSCC Guaranty” and “NSCC Gross Guaranty Amount,” respectively, with modified definitions (discussed in subsection E3, below);
- “NSCC Liquidity Obligation,” “NSCC Liquidity Obligation Maximum Amount,” and “NSCC Net Loss” – existing and listed terms that would be deleted because, as described in subsection (ii), above, and subsections D and E, below, the agreement would no longer distinguish between a liquidity or loss obligation; therefore, these terms are no longer needed;
- “NSCC Net Guaranty Amount” – new term, defined to mean, generally, the outstanding obligation that NSCC owes to DTC after considering any prior “payments” (discussed in subsection E3, below);
- “Participant” and “Participants Fund” – existing terms but not previously listed or defined, now defined pursuant to the DTC Rules;
- “Reversible Long Allocation” – existing and listed term to be renamed “Retainable Long Allocations,” with a modified definition (discussed in subsection E3, below); and
- “Securities” – existing term but not previously listed or defined, now defined pursuant to the DTC Rules.

C. Article II

Article II of the current Cross-Guaranty Agreement, entitled “Netting Contract Between NSCC and DTC,” (i) defines certain terms used throughout Article II and the rest of the Cross-Guaranty Agreement, (ii) provides that on each Common Business Day each Clearing Agency will determine the credit amount or debit amount for each Common Member under its rules and will report such amount to the Common Member and a Netting Facilitator¹⁷ designated by the Clearing Agencies, and (iii) provides that the Netting Facilitator will compare the credit amount or debit amount determined by each Clearing Agency for each Common Member and establish which Common Members have a credit amount at one Clearing Agency and a debit amount at the other Clearing Agency.

Article II then provides that for each Common Member with a credit amount at one Clearing Agency and a debit amount at the other Clearing Agency, the Netting Facilitator will net such amounts, and (1) the Clearing Agency with a net credit amount with respect to a Common Member will pay that amount to the Common Member and pay the other Clearing Agency its debit balance; (2) each Common Member with a net debit amount will pay that amount to the Clearing Agency with the net debit amount and the Clearing Agency with the credit balance will pay the credit balance to the Clearing Agency with the net debit amount; and (3) for each Common Member with a credit

¹⁷ The Netting Facilitator is the person or persons designated by the Clearing Agencies to perform the functions described. The Clearing Agencies have not designated anyone as a Netting Facilitator but, instead, perform the functions themselves.

balance that equals its debit balance, the Clearing Agency with the credit balance will pay that amount to the Clearing Agency with the debit balance.

Article II further provides, inter alia, that (i) in order to reduce the number of payments to be made, the Netting Facilitator may aggregate or net the payment to be made by the Clearing Agencies to each other and instruct the Clearing Agencies to make such aggregated or netted payments accordingly, (ii) the Clearing Agencies will share with each other and the Netting Facilitator information regarding the credit amounts and debit amounts of Common Members, and (iii) the provisions of Article II will be given effect notwithstanding that a Common Member becomes a defaulting member under either the NSCC Rules or the DTC Rules.

The Clearing Agencies propose to revise Article II to (i) remove references to a Netting Facilitator and the functions to be performed by a Netting Facilitator (i.e., comparing the Credit Amount or Debit Amount calculated by each Clearing Agency for each Common Member, determining which Common Members have a Credit Amount at one Clearing Agency and a Debit Amount at the other Clearing Agency, and then netting such amounts and the associated payments to be made), as such functions are already performed by the Clearing Agencies themselves; therefore, removing the concept of a Netting Facilitator does not materially change the operation of the agreement; (ii) remove provisions regarding the sharing of the credit amounts and debit amounts of Common Members from Article II, which are proposed to be relocated to Article IV; and (iii) make certain other conforming and clarifying changes to reflect changes made in Article I relating to defined terms and interpretive conventions. Collectively, these proposed changes also help to streamline and simplify Article II.

D. Article III – “Liquidity Guaranty”

Article III of the current Cross-Guaranty Agreement, entitled “Certain Arrangements Between NSCC and DTC,” establishes the liquidity guaranty between the Clearing Agencies.

Article III begins by defining certain terms used throughout the Article and the rest of the Cross-Guaranty Agreement, then it specifies certain arrangements, namely that (i) securities delivered as Short Covers by a Common Member to NSCC, including securities delivered versus payment to a Common Member that are redelivered as Short Covers to NSCC, will not be pledged by DTC to secure an advance under the committed revolving line of credit facility maintained by the Clearing Agencies with one or more banks or other lenders (“LOC Facility”), (ii) securities delivered as Long Allocations by NSCC to a Common Member will not be given any Collateral Value for purposes of the Collateral Monitor and, except with respect to Reversible Long Allocations (which would be redefined as Retainable Long Allocations, as discussed in subsections (iii)B, above, and E, below) that NSCC permits DTC to retain and pledge, will not be pledged by DTC to secure an advance under the LOC Facility, and (iii) if a Common Member becomes a defaulting member under the NSCC Rules or DTC Rules (“Defaulting Member”), DTC will redeliver all Long Allocations not transferred, withdrawn or pledged by the Common Member (i.e., Reversible Long Allocations) credited by DTC to the Common Member on the day on which NSCC makes a demand therefor, provided that the Common Member is still a Defaulting Member on that day.

