

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-83774; File No. SR-NSCC-2018-005)

August 3, 2018

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Provide for the Delivery of Certain Transaction Data Relating to Variable Annuity and Variable Life Insurance Subaccounts and Implement Fees Associated with this Proposed Feature

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, as amended (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 26, 2018, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act and subparagraphs (f)(2)⁴ and (f)(4)⁵ of Rule 19b-4 thereunder. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The proposed rule change consists of modifications to NSCC’s Rules & Procedures (“Rules”) in order to reflect proposed enhancements to NSCC’s Insurance and Retirement Processing Services (“I&RS”). The proposed rule change would enhance existing I&RS services to provide for the delivery of certain transaction data relating to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ 17 CFR 240.19b-4(f)(4).

variable annuity and variable life insurance subaccounts (“variable product subaccounts”) and implement fees associated with this proposed feature, as described in greater detail below.⁶

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

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

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

1. Purpose

The proposed rule change consists of modifications to the Rules in order to reflect proposed enhancements to I&RS services. The proposed rule change would enhance existing I&RS services to provide for the delivery of certain transaction data relating to variable product subaccounts and implement fees associated with this proposed feature, as described in greater detail below.

(i) Variable Product Subaccounts

An annuity is a contract between a holder and an insurance carrier pursuant to which the holder makes an upfront payment to an insurance carrier and the insurance carrier agrees to pay the holder periodic payments at a future date. A variable annuity is

⁶ Capitalized terms used herein and not otherwise defined shall have the meaning assigned to such terms in, available at http://dtcc.com/~media/Files/Downloads/legal/rules/nscc_rules.pdf.

a type of annuity that allows the holder to choose from a selection of investment options, or “subaccounts,” within the annuity and the periodic payments paid by the insurance carrier are determined, in part, by the performance of the subaccounts selected by the holder. A variable life insurance contract operates in a similar manner. The variable life insurance carries a “cash value” and the purchaser can choose from a selection of investment subaccounts to invest the cash value. The subaccounts for variable products are frequently structured to be similar to mutual funds and are managed by mutual fund asset managers.

Historically asset managers have received certain information relating to the affiliated subaccounts they manage on an aggregate basis from insurance carriers rather than on an individual transactional basis with respect to each subaccount. For instance, an insurance carrier will send settlement amounts to the asset manager reflecting the aggregate amounts invested in each subaccount at any given time but will not send any individual transactional data relating to how those amounts were invested in each subaccount. As an example, if two clients each invested in a subaccount in one day and another client transfers funds from the subaccount on the same day, the insurance carrier would provide the asset manager the aggregate amount of funds remaining in the subaccount at the end of the day and will not specify that two of its clients invested in the subaccount and one client removed funds from the subaccount or any details relating to the individual transactions.

Asset managers would like access to the information specific to the individual transactions for the subaccounts that they manage to get a better understanding of the business of the subaccounts. The subaccount transaction-specific information that the

asset managers would like to receive with respect to each subaccount transaction includes the name of the insurance carrier, the date of the transaction, the broker-dealer named on the transaction, the individual advisor listed on the transaction, the type of transaction (e.g., new purchase, death claim, rebalance, subaccount transfer to or from the subaccount, etc.) and the amount of the transaction. Asset managers get this information, as applicable, with respect to retail mutual funds that they manage and such information is useful to indicate the investment advisors that are working with clients purchasing their subaccounts, activities between mutual funds that they manage such as transfers by clients between mutual funds that they manage, individual transaction amounts and the reason funds are being moved from or to a particular account. Such information provides asset managers with a better understanding of the accounts that they manage and the reason that clients are investing within certain products. This understanding allows asset managers to better serve clients by providing products to address their requirements. Asset managers have indicated that such transaction-specific information does not need to include individual client information with respect to the transactions, such as the identity of the underlying clients.

This daily subaccount transactional information is currently included within the file that insurance carriers send to distributors as part of the I&RS Financial Activity Reporting (“FAR”) service.⁷ FAR enables insurance carriers to provide distributors with daily individual and group annuity and life insurance financial transaction information, including information relating to subaccounts. Distributors use this information,

⁷ Section 8 of Rule 57, supra note 6. FAR enables Insurance Carrier/Retirement Services Members to transmit IPS Data regarding financial transactions and related activity specific to an IPS Eligible Product to Members, Mutual Fund/Insurance Services Members and Data Services Only Members. Id.

including the subaccount transactional information, to manage their client's accounts.

NSCC is proposing to take the transaction-specific subaccount data that it receives within the FAR files and make it available to asset managers that sign up for the feature. In connection with sending the transaction-specific subaccount data, NSCC may send the data to third party service providers who have been engaged by the asset managers to take the data from NSCC and organize it on behalf of the asset managers and/or provide a central repository pursuant to which asset managers may retrieve such information from NSCC. NSCC may enter into a contract with such service providers to ensure among other things that the data is being used as contemplated by the Rules and that there are proper safeguards to ensure data security.

