

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

In the Matter of the Application of  
LEK SECURITIES CORPORATION  
For Review of Actions Taken by  
The National Securities Clearing Corporation and  
the Depository Trust Company  
File No. 3-20543

**LEK SECURITIES CORPORATION'S BRIEF ON THE  
COMMISSION'S JURISDICTION OVER THIS APPEAL**

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Pursuant to Section 19(d) of the Securities Exchange Act of 1934 (“Exchange Act”), Lek Securities Corporation (“LSC”) seeks review by the Securities Exchange Commission (the “Commission”) of actions (the “Limiting Sanctions”) taken by the National Securities Clearing Corporation (“NSCC”) and the Depository Trust Company (“DTC”), each a subsidiary of the Depository Trust & Clearing Corporation (“DTCC” and collectively, the “DTCC Entities”). On August 27, 2021, LSC timely submitted an Application for Review to the Commission challenging the Limiting Sanctions, and on October 1, 2021, the Commission ordered briefs on the question of its jurisdiction under Section 19(d).

The Commission has jurisdiction to review the Limiting Sanctions because, in imposing them, the DTCC Entities limited LSC’s access to the services they provide to LSC as a member of each DTCC Entity. The Limiting Sanctions constrain the volume of customer transactions that LSC can clear and settle through the DTCC Entities, and these clearing and settlement services are both important to LSC and central to the function of the DTCC Entities. As a separate basis for the Commission’s jurisdiction, the Limiting Sanctions also constitute final disciplinary sanctions under DTC and NSCC Rules.

### **FACTUAL AND PROCEDURAL BACKGROUND**

LSC is a broker-dealer registered with the Commission under the Exchange Act that effects transactions as an agent for its own customers and for other broker-dealers. LSC is a member of each of the DTCC Entities. BMO Harris Bank, N.A. (“BMOH”) provided clearing bank services for LSC with respect to the DTCC Entities until October 6, 2021. The purported concerns of the DTCC Entities and their subsequent actions in imposing the Limiting Sanctions arise from the DTCC Entities’ misreading of a July 8, 2021 letter from BMOH’s counsel to

LSC's counsel ("BMOH Letter").<sup>1</sup> This letter concerned the orderly wind-down of BMOH's relationship with LSC, but in response to it, the DTCC Entities made incorrect assumptions concerning the impact of the wind-down on LSC's liquidity and capital.

On July 21, 2021, the DTCC Entities notified LSC by letter ("July 21 Letter") that the DTCC Entities were aware that BMOH planned to reduce LSC's line of credit and that, eventually, BMOH planned to cease providing its services to LSC generally.<sup>2</sup> Importantly, the July 21 Letter incorrectly read the BMOH Letter, and the actions being taken with respect to the winding down of BMOH's relationship with LSC. In addition, the DTCC Entities requested that LSC provide responses to a set of questions and information requests.

In response to the July 21 Letter, LSC explained in a July 26, 2021 letter ("July 26 Letter") that, while BMOH was reducing LSC's line of credit from \$75 million to \$50 million as of August 4, 2021, the DTCC Entities had incorrectly concluded that the line of credit was being further reduced to \$4 million before October 6, 2021.<sup>3</sup> LSC further explained that its capital met regulatory requirements through alternative sources of liquidity, specifically, an increased line of credit from Lakeside Bank ("Lakeside") and a promissory note from LSC's parent company, and that these sources would more than offset the \$25 million reduction in BMOH's line of credit. LSC also stated that Lakeside was already in the process of taking over BMOH's role as LSC's settlement bank at the DTCC Entities.<sup>4</sup> Additionally, LSC provided information and documentation that was responsive to the questions posed by the DTCC Entities in the July 21 Letter.

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<sup>1</sup> Exhibit 1, McGuire Woods letter to Seward & Kissel, dated July 8, 2021.

<sup>2</sup> Exhibit 2, DTCC letter to LSC, dated July 21, 2021.

<sup>3</sup> Exhibit 3, LSC letter to DTCC, dated July 26, 2021.