Article III then proceeds to describe the liquidity obligations of the Clearing Agencies to each other:

1. Liquidity Obligation of DTC

If a Common Member becomes a Defaulting Member, then:

- a. DTC shall make available to NSCC, on demand, liquidity (the “DTC Liquidity Obligation”) in an amount up to (i) the aggregate Collateral Value of all Long Allocations credited by DTC to the Defaulting Member on the day on which NSCC makes a demand therefor (provided that the Defaulting Member is still a Defaulting Member on that day) minus (ii) the sum of (A) the Collateral Value of the Reversible Long Allocations redelivered that day by DTC to NSCC and (B) any credit amount of the Defaulting Member at DTC applied that day against any debit amount of the Defaulting Member at NSCC (the “DTC Liquidity Obligation Maximum Amount”).
- b. In satisfaction of the DTC Liquidity Obligation, DTC shall, until such time as NSCC no longer needs such liquidity or as otherwise provided in the Cross-Guaranty Agreement, without interest or other charge, (i) advance immediately available funds to NSCC in an amount up to the DTC Liquidity Obligation Maximum Amount; or (ii) deliver free to NSCC securities with Collateral Value that DTC may segregate if a Common Member becomes a Defaulting Member and either pledge to secure an advance under the LOC Facility or use to satisfy certain obligations of DTC to NSCC under the Cross-Guaranty Agreement (such securities,

“Replacement Securities”) selected by DTC having an aggregate Collateral Value up to the DTC Liquidity Obligation Maximum Amount; or (iii) provide NSCC with a combination of immediately available funds and Replacement Securities (selected and valued as set forth in clause (ii) above) in a total amount up to the DTC Liquidity Obligation Maximum Amount. In satisfaction of the DTC Liquidity Obligation, DTC shall have the option of determining whether the DTC Liquidity Obligation shall be satisfied in accordance with the provisions of clause (i), (ii) or (iii) of this paragraph (b). DTC may, at any time, substitute cash for Replacement Securities provided by DTC to NSCC in accordance with clause (ii) or (iii) of this paragraph (b).

- c. NSCC shall use Replacement Securities provided by DTC to NSCC in accordance with paragraph (b) above only for the purpose of securing an advance from its lenders in accordance with the NSCC Rules, and DTC acknowledges that NSCC may use such Replacement Securities for such purpose.
- d. NSCC shall promptly redeliver to DTC any Replacement Securities provided by DTC to NSCC in accordance with paragraph (b) above (i) if NSCC does not need such Replacement Securities for the purpose specified in paragraph (c) above, (ii) upon the satisfaction of the obligations of DTC to NSCC pursuant to the DTC Collateral Substitute Guaranty (which would

be redefined as the DTG Guaranty, as discussed in subsections (iii)B, above, and E, below) or (iii) to enable DTC to deliver the Replacement Securities in connection with a liquidation thereof for the purpose of applying the proceeds to the satisfaction of the obligations of DTC to NSCC pursuant to the DTC Collateral Substitute Guaranty. NSCC shall promptly repay to DTC any cash provided by DTC to NSCC pursuant to paragraph (b) above upon the satisfaction of the obligations of DTC to NSCC pursuant to the DTC Collateral Substitute Guaranty.

2. Liquidity Obligation of NSCC

If a Common Member becomes a Defaulting Member and if the funds available to DTC from the LOC Facility are insufficient to meet its needs:

- a. NSCC shall make available to DTC, on demand, liquidity (the “NSCC Liquidity Obligation”) in an amount up to (i) the aggregate Collateral Value of all securities delivered free as Short Covers from the Defaulting Member to NSCC on the day of the default minus (ii) any credit amount of the Defaulting Member at NSCC applied that day against any debit amount of the Defaulting Member at DTC (the “NSCC Liquidity Obligation Maximum Amount”).
- b. In satisfaction of the NSCC Liquidity Obligation, NSCC shall, until such time as DTC no longer needs such additional liquidity, without interest or other charge, (i) advance immediately available

funds to DTC in an amount up to the NSCC Liquidity Obligation Maximum Amount; or (ii) permit DTC to retain and pledge to its lenders Reversible Long Allocations selected by DTC (otherwise required to be redelivered to NSCC) having an aggregate Collateral Value up to the NSCC Liquidity Obligation Maximum Amount; or (iii) provide DTC with a combination of immediately available funds and Reversible Long Allocations (selected, valued and applied as set forth in clause (ii) above) in a total amount up to the NSCC Liquidity Obligation Maximum Amount. In satisfaction of the NSCC Liquidity Obligation, NSCC shall have the option of determining whether the NSCC Liquidity Obligation shall be satisfied in accordance with the provisions of clause (i), (ii) or (iii) of this paragraph (b).

- c. DTC shall promptly deliver to NSCC any Reversible Long Allocations retained by DTC in accordance with paragraph (b) above (i) upon the satisfaction of the obligations of NSCC to DTC pursuant to the NSCC Collateral Substitute Guaranty (which would be redefined as the NSCC Guaranty, as discussed in subsections (iii)B, above, and E, below) or (ii) to enable NSCC to deliver the Reversible Long Allocations in connection with a liquidation thereof for the purpose of applying the proceeds to the satisfaction of the obligations of NSCC to DTC pursuant to the NSCC Collateral Substitute Guaranty. DTC shall promptly repay to

NSCC any cash provided by NSCC to DTC pursuant to paragraph (b) above upon the satisfaction of the obligations of NSCC to DTC pursuant to the NSCC Collateral Substitute Guaranty.

Article III further provides that each Clearing Agency will indemnify and hold harmless the other Clearing Agency from and against any claim, loss, cost, or expense suffered or incurred by the other Clearing Agency as a result of any law, rule, regulation, order, or judgment that requires or obligates the other Clearing Agency to deliver to the Defaulting Member, its legal representative, or any other person the securities provided in satisfaction of the Clearing Agency's liquidity obligation under Article III, or make a payment on account thereof.

The Clearing Agencies propose to revise and consolidate Articles III and IV of the current Cross-Guaranty Agreement. The Clearing Agencies propose to revise the title of Article III to read "Limited Cross-Guaranties between NSCC and DTC," delete much of the remainder of current Article III and the title of current Article IV, and then update and renumber the remainder of current Article IV which would make up much of the new Article III. The remaining Articles of the current Cross-Guaranty Agreement would be renumbered accordingly. A detailed description of that revision and consolidation follows the summary of the existing Article IV immediately below.