NSCC is proposing to charge the asset managers that sign up for the feature and gain access to the subaccount data a monthly fee of \$2,500. Asset managers that are not Members or Limited Members would also be required to enter into an agreement relating to the payment of the fees and such other conditions as determined by NSCC to gain access to the subaccount data, including system requirements.

(ii) Proposed Rule Changes

The proposed rule change would amend Rule 57 to provide that NSCC would make available transaction-specific subaccount data to asset managers and service providers engaged by them to process the applicable data. The proposed rule change would also provide that asset managers which are not Members or Limited Members would be required to enter into such agreements with the NSCC as determined by NSCC to gain access to the subaccount data which agreements would include an agreement to pay the fees set forth in in the Rules to access the data and to set up any system

requirements necessary to access the data. The proposed rule change would also provide that service providers receiving the subaccount data on behalf of asset managers would also be required to enter into such agreements as determined by the Corporation in order to gain access to such subaccount data on behalf of such asset managers to ensure the data is being sent to asset managers as contemplated in the Rules and that there are proper safeguards by the service provider to ensure data security

In addition, NSCC would amend Addendum A of the NSCC Rules to include the fees for subscription for the subaccount data feature.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act⁸ requires, in part, that the Rules be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The proposed rule change would enhance insurance carriers' ability to send, and asset managers' ability to access and retrieve, daily transaction-specific subaccount data relating to the assets and funds that such asset managers manage that are within variable annuities and variable life insurance contracts. Currently, there is not a structured method of providing transaction-specific subaccount information to asset managers, and insurance carriers historically have not consistently provided such information to asset managers. The proposed rule change would allow the transaction-specific subaccount information to be shared by insurance carriers with asset managers in a standardized format. As such, NSCC believes that the proposed rule change would foster cooperation and coordination among persons engaged in the clearance and settlement of securities, consistent with the requirements of Section 17A(b)(3)(F) of the

⁸ 15 U.S.C. 78q-1(b)(3)(F).

Act.⁹

Section 17A(b)(3)(D) of the Act¹⁰ requires that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. NSCC believes that the proposed rule change to Addendum A is consistent with this provision of the Act because the proposed fees would align with the cost of delivering the proposed subaccount data feature, and such fees would be allocated equitably among the entities that subscribe for access to the subaccount data. Specifically, the costs to NSCC for providing the feature would include building the capability to separate the subaccount data from the FAR files sent by insurance carriers, segregating such data by asset manager, drafting and negotiating agreements with asset managers relating to receiving the data and drafting and negotiating agreements with service providers who are receiving and distributing subaccount data on behalf of asset managers. NSCC believes that the costs for adding and operating the feature on behalf of asset managers would be approximately equal to the fees anticipated to be received by NSCC from the asset managers for use of this feature. In addition, such fees would be charged only to those asset managers that choose to subscribe to the feature. Therefore, by establishing fees that align with the cost of delivery of this feature and allocating those fees equitably among the subscribing asset managers, the proposed rule change would provide for the equitable allocation of reasonable dues, fees and other charges among its participants consistent with the requirements of Section 17A(b)(3)(D) of the Act.¹¹

⁹ Id.

¹⁰ 15 U.S.C. 78q-1(b)(3)(D).

¹¹ Id.

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

NSCC does not believe that the proposed rule change would have any adverse impact, or impose any burden, on competition because the proposed rule change would add an optional feature to NSCC's services that would provide access by asset managers to transaction-specific subaccount data that is included within the FAR files. As an optional feature available for subscription, the proposed rule change would not disproportionately impact any NSCC participants.

Moreover, because the proposed rule change would allow asset managers to receive transaction-specific subaccount data and use that information to better service the funds and assets within variable products, NSCC believes the proposed rule change would have a positive effect on competition among asset managers. The proposed feature would provide these firms with a method of receiving transaction-specific subaccount data similar to the information that such asset managers currently receive with respect to retail mutual funds. Receiving transaction-specific subaccount information with respect to variable products would provide asset managers a better understanding of client requirements and allow asset managers to adjust their products so that they are better suited for clients of variable annuities and variable life insurance contracts. NSCC believes this would enhance competition among asset managers by enabling each to more quickly provide competing products meeting client requirements.

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

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)¹² of the Act and subparagraphs (f)(2)¹³ and (f)(4)¹⁴ of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NSCC-2018-005 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-NSCC-2018-005. This file number

¹² 15 U.S.C 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(2).

¹⁴ 17 CFR 240.19b-4(f)(4).

should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer

to File Number SR-NSCC-2018-005 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.¹⁵

Eduardo A. Aleman
Assistant Secretary

¹⁵ 17 CFR 200.30-3(a)(12).