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August 23, 2022

VIA ELECTRONIC SUBMISSION

J. Matthew DeLesDernier
Assistant Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: ***Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Adopt Intraday Volatility Charge and Eliminate Intraday Backtesting Charge*** **(Rel. No. 34-95286; File Number SR-NSCC-2022-009)**

Dear Mr. DeLesDernier:

Robinhood Securities, LLC ("Robinhood Securities" or "the Firm")[1] appreciates the opportunity to comment on the National Securities Clearing Corporation's ("NSCC") Proposed Rule Change To Adopt Intraday Volatility Charge and Eliminate Intraday Backtesting Charge ("Proposal").[2] The Proposal would change the NSCC's Clearing Fund methodology by adopting a new intraday volatility charge to mitigate risks presented by a member firm's adjusted intraday Net Unsettled Positions due to the firm's trading activity. The Proposal also would eliminate the intraday backtesting charge, while leaving in place the regular backtesting charge. Robinhood Securities opposes the Proposal because NSCC has not properly supported the need for an intraday volatility charge and includes no discussion as to what occurs if a member firm cannot satisfy such a charge during the trading day.

As the NSCC notes in the Proposal, "[i]n 2017, NSCC accelerated the time its trade guarantee attaches to eligible transactions from midnight of one day after trade date (T+1) to the point of trade comparison and validation for bilateral submissions or to the point of trade validation for locked-in submissions."[3] At that time, NSCC also enhanced its Clearing Fund formula by adopting the margin requirement differential ("MRD") charge, an intraday backtesting charge and revised its mark-to-market charge to be collected when member firms have intraday mark-to-market changes that are significant enough that NSCC is exposed to increased risk of loss due to a member firm's intraday trading.

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1 Robinhood Securities is a wholly owned subsidiary of Robinhood Markets, Inc. ("Robinhood Markets"). Robinhood Securities is a member of NSCC and provides clearing and settlement services to its affiliate introducing broker-dealer, Robinhood Financial LLC ("Robinhood Financial"). Robinhood Financial provides brokerage services to approximately 22 million retail investors.

2 *Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Adopt Intraday Volatility Charge and Eliminate Intraday Backtesting Charge* (Rel. No. 34-95286; File Number SR-NSCC-2022-009), 87 Fed. Reg. 43355 (July 14, 2022).

3 *Id.* at 43357.

Importantly, "NSCC did not, however, believe an intraday volatility charge was necessary to address the risks presented by the accelerated trade guarantee, and did not adopt this change at that time."[4]

In the Proposal, NSCC supports changing its position on requiring an intraday volatility charge as follows:

> Since that time, through its regular monitoring, NSCC has *occasionally* observed significant intraday changes to market price volatility and significant changes to the size and composition of Member' portfolios of Net Unsettled Positions that could cause the amount collected as the volatility charge at the start of that Business Day ("start of day volatility charge") to no longer be sufficient to mitigate the volatility risks that such positions present to NSCC.[5]

NSCC does not provide any data to support its assertion that it "occasionally" observed significant intraday changes to market price volatility. It also does not identify any instances where member firms failed to satisfy their Clearing Fund obligations, or any losses incurred by NSCC. Instead, NSCC submitted an impact study that found that between January 3, 2020 and May 28, 2021, the Proposal would have resulted in an average of eight intraday volatility charges collected daily, ranging from $251,000 to $1.35 billion, with an average of $31.6 million.[6]

Robinhood Securities conducted its own study during the period from March 11, 2022 to August 11, 2022. During this period, a time of average market volatility, if the Proposal was in effect, the Firm would have been assessed an intraday volatility charge approximately once a week. In addition, the Firm identified at least one situation in which the intraday volatility charge would have been assessed earlier in the day (they are due one hour after notification), but later trading activity would have resulted in the reversal of the charge. Presumably, NSCC intends to address these situations (member firms exceeding the volatility charge threshold in early trading) by waiting to issue such charges until later in the day. NSCC notes, "[w]hen the threshold is exceeded during normal market conditions earlier in the trading day, NSCC would typically not collect an intraday volatility charge until later in the day when Members have had an opportunity to submit trading activity that would be expected to offset trades submitted earlier in the day that caused the thresholds to be met."[7] While the NSCC retains the discretion as to when to issue the intraday volatility charge, it also retains the discretion to lower both intraday mark-to-market and volatility charges. It is unclear from the Proposal how far could the NSCC reduce the volatility charge threshold. As a result, it appears NSCC could decide to reduce the intraday volatility charge threshold from 100% to 50% or even 10% and notify member firms that it had made such a change and require members to satisfy the new intraday charge.

As with NSCC's recent proposal to eliminate its discretion to reduce or waive its Excess Capital Premium Charge (SR-NSCC-2022-005),[8] NSCC does not provide any information as to what would

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4 *Id.*

5 *Id.* (emphasis added).

6 *Id.* at 43360-61.

7 *Id.* at 43359.

8 *Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, to Revise the Excess Capital Premium Charge*, (Rel. No. 34-95026; File No. SR-NSCC-2022-005), 87 Fed. Reg. 34913 (June 8, 2022).

happen if a member firm is unable to satisfy an NSCC Clearing Fund charge. Robinhood Securities does not believe that the Securities and Exchange Commission ("Commission") should permit NSCC to adopt new rules without providing the Commission further information as to the impact to member firms and their customers if a member firm cannot satisfy, in this case, an intraday volatility charge. For example, if a member firm experiences a large influx of buy orders during the first 30 minutes of trading, what would NSCC do if the member firm could not satisfy a volatility charge (due one hour after notification)? Could NSCC restrict such a member firm from submitting buy orders for the remainder of the trading day?

Conclusion

For the reasons noted above, Robinhood Securities believes that the Commission should reject the Proposal or, in the alternative, require NSCC to provide the above noted analysis and information that would support an intraday volatility charge and an explanation of what happens if a member firm cannot satisfy an intraday call.

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We appreciate the opportunity to comment on SR-NSCC-2022-009. Please contact the undersigned if you have any questions.

Sincerely,

John S. Markle
VP and Deputy General Counsel, Product and Regulatory