E. Article IV – Collateral Substitute or "Loss Guaranty"

Article IV of the current Cross-Guaranty Agreement, entitled "Limited Collateral Substitute Cross-Guaranties," establishes the loss guaranty between the Clearing Agencies.

Article IV begins by defining the following terms:

- “DTC Collateral Substitute Guaranty Maximum Amount” to mean, with respect to securities transferred through the facilities of DTC on any Common Business Day, an amount equal to (i) the aggregate Collateral Value of all securities delivered free as Long Allocations by NSCC to a Common Member, whether or not such Long Allocations have been transferred, withdrawn or pledged by the Common Member, minus (ii) the sum of (A) the Collateral Value of any Reversible Long Allocations redelivered by DTC to NSCC and (B) any credit amount of the Common Member at DTC applied that day against any debit amount of the Common Member at NSCC.
- “DTC Net Loss” to mean any loss incurred by DTC with respect to a Common Member which has failed to satisfy any obligation to DTC after application of (i) the netting payments made pursuant to Article II and (ii) the failure to settle procedures incorporated into the DTC Rules.
- “NSCC Collateral Substitute Guaranty Maximum Amount” to mean, with respect to securities transferred through the facilities of DTC on any Common Business Day, an amount equal to (i) the sum of (A) the aggregate Market Value of all securities delivered versus payment to a Common Member which are redelivered free as Short Covers by the Common Member to NSCC plus (B) the aggregate Collateral Value of all other securities delivered free as Short Covers by the Common Member to NSCC minus (ii) the sum of (A) the excess (if any) of 90% of the

aggregate Market Value of the securities constituting the portion of the scheduled aggregate Short Covers of the Common Member attributable to non-fail ACATS items over 80% (or such other percentage as NSCC shall from time to time specify to DTC in writing) of the aggregate Market Value of the securities constituting the portion of the scheduled aggregate Long Allocations of the Common Member attributable to non-fail ACATS items and (B) any credit amount of the Common Member at NSCC applied that day against any debit amount of the Common Member at DTC.

- “NSCC Net Loss” to mean any loss incurred by NSCC with respect to a Common Member which has failed to satisfy any obligation to NSCC after application of (i) the netting payments made pursuant to Article II and (ii) the close out of transactions in accordance with the NSCC Rules.

Article IV then proceeds to describe the loss guaranty obligations of the Clearing Agencies to each other.

1. DTC Collateral Substitute Guaranty

- a. DTC guarantees (the “DTC Collateral Substitute Guaranty”) the obligations of Defaulting Members to NSCC; provided, however, that, as a condition to the effectiveness of such DTC Collateral Substitute Guaranty (i) as between NSCC and the Defaulting Member, the “effective time” (as defined in the NSCC Rules) on the day of the default shall not have occurred, and (ii) NSCC shall give DTC notice, prior to the completion of money settlement at

both Clearing Agencies on the day of the default, that NSCC intends to make a claim against DTC on the DTC Collateral Substitute Guaranty but (A) NSCC shall not be required to give such notice to DTC as a condition to the effectiveness of the DTC Collateral Substitute Guaranty if NSCC has received a notice from DTC pursuant to the NSCC Collateral Substitute Guaranty and (B) any failure of NSCC to give a timely notice pursuant to this paragraph (a) shall be deemed waived if DTC nevertheless makes a guaranty payment to NSCC pursuant to paragraph (b) immediately below.

- b. In satisfaction of the DTC Collateral Substitute Guaranty, DTC shall pay NSCC, on demand (which demand shall be made no later than one year after the day of the failure) in immediately available funds, an amount equal to the lesser of (i) the DTC Collateral Substitute Guaranty Maximum Amount or (ii) the NSCC Net Loss; provided, however, that, if DTC and NSCC both agree (on a case by case basis), in lieu of such payment, DTC shall deliver free to NSCC available Replacement Securities selected by DTC having a Collateral Value (as specifically defined in the Cross-Guaranty Agreement) equal to the amount of such payment, and the DTC Collateral Substitute Guaranty shall be discharged to the extent of the Collateral Value of such Replacement Securities.

2. NSCC Collateral Substitute Guaranty

- a. NSCC guarantees (the “NSCC Collateral Substitute Guaranty”) the obligations of Defaulting Members to DTC; provided, however, that, as a condition to the effectiveness of such NSCC Collateral Substitute Guaranty, DTC shall give NSCC notice, prior to the completion of money settlement at both Clearing Agencies on the day of the default, that DTC intends to make a claim against NSCC on the NSCC Collateral Substitute Guaranty but (i) DTC shall not be required to give such notice to NSCC as a condition to the effectiveness of the NSCC Collateral Substitute Guaranty if DTC has received a notice from NSCC pursuant to the DTC Collateral Substitute Guaranty and (ii) any failure of DTC to give a timely notice pursuant to this paragraph (a) shall be deemed waived if NSCC nevertheless makes a guaranty payment to DTC pursuant to paragraph (b) immediately below.
- b. In satisfaction of the NSCC Collateral Substitute Guaranty, NSCC shall pay DTC, on demand (which demand shall be made no later than one year after the day of the failure) in immediately available funds, an amount equal to the lesser of (i) the NSCC Collateral Substitute Guaranty Maximum Amount or (ii) the DTC Net Loss.

Article IV further provides that, notwithstanding anything in the DTC Rules to the contrary, the amount of the NSCC Collateral Substitute Guaranty with respect to the

obligations of a Common Member, shall be given Collateral Value for purposes of calculating the Collateral Monitor.