<sup>4</sup> *Id.*

Notwithstanding LSC's clarification in the July 26 Letter addressing DTCC's concerns, on July 28, 2021, the DTCC Entities informed LSC by letter ("July 28 Letter") that they intended to impose the Limiting Sanctions,<sup>5</sup> and on August 2, 2021, the DTCC Entities informed LSC by email ("August 2 Email") that they were imposing the Limiting Sanctions, specifically, (1) increasing LSC's minimum Required Fund Deposit at the NSCC to \$20 million and (2) reducing LSC's Net Debit Cap at the DTC to \$50 million.<sup>6</sup> In doing so, the DTCC Entities ignored information that LSC provided about the DTCC Entities' inaccurate interpretation of the BMOH Letter. Additionally, despite LSC's responses in the July 26 Letter to the questions the DTCC Entities posed in the July 21 Letter, the DTCC Entities inaccurately claimed in the July 28 Letter and August 2 Email that LSC had been unresponsive to their questions.

The NSCC's Required Fund Deposit serves as each member's margin and helps mitigate potential losses to NSCC associated with liquidation of a member's portfolio in the event that NSCC ceases to act for that member.<sup>7</sup> The minimum Required Fund Deposit under the NSCC's rules is generally \$10,000, but the amount can be tailored to each NSCC member based upon the relevant products, portfolio, and market of the member.<sup>8</sup>

The DTC's Net Debit Cap is the maximum net debit a DTC member can incur at any point during a processing day. The Net Debit Cap is designed to ensure that DTC can complete

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<sup>5</sup> Exhibit 4, DTCC letter to LSC, dated July 28, 2021.

<sup>6</sup> Exhibit 5, DTCC email to LSC, dated August 2, 2021.

<sup>7</sup> SEC, *Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change to Increase the National Securities Clearing Corporation's Minimum Required Fund Deposit*, Rel. No. 34-91809; File No. SR-NSCC-2021-005, at 2 (May 10, 2021), available at <https://www.scc.gov/rules/sro/nsc/2021/34-91809.pdf>.

<sup>8</sup> *See id.* at 3; National Securities Clearing Corporation Rules & Procedures, Rule 4 Section 1 (Feb. 25, 2021).



settlement.<sup>9</sup> It is generally calculated on the basis of a member's net debit history at DTC but can automatically rise and fall relative to the average of the member's highest intraday net debit peaks.<sup>10</sup> For each member, the established minimum Net Debit Cap is twice the sum of all members' minimum deposits to the Fund.<sup>11</sup>

Increasing LSC's minimum Required Fund Deposit at the NSCC to \$20 million requires the firm to borrow money at a cost and leave idle cash at NSCC. The restriction is therefore a monetary penalty. The way the sanction is structured requires LSC to leave \$20 million with NSCC, even if LSC had no unsettled positions at NSCC and therefore poses no risk to NSCC. The effect of maintaining idle cash is similar to a fine and does not protect NSCC against a credit risk created by LSC. NSCC's Required Fund Deposit, i.e., the margin requirement, which LSC has always timely satisfied, sufficiently serves this purpose. Moreover, the restriction is counterproductive if, as NSCC claims, it is concerned about LSC's access to credit. LSC has nevertheless been able to deposit the \$20 million, albeit at a cost.

The reduction in LSC's Net Debit Cap at DTC is likewise a sanction and does little to protect DTC against a credit risk caused by LSC. DTC does not take money deposits from its participants. All debits and credits are collected and paid by DTC at the end of each day. When during the day a participant receives securities from another participant, the receiving firm's account is charged the contract value of the securities being delivered, and because there is no initial money on deposit with DTC, the receiving firm incurs an overdraft. The overdraft is

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<sup>9</sup> DTCC, Net Debit Caps, available at <https://dtcclearning.com/products-and-services/settlement/settlement-services/risk-management/296-risk-management-overview/2280-net-debit-caps.html>.

<sup>10</sup> *Id.*

<sup>11</sup> DTCC, Calculation of Participant Net Debit Caps, available at <https://dtcclearning.com/products-and-services/settlement/settlement-services/risk-management/296-risk-management-overview/2281-calculating-your-net-debit-cap.html>.



collateralized by the securities being delivered, but there can be differences between the market value of the securities and the contract value of the delivery.

By reducing LSC's Net Debit Cap, DTC has made it difficult for LSC to receive deliveries. As a result of not being able to receive securities from other participants, and pay those participants in the process, LSC is itself more likely to fail to deliver securities to other participants (and NSCC). DTC has therefore made it more difficult for LSC to operate and has damaged the efficient settlement of securities by creating unnecessary fails-to-receive and subsequent fails-to-deliver.

