

MEMORANDUM

To: SR-NSCC-2022-802

From: Office of Clearance and Settlement, Division of Trading and Markets

Re: Response to the Commission's Request for Additional Information

Date: May 23, 2023

On December 2, 2022, the National Securities Clearing Corporation (“NSCC”) filed advance notice SR-NSCC-2022-802 (“Advance Notice”) with the U.S. Securities and Exchange Commission (“Commission”) pursuant to Section 806(e)(1) of the Clearing Supervision Act¹ and Rule 19b-4(n)(1)(i) of the Securities Exchange Act of 1934.² The Advance Notice concerns a change in NSCC’s margin methodology regarding a charge related to gap risk. The Commission published the Advance Notice in the Federal Register on December 21, 2022, to solicit public comment.³ The Commission has received comments regarding the substance of the changes proposed in the Advance Notice.⁴ On January 11, 2023, pursuant to Section 806(e)(1)(H) of the Clearing Supervision Act,⁵ the Commission extended the review period for the Advance Notice for an additional 60 days because the Commission found the issues raised by the Advance Notice to be complex.⁶ Notice of such extension was published in the Federal Register on January 17, 2023.⁷

¹ 12 U.S.C. 5465(e)(1).

² 17 CFR 240.19b-4(n)(1)(i).

³ Securities Exchange Act Release No. 96513 (Dec. 15, 2022), 87 FR 78175 (Dec. 21, 2022) (File No. SR-NSCC-2022-802) (“Notice of Filing”).

⁴ Since the proposal contained in the Advance Notice was also filed as a proposed rule change, all public comments received on the proposal are considered regardless of whether the comments are submitted on the Proposed Rule Change or the Advance Notice.

⁵ 12 U.S.C. 5465(e)(1)(H).

⁶ See Securities Exchange Act Release No. (Jan. 10, 2023), 88 FR 2707 (Jan. 17, 2023) (File No. SR-NSCC-2022-802).

⁷ See id.

On March 27, 2023, the Commission requested additional information from OCC pursuant to Section 806(e)(1)(D) of the Clearing Supervision Act.⁸ Pursuant to Section 806(e)(1) of the Clearing Supervision Act, the Commission's period of review of the Advance Notice was tolled and shall be 120 days from the date the information requested is received by the Commission absent an additional information request.⁹

On April 28, 2023, the Commission received OCC's response to the Commission's request for additional information. Accordingly, August 26, 2023 is the date by which the Commission shall notify NSCC of an objection regarding the Advance Notice, unless the Commission requests further information for consideration of the Advance Notice.

⁸ See 12 U.S.C. 5465(e)(1)(D).

⁹ See 12 U.S.C. 5465(e)(1)(H) (indicating that the Commission may, during the 60-day review period, extend the review period for an additional 60 days for proposed changes that raise novel or complex issues). The March 27, 2023 Memo regarding the Commission's request for additional information erroneously stated that this review period would be only 60 days.