3. Revision and Consolidation of Articles III and IV

As noted above, the Clearing Agencies propose to revise and consolidate Articles III and IV of the current Cross-Guaranty Agreement. Much of the current liquidity guaranty under Article III would be deleted, while much of loss guaranty under Article IV would be updated to make up much of the new Article III. The proposed revision and consolidation of Articles III and IV is described immediately below.

(I) Defined Terms

The Clearing Agencies propose to consolidate the defined terms in Articles III and IV of the current Cross-Guaranty Agreement into a single section, in new Article III, that would provide the following defined terms:

- “Collateral Value” to have the meaning provided in the DTC Rules, as in effect at the time that a Common Member became a Defaulting Member.
As noted above, the current liquidity and loss guaranties under the Cross-Guaranty Agreement are calculated differently for DTC’s obligations due to the application of two distinct Collateral Value definitions. For DTC’s liquidity obligation calculation, current Article III relies on the definition provided for in Section 1 of Rule 1 of the DTC Rules. Meanwhile, for DTC’s loss obligation, current Article IV relies on a definition specifically defined in the Cross-Guaranty Agreement. This proposal would eliminate that definitional variance by removing the Cross-Guaranty Agreement’s distinct definition for DTC’s loss obligation and, instead, apply the DTC

Rule definition of Collateral Value. It is not exactly known why DTC's loss obligation had a separate definition from its liquidity obligation when the agreement was originally drafted but, when looking at the guaranties today, such a difference is unnecessary and relying only on the DTC definition would help simplify the agreement and add consistency with current collateral valuation practices at DTC and NSCC.

- “DTC Gross Guaranty Amount” to mean, for any Common Member on any Common Business Day, an amount equal to (i) the aggregate Collateral Value of all securities delivered as Long Allocations to the Common Member, whether or not such Long Allocations have been transferred, withdrawn or pledged by the Common Member, minus (ii) the sum of (A) the Collateral Value of the Long Allocations redelivered that day by DTC to NSCC and (B) any credit amount of the Common Member at DTC applied that day against any debit amount of the Common Member at NSCC pursuant to Article II. This definition is a slightly modified version of the existing definition of “DTC Collateral Substitute Guaranty Maximum Amount.” The modifications are to simplify the definition and to reflect other changes being made to the agreement.
- “DTC Net Guaranty Amount” to mean, an amount equal to (i) the DTC Gross Guaranty Amount for the Defaulting Member on the Common Business Day that is the day of default, minus (ii) any amount that DTC previously provided to NSCC in satisfaction of a demand made by NSCC, under the agreement, for such Defaulting Member for such Common

Business Day, provided that if (i) minus (ii) is zero or less than zero, then the DTC Net Guaranty Amount shall be zero. This is a new definition to help ensure that any previously satisfied demands are subtracted out from any later demands, so that DTC does not pay out an amount greater than the DTC Gross Guaranty Amount.

- “LOC Facility” to mean the committed revolving line of credit facility maintained by the Clearing Agencies with one or more banks or other lenders, as the same may exist from time to time. This definition is a slightly modified version of the existing definition to clarify that the LOC Facility is applicable to both DTC and NSCC, not just DTC.
- “Long Allocations” to mean securities that have been delivered free of payment (resulting from the CNS Accounting Operation) by NSCC to a Common Member through the facilities of DTC. This definition is effectively the same as the current definition, with a slight technical update for readability.
- “Market Value” to have the meaning provided in the DTC Rules, as in effect at the time that a Common Member became a Defaulting Member. Although presented as a defined term in the existing agreement, Market Value is not actually defined; therefore, a definition is now being proposed, which, like the definition of Collateral Value, would align to the DTC Rules for consistency and simplicity purposes.
- “NSCC Gross Guaranty Amount” to mean, for any Common Member on any Common Business Day, an amount equal to (i) the sum of (A) the

aggregate Market Value of all securities delivered versus payment to the Common Member which are redelivered as Short Covers by the Common Member and (B) the aggregate Collateral Value of all other securities delivered as Short Covers by the Common Member minus (ii) any credit amount of the Common Member at NSCC applied that day against any debit amount of the Common Member at DTC pursuant to Article II. This definition is a modified version of the existing definition of “NSCC Collateral Substitute Guaranty Maximum Amount.” The modifications are to remove a valuation associated with ACATS¹⁸ transactions, simplify the definition, and to reflect other changes being made to the agreement. The ACATS valuation reference is being removed because ACATS transactions are no longer processed through CNS;¹⁹ thus, such transactions are outside the purview of the Cross-Guaranty Agreement.

- “NSCC Net Guaranty Amount” to mean an amount equal to (i) the NSCC Gross Guaranty Amount for the Defaulting Member on the Common Business Day that is the day of default minus (ii) any amount that NSCC previously provided to DTC in satisfaction of a demand made by DTC, under the agreement, for such Defaulting Member for such Common

¹⁸ The Automated Customer Account Transfer Service (“ACATS”) is a system that automates and standardizes procedures for the transfer of assets in a customer account from one brokerage firm and/or bank to another. DTCC, ACATS, <https://www.dtcc.com/clearing-and-settlement-services/equities-clearing-services/acats#:~:text=The%20Automated%20Customer%20Account%20Transfer,and%20For%20bank%20to%20another>.

¹⁹ Securities Exchange Act Release No. 34-72223 (May 22, 2014), 79 FR 30912 (May 29, 2014) (SR-NSCC-2014-04).

Business Day, provided that if (i) minus (ii) is zero or less than zero, then the NSCC Net Guaranty Amount shall be zero. This is a new definition to help ensure that any previously satisfied demands are subtracted out from any later demands, so that NSCC does not pay out an amount greater than the NSCC Gross Guaranty Amount.

