

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-94203; File No. SR-NSCC-2021-803)

February 9, 2022

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Extension of Review Period of Advance Notice to Establish the Securities Financing Transaction Clearing Service and Make Other Changes

On July 22, 2021, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) advance notice SR-NSCC-2021-803 (“Advance Notice”), pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (“Clearing Supervision Act”)¹ and Rule 19b-4(n)(1)(i) under the Securities Exchange Act of 1934 (“Exchange Act”).² The Advance Notice was published for comment in the Federal Register on August 12, 2021.³

Sections 806(e)(1)(E)(ii) and (G)(ii) of the Clearing Supervision Act⁴ provide that if the Commission requests additional information, the Commission’s period of review of the Advance Notice is tolled, and an additional 60-day review period begins on the date any further information requested for consideration is received. On August 30, 2021, the Commission, by the Division of Trading and Markets, pursuant to delegated authority,⁵ requested additional information from NSCC under Section 806(e)(1)(D) of the Clearing

¹ 12 U.S.C. 5465(e)(1).

² 17 CFR 240.19b-4(n)(1)(i).

³ Securities Exchange Act Release No. 92568 (August 5, 2021), 86 Fed. Reg. 44530 (August 12, 2021) (SR-NSCC-2021-803).

⁴ See 12 U.S.C. 5465(e)(1)(E)(ii) and (G)(ii).

⁵ 17 CFR 200.30-3(a)(93).

Supervision Act.⁶ On December 13, 2021, the Commission received NSCC’s response to the Commission’s request for additional information. Accordingly, pursuant to Sections 806(e)(1)(E)(ii) and (G)(ii),⁷ the Commission shall notify NSCC of any objection regarding the Advance Notice no later than February 11, 2022.

Section 806(e)(1)(H) of the Clearing Supervision Act⁸ provides that the Commission may extend the review period of an advance notice for an additional 60 days, if the changes proposed in the advance notice raise novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. Here, the Commission is extending the review period of the Advance Notice for an additional 60 days pursuant to that authority because the Commission finds that the Advance Notice raises both novel and complex issues, as discussed further below.

Specifically, the proposed changes described in the Advance Notice would establish new membership categories and requirements, and establish a new central clearing service for equity securities financing transactions (“SFTs”). NSCC described SFTs as, broadly speaking, securities lending transactions where parties exchange equity securities against cash and simultaneously agree to exchange the same securities and cash, plus or minus a rate payment, on a future date. In particular, the Advance Notice would expand central clearing at NSCC to include SFTs with a one business day term (i.e., overnight SFTs) in eligible equity securities that are entered into either by Members,

⁶ 12 U.S.C. 5465(e)(1)(D).

⁷ See 12 U.S.C. 5465(e)(1)(E)(ii) and (G)(ii).

⁸ 12 U.S.C. 5465(e)(1)(H).

institutional firms that are sponsored into NSCC by a sponsoring member, or agent clearing members on behalf of Customers. Currently, such SFTs are not centrally cleared at NSCC and, instead, are settled bilaterally.

The establishment of a central clearing service for SFTs requires a number of changes to the NSCC Rules & Procedures to effectuate and manage the risks arising from this new service. For example, the proposed changes would encompass new membership categories, including agent clearing and sponsored clearing models that do not currently exist at NSCC. In addition, the proposed changes would establish new risk management features to allow NSCC to measure and monitor the risk arising from the SFT transactions, including a methodology to provide mark-to-market payments and to close out a defaulted member's portfolio. NSCC would institute rules governing buy-in, recall, and accelerated settlement, which are generally designed to be consistent with how SFTs operate when settled bilaterally. Taken together, the rules that NSCC would establish to administer this new central clearing service for SFTs raise novel and complex issues for NSCC.

Accordingly, pursuant to 806(e)(1)(H) of the Clearing Supervision Act,⁹ the Commission is extending the review period of the Advance Notice for an additional 60 days so that the Commission shall have until April 12, 2022 to issue an objection or non-objection to the Advance Notice, unless the Commission requests further information for

⁹ Id.

consideration of the Advance Notice (SR-NSCC-2021-803).

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

J. Matthew DeLesDernier
Assistant Secretary

¹⁰ 17 CFR 200.30-3(a)(94).