- “Replacement Securities” to mean securities (i) that have Collateral Value in the Collateral Monitor of a Defaulting Member, (ii) that DTC does not need to secure an advance under the LOC Facility or otherwise use to manage the default of the Defaulting Member, and (iii) that DTC may, therefore, use to satisfy certain obligations of DTC to NSCC under the Cross-Guaranty Agreement. This definition is a modified version of the existing definition. The current definition is broad, describing how DTC may use Replacement Securities to pledge to its LOC Facility or otherwise satisfy its obligation to NSCC. The new definition is narrower by not considering securities to be Replacement Securities until they are no longer needed by DTC (e.g., securities that DTC needs to pledge to its LOC Facility would not be considered Replacement Securities). This change simplifies the scope and use of these securities. The definition also was modified to make technical and clarifying corrections.
- “Retainable Long Allocations” to mean Long Allocations (i) that have not been transferred, withdrawn, or pledged by a Defaulting Member through the facilities of DTC, (ii) that NSCC does not need to secure an advance under the LOC Facility or otherwise use to manage the default of the

Defaulting Member, and (iii) that NSCC may, therefore, use to satisfy certain obligations of NSCC to DTC under the Cross-Guaranty Agreement. This definition is an updated version of the existing “Reversible Long Allocation” definition. Unlike the new proposed definition of Replacement Securities, which would narrow the existing definition, the new proposed definition of Retainable Long Allocations expands the definition to more fully describe the purpose of the securities – to be available for NSCC to satisfy its obligations to DTC because NSCC would not need the securities for its own purposes. In that way, however, the new definition does mirror the new definitional structure of Replacement Securities, given that they both serve similar functions, just from different perspectives (i.e., NSCC or DTC). The name itself also would be updated to better reflect the purpose and function of the securities.

- “Short Covers” to mean securities that have been delivered free of payment (resulting from the CNS Accounting Operation) by a Common Member to NSCC through the facilities of DTC. This definition is effectively the same as the current definition, with a slight technical update for readability.

As noted above, the current defined terms DTC Liquidity Obligation, NSCC Liquidity Obligation, DTC Liquidity Obligation Maximum Amount, NSCC Liquidity Obligation Maximum Amount, DTC Net Loss, and NSCC Net Loss would each be deleted because, as described throughout this filing, it is proposed that the Cross-

Guaranty Agreement would no longer distinguish between a liquidity obligation and a loss obligation. As such, those terms would no longer be needed.

(II) Certain Arrangements

The Clearing Agencies propose to relocate and update the existing provisions of Article III relating to the redelivery of Long Allocations to NSCC to provide that, notwithstanding anything in the NSCC Rules or DTC Rules to the contrary, with respect to securities transferred through the facilities of DTC on any Common Business Day, if a Common Member fails to satisfy any obligation and becomes a Defaulting Member and the “effective time” (as defined in the NSCC Rules) between NSCC and the Defaulting Member did not occur on the Common Business Day, then DTC shall redeliver free of payment to NSCC all Long Allocations (i) that were delivered to the Defaulting Member on such Common Business Day, and (ii) that have not been transferred, withdrawn or pledged by the Defaulting Member through the facilities of DTC. The updates made were non-substantive and simply reflect other changes to the agreement.

The Clearing Agencies also propose to relocate and update the existing provisions of Article III restricting DTC’s ability to pledge Short Covers and Reversible Long Allocations to provide (i) that securities delivered as Short Covers, to include securities delivered versus payment to a Common Member which are redelivered as Short Covers, may not be pledged by DTC to secure an advance under the LOC Facility or otherwise used by DTC to manage the default of a Common Member, and (ii) that securities delivered as Long Allocations are not to be given any Collateral Value for purposes of the Collateral Monitor and, except with respect to Retainable Long Allocations, may not be pledged by DTC to secure an advance under the LOC Facility or otherwise used by

DTC to manage the default of a Common Member. Again, the updates here are non-substantive and simply reflect other changes to the agreement. However, instead of dedicating specific subsections to each of these provisions, these provisions would be included as footnotes to the definitions of Short Covers and Long Allocations, respectively. The Clearing Agencies believe the footnotes are adequate because the provisions simply reflect standard practices at the Clearing Agencies, separate from the Cross-Guaranty Agreement, and moving the provisions to footnotes helps focus the agreement on more material provisions.

(III) DTC Guaranty

As described above, the Clearing Agencies propose to consolidate DTC's current liquidity obligations from Article III of the current Cross-Guaranty Agreement and its current loss guaranty obligations from Article IV of the current Cross-Guaranty Agreement into a single guaranty obligation of DTC (the "DTC Guaranty") that would function in effectively the same manner as today's guaranties. Pursuant to the DTC Guaranty, DTC would guarantee the applicable Long Allocation obligations of Defaulting Members to NSCC; provided, however, that, as a condition to the effectiveness of such DTC Guaranty, as between NSCC and the Defaulting Member, the "effective time" (as defined in the NSCC Rules) on the day of the default must not have occurred as is the case under the current agreement. Meanwhile, NSCC would continue to have up to one year following the day of default to make one or more demands for the DTC Guaranty.

As is the case today, in satisfaction of the DTC Guaranty, DTC could (i) pay NSCC in immediately available funds an aggregate amount up to the DTC Net Guaranty

Amount, (ii) deliver free of payment to NSCC available Replacement Securities having an aggregate Collateral Value up to the DTC Net Guaranty Amount, or (iii) provide NSCC with a combination of immediately available funds and Replacement Securities in an aggregate amount up to the DTC Net Guaranty Amount. DTC would continue to have the option of determining whether the DTC Guaranty would be satisfied with immediately available funds, Replacement Securities, or a combination thereof.

The Replacement Securities to be delivered free of payment by DTC to NSCC in satisfaction of DTC's obligation to NSCC, in part or in whole, would be selected by NSCC. This would be a change from the current process, under which DTC makes such selection. The Clearing Agencies propose this change because they believe NSCC is better situated to choose the securities that fit its needs best and, by the proposed definition, Replacement Securities would not be needed by DTC. Upon the delivery of such Replacement Securities to NSCC, NSCC would continue to acquire full legal title thereto, subject to no adverse claim, lien or other interest in or right to such Replacement Securities of any person other than NSCC.

(IV) NSCC Guaranty

The Clearing Agencies propose to consolidate NSCC's current liquidity obligations from Article III of the current Cross-Guaranty Agreement and its current loss guaranty obligations from Article IV of the current Cross-Guaranty Agreement into a single guaranty obligation of NSCC (the "NSCC Guaranty") that would function in effectively the same manner as today's guaranties. Pursuant to the NSCC Guaranty, NSCC would guarantee the applicable Short Covers of the Defaulting Members to DTC.

Meanwhile, DTC would continue to have one year following the day of default to make one or more demands for the NSCC Guaranty.

As is the case today, in satisfaction of the NSCC Guaranty, NSCC could (i) pay DTC in immediately available funds an aggregate amount up to the NSCC Net Guaranty Amount, (ii) permit DTC to retain Retainable Long Allocations having an aggregate Collateral Value up to the NSCC Net Guaranty Amount, or (iii) provide DTC with a combination of immediately available funds and Retainable Long Allocations in an aggregate amount up to the NSCC Net Guaranty Amount. NSCC would continue to have the option of determining whether the NSCC Guaranty would be satisfied with immediately available funds, Retainable Long Allocations, or a combination thereof.

The Retainable Long Allocations to be retained by DTC in satisfaction of NSCC's obligation to DTC, in part or in whole, would continue to be selected by DTC. Upon DTC's retention of such Retainable Long Allocations, DTC would continue to acquire full legal title thereto, subject to no adverse claim, lien or other interest in or right to such Retainable Long Allocations of any person other than DTC.

(V) Netting Demands

To reduce the amount and number of transactions to be made between the Clearing Agencies in satisfaction of demands made by each on the same day, under the new Article III, the Clearing Agencies propose to add a new section that would allow the Clearing Agencies to net such demands and then satisfy such netted demands, if any, accordingly.

(VI) Collateral Value and Certain Indemnities

The Clearing Agencies propose to make conforming changes and relocate to the new Article III the concept in existing Article IV that, notwithstanding anything in the DTC Rules to the contrary, the amount of the NSCC Guaranty with respect to the obligations of a Common Member are to be given Collateral Value for purposes of calculating the Collateral Monitor.

The Clearing Agencies propose to make conforming changes and retain in Article III the provisions of the Cross-Guaranty Agreement specifying that each Clearing Agency will indemnify and hold harmless the other Clearing Agency from and against any claim, loss, cost, or expense suffered or incurred by the other Clearing Agency as a result of any law, rule, regulation, order, or judgment that requires or obligates the other Clearing Agency to deliver to the Defaulting Member, its legal representative, or any other person the securities provided in satisfaction of the Clearing Agency's guaranty obligation under Article III, or make a payment on account thereof.

F. Article V

Article V of the current Cross-Guaranty Agreement, entitled "Certain Undertakings of NSCC and DTC," inter alia, (i) defines certain terms used in Article V, (ii) provides that, for purposes of Article IV, (A) performance obligations may be liquidated and reduced to a payment obligation, (B) if a Defaulting Member has a debit amount at each Clearing Agency on any Common Business Day, so that the provisions of Article II do not apply to reduce either debit amount to a net debit amount, each such debit amount shall constitute an obligation of the Defaulting Member and each Clearing Agency shall be entitled to treat the amount thereof as an unpaid obligation of the

Defaulting Member, and (C) if a Clearing Agency makes a guaranty payment to the other Clearing Agency in accordance with the provisions of Article IV, such guaranty payment shall constitute an obligation of the Defaulting Member to the Clearing Agency that makes the guaranty payment, (iii) provides that adjustments may be made to guaranty amounts and payments based on later information received or the judgment of a court of competent jurisdiction, (iv) provides that the guaranties in Article IV are separate and independent guaranties and claims with respect thereto shall not be offset or netted, (v) requires each Clearing Agency to promptly notify the other Clearing Agency if it (A) ceases to act for a Common Member, or (B) learns of any other reason why a Common Member would be a Defaulting Member, (vi) provides for advance notice of either Clearing Agency proposing to enter into a netting contract (as defined in FDICIA) which provides for netting or guaranty arrangements similar or comparable to the arrangements in the Cross-Guaranty Agreement, and (vii) requires each Clearing Agency to incorporate the Cross-Guaranty Agreement into its rules and provides that the Cross-Guaranty Agreement prevails in the event of any conflict with the other rules of a Clearing Agency.

As noted above, the Clearing Agencies propose to delete current Article IV and renumber the remaining Articles of the current Cross-Guaranty Agreement accordingly. Accordingly, Article V of the current Cross-Guaranty Agreement is proposed to be renumbered as Article IV. However, the Clearing Agencies propose to retain the provisions of current Article V as the new Article IV, subject to (i) making certain conforming changes related to the renumbering of the remaining Articles and changes in defined terms and interpretive conventions; (ii) enhancing the required sharing of

information between the Clearing Agencies pursuant to the Cross-Guaranty Agreement to cover (A) information with respect to the credit amounts and debit amounts of Common Members needed to perform the netting obligations set forth in Article II (relocated from Article II), (B) information needed to calculate, validate, perform, and discharge the guaranty and other obligations of the Clearing Agencies set forth in Article III, and (C) information needed to facilitate any regulatory or other obligations of the Clearing Agencies arising out of or relating to the Cross-Guaranty Agreement, including daily liquidity coverage provisioning and periodic testing; and (iii) excluding netting contracts (as defined in FDICIA) to which both Clearing Agencies would be party to from the netting contracts for which each Clearing Agency must notify the other Clearing Agency before entering into.

G. Article VI

Article VI of the current Cross-Guaranty Agreement, entitled “Miscellaneous,” provides inter alia, (i) each Clearing Agency the right to terminate the Cross-Guaranty Agreement, with certain provisions surviving termination, (ii) requirements for delivering notices to the other Clearing Agency, (iii) that neither Clearing Agency may assign any right, interest, or obligation under the Cross-Guaranty Agreement without the prior written consent of the other Clearing Agency, (iv) that the terms and provisions of the Cross-Guaranty Agreement are intended solely for the benefit of each Clearing Agency and that the Cross-Guaranty Agreement does not confer third-party beneficiary rights upon any other person, including without limitation any Member of NSCC or Participant of DTC, (v) for New York law to govern the Cross-Guaranty Agreement, and (vi) for certain other provisions that are customary in contractual agreements.

As noted above, the Clearing Agencies propose to delete current Article IV and renumber the remaining Articles of the current Cross-Guaranty Agreement accordingly. Accordingly, Article VI of the current Cross-Guaranty Agreement is proposed to be renumbered as Article V. However, the Clearing Agencies propose to retain the provisions of current Article VI as the new Article V, subject to, (i) making certain conforming changes related to the renumbering of the remaining Articles and changes in defined terms and interpretive conventions; (ii) changing the manner in which notices may be provided to the other Clearing Agency under the Cross-Guaranty Agreement, and removing provisions allowing for verbal notices in certain circumstances; and (iii) requiring a Clearing Agency to take further actions requested by the other Clearing Agency that are necessary or desirable to give effect to any of the Cross-Guaranty Agreement or to carry out the intent and accomplish the purposes of the Cross-Guaranty Agreement and the matters contemplated thereby.

2. Statutory Basis

The Clearing Agencies believe that the proposed rule change is consistent with the requirements of the Exchange Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, the Clearing Agencies believe that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Exchange Act²⁰ and Rule 17ad-22(e)(20) under the Exchange Act²¹ for the reasons described below.

Section 17A(b)(3)(F) of the Exchange Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement

²⁰ 15 U.S.C. 78q-1(b)(3)(F).

²¹ 17 CFR 240.17ad-22(e)(20).

of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.²²

As described above, the proposed changes would amend and restate the Cross-Guaranty Agreement to (i) revise the description of the Clearing Agencies' cross-endorsement procedures to better reflect current practices of the Clearing Agencies, (ii) simplify and consolidate the liquidity and guaranty obligations of the Clearing Agencies under the current Cross-Guaranty Agreement into a single guaranty obligation of each Clearing Agency, (iii) provide for the netting of guaranty obligations between the Clearing Agencies' in certain instances, (iv) provide for more up-to-date valuations of securities under the Cross-Guaranty Agreement, (v) provide for the Clearing Agency receiving securities in connection with the performance of the other Clearing Agency's guaranty obligation the ability to select the particular securities it receives, (vi) enhance the information sharing between the Clearing Agencies under the Cross-Guaranty Agreement, and (vii) make appropriate conforming and clarifying changes to the Cross-Guaranty Agreement.

Although the current Cross-Guaranty Agreement creates a sound framework for the management of risks inherent in transactions between the DTC system and the CNS System of NSCC in a collateralized environment, the framework is complex (e.g., use of varying definitions of Collateral Value and splitting the guaranty amount into two separate but related calculations and purposes – one for liquidity and one for loss). The

²² 15 U.S.C. 78q-1(b)(3)(F).

Clearing Agencies believe that the proposed changes described above to establish an amended and restated Cross-Guaranty Agreement would continue to provide a sound framework for the management of Common Member defaults, but it would provide a clearer, simpler framework (e.g., using only one definition of Collateral Value and establishing a single, netted guaranty amount) for the Clearing Agencies' responsibilities to each other in Common Member default scenarios, which would help minimize the risk of interruptions to the Clearing Agencies' respective clearance and settlement operations (i.e., an agreement that is easier to understand and execute reduces risk). In this way, the Clearing Agencies believe that the proposed changes would promote the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination between DTC and NSCC in the settlement of securities transactions.

The Clearing Agencies believe that the greater clarity that would be achieved as to how the Clearing Agencies would manage cash and securities collateral in a Common Member default scenario, including clarity around the valuation (i.e., use of a single Collateral Value definition) and selection of securities collateral (i.e., the authority for each Clearing Agency to select its own securities in satisfaction of an owed guaranty, as applicable) would strengthen the Clearing Agencies' ability to plan for and manage, and thereby mitigate, the risks presented by Common Member defaults (i.e., being able to rely on a single Collateral Value definition and being able to select their own securities puts the Clearing Agencies in better position to manage a default and associated risks). In this way, the Clearing Agencies believe that the proposed changes to the Cross-Guaranty Agreement are designed to better safeguard the securities and funds that are in the custody or control of the Clearing Agencies or for which they are responsible.

In addition, the Clearing Agencies believe that the proposal to enhance the information sharing between the Clearing Agencies under the Cross-Guaranty Agreement as to Common Members would foster cooperation and coordination between DTC and NSCC in the settlement of securities transactions.

Therefore, the Clearing Agencies believe the proposed changes described above are consistent with Section 17A(b)(3)(F) of the Exchange Act, cited above.

Rule 17ad-22(e)(20) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, identify, monitor, and manage risks related to any link the covered clearing agency establishes with one or more other clearing agencies, financial market utilities, or trading markets.²³ The Cross-Guaranty Agreement constitutes part of a link between DTC and NSCC, each a financial market utility, for purposes of Rule 17ad-22(e)(20).

As noted above, the Clearing Agencies believe that some of the language and structure of the current Cross-Guaranty Agreement creates a complex albeit sound framework for the management of risks inherent in transactions between the DTC system and the CNS System of NSCC in a collateralized environment, which could lead to an unanticipated disruption to the Clearing Agencies' respective clearing and settlement operations.

The Clearing Agencies believe that the proposed amendment and restatement of the Cross-Guaranty Agreement is designed to better mitigate and manage the risks related to the link that the Clearing Agencies have established with each other. In particular, the

²³ 17 CFR 240.17ad-22(e)(20).

Clearing Agencies believe that the proposed changes would provide for a clearer, simpler framework for the Clearing Agencies' responsibilities to each other in Common Member default scenarios, which, in turn, would help improve the Clearing Agencies' ability to plan for and manage the risks presented by the default of a Common Member and the effects that such a default could have on other, non-defaulting Common Members and the markets that the Clearing Agencies serve.

Moreover, the Clearing Agencies believe that the proposal to enhance the information sharing between the Clearing Agencies under the Cross-Guaranty Agreement as to Common Members would enhance the ability of each Clearing Agency to identify, monitor, and manage risks that may be presented by certain Common Members, which, in turn, could help ensure that the Clearing Agencies are better able to mitigate and manage the manner and extent to which such risks could be transmitted through the link between the Clearing Agencies.

Therefore, the Clearing Agencies believe that these proposed changes are consistent with Rule 17ad-22(e)(20) under the Exchange Act.

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

The Clearing Agencies do not believe that the adoption of the proposed changes to the Cross-Guaranty Agreement will have any impact, or impose any burden, on competition. As described above, the proposed changes would amend and restate the Cross-Guaranty Agreement, which governs certain aspects of the relationship between DTC and NSCC and does not directly affect Participants of DTC or Members of NSCC.²⁴

²⁴ Neither a DTC Participant's Participant Fund requirement nor an NSCC Member's Clearing Fund requirement would be affected by the proposed changes.

The proposed changes relate to the operation of the Cross-Guaranty Agreement as between DTC and NSCC and/or are technical in nature. In addition, none of the proposed changes, either individually or together, would affect Common Members' access to the Clearing Agencies' services, nor would any of the proposed changes disadvantage or favor any particular user in relation to another user. As such, the Clearing Agencies do not believe that the proposed rule change will have any impact, or impose any burden, on competition.

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

The Clearing Agencies have not received or solicited any written comments relating to this proposal. If any written comments are received, the Clearing Agencies will amend their respective filing to publicly file such comments as an Exhibit 2 to their filing, as required by Form 19b-4 and the General Instructions thereto.

Persons submitting written comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b-4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on *How to Submit Comments*, available at <https://www.sec.gov/regulatory-actions/how-to-submit-comments>. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at tradingandmarkets@sec.gov or 202-551-5777.

The Clearing Agencies reserve the right to not respond to any comments received.

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

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such

shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act²⁵ and paragraph (f) of Rule 19b-4(f)(6) thereunder.²⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Exchange 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

²⁵ 15 U.S.C 78s(b)(3)(A).

²⁶ 17 CFR 240.19b-4(f)(6).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-DTC-2025-001 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-DTC-2025-001. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (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 DTC and on DTCC's website (www.dtcc.com/legal/sec-rule-filings). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-DTC-2025-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Secretary

²⁷ 17 CFR 200.30-3(a)(12).

EXHIBIT 3

The information contained in this Exhibit 3 is subject to exemption from mandatory disclosure under Exemptions #4 and #8 of the Freedom of Information Act because the information concerns (i) trade secrets and commercial information that is privileged or confidential and (ii) the supervision of The Depository Trust Company (“DTC”) and National Securities Clearing Corporation (“NSCC”), financial institutions. This Exhibit 3 contains one electronic file embedded in a one-page document for filing efficiency, as listed below. The information contained in the embedded file is not intended for public disclosure. Accordingly, this Exhibit 3 has been redacted and confidential treatment requested pursuant to 17 CFR 240.24b-2. An unredacted version was filed separately and confidentially with the Securities and Exchange Commission. Notwithstanding the request for confidential treatment, DTC and NSCC believe the substance of this Exhibit 3 is clearly and adequately described in the accompanying Exhibit 1A and Form 19b-4 narrative to this filing, thus allowing for meaningful public comment.

Embedded File:

- Second Amended and Restated Netting Contract and Limited Cross-Guaranty, dated as of October 1, 2002, between NSCC and DTC (“Cross-Guaranty Agreement”); 19 pages.

PAGE REDACTED IN ITS ENTIRETY

EXHIBIT 5

The information contained in this Exhibit 5 is subject to exemption from mandatory disclosure under Exemptions #4 and #8 of the Freedom of Information Act because the information concerns (i) trade secrets and commercial information that is privileged or confidential and (ii) the supervision of The Depository Trust Company (“DTC”) and National Securities Clearing Corporation (“NSCC”), financial institutions. This Exhibit 5 contains one electronic file embedded in a one-page document for filing efficiency, as listed below. The information contained in the embedded file is not intended for public disclosure. Accordingly, this Exhibit 5 has been redacted and confidential treatment requested pursuant to 17 CFR 240.24b-2. An unredacted version was filed separately and confidentially with the Securities and Exchange Commission. Notwithstanding the request for confidential treatment, DTC and NSCC believe the substance of this Exhibit 5 is clearly and adequately described in the accompanying Exhibit 1A and Form 19b-4 narrative to this filing, thus allowing for meaningful public comment.

Embedded File:

- Proposed changes to the Second Amended and Restated Netting Contract and Limited Cross-Guaranty, dated as of October 1, 2002, between NSCC and DTC (“Cross-Guaranty Agreement”); 22 pages.

PAGE REDACTED IN ITS ENTIRETY