On August 4, 2021, LSC requested a hearing on the Limiting Sanctions,<sup>12</sup> and on August 6, 2021, the DTCC Entities denied the request for a hearing, stating that there was no right of internal appeal or review from the Limiting Sanctions.<sup>13</sup> In response, on August 19, 2021, LSC wrote to the DTCC Entities<sup>14</sup> stating that LSC intended to treat the DTCC Entities' determination that LSC had no right to internal appeal or review the Limiting Sanctions as a final action for purposes of Rule 19d-3 under the Exchange Act.<sup>15</sup>

### **ARGUMENT**

The Commission has jurisdiction over this appeal and should permit the merits of LSC's appeal to be heard. Section 19(d) of the Exchange Act authorizes the Commission to review an action taken by a self-regulatory organization ("SRO"), including the DTCC Entities, on different bases, including if the action "prohibits or limits any person in respect to access to services offered by such organization or member thereof" or if it "imposes any final disciplinary

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<sup>12</sup> Exhibit 6, LSC letter to DTCC, dated August 4, 2021.

<sup>13</sup> Exhibit 7, DTCC letter to LSC, dated August 6, 2021.

<sup>14</sup> Exhibit 8, LSC letter to DTCC, dated August 19, 2021.

<sup>15</sup> 12 C.F.R. § 240.19d-3.

sanction on any member.”<sup>16</sup> The Commission has jurisdiction under either of those bases to review the Limiting Sanctions, and that jurisdiction is consistent with the relevant legislative history of Section 19(d), which explains, in relevant part, that the Commission should have the authority to broadly define the actions an SRO takes against its members for purposes of defining the limits of the Commission’s jurisdiction to review such actions.<sup>17</sup>

**A. The Commission has jurisdiction because the Limiting Sanctions limit LSC’s access to services offered by the DTCC Entities.**

The imposition of the Limiting Sanctions constitutes a limit on the services offered by the DTCC Entities to LSC. The Commission’s regulations regarding an SRO’s limitations on its members’ access to services are found at Rule 19d-1(i) under the Exchange Act.<sup>18</sup> In adopting its rules under Section 19(d), the Commission indicated that it would expect to review both disciplinary actions and “other kinds of administrative actions” that are “quite similar” to disciplinary actions.<sup>19</sup> An administrative action that limits the access of a member to an SRO’s most fundamental services is an action that is—at minimum—“quite similar” to a disciplinary action in terms of its real-world effect on the member.<sup>20</sup>

The regulations do not define what constitutes a limitation on an SRO member’s access to services. Prior reported decisions of the Commission, however, provide guidance in determining whether an SRO’s action limits access to its services. The Commission considers

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<sup>16</sup> 15 U.S.C. § 78s(d)(1). Section 19(d) also provides that the Commission has jurisdiction over actions taken by a SRO that denies membership to any applicant or bars any person from becoming associated with a member. Neither of those bases for jurisdiction, however, are relevant to this appeal. *Id.*

<sup>17</sup> S. Comm. on Banking, Housing & Urban Affairs, Securities Acts Amendments of 1975, Accompanying S. 249, S. Rep. No. 94-75, at 24 (1975).

<sup>18</sup> 12 C.F.R. § 240.19d-1(i).

<sup>19</sup> SEC, *Provision for Notices by Self-Regulatory Organizations of Disciplinary Sanctions; Stays of Such Actions; Appeals; and Admissions to Membership or Association of Disqualified Persons*, 42 Fed. Reg. 36410, 36412 (Jul. 14, 1977).

<sup>20</sup> The Limiting Sanctions also constitute a final disciplinary action. *See infra*, Section B.

whether the SRO limited access to a service that the SRO offers and whether that service is “fundamentally important” to the applicant.<sup>21</sup> The services at issue must be not only important to the applicant, but also central to the functioning of the SRO.<sup>22</sup>

By increasing LSC’s Required Fund Deposit, the Limiting Sanctions constrain LSC’s access to the DTCC Entities’ services. The Limiting Sanctions created the new minimum Required Fund Deposit of \$20 million, requiring LSC to post that amount in margin even if it has significantly lower open positions at NSCC and would apply even if LSC had no open positions at NSCC. This increased Required Fund Deposit is 2,000 times NSCC’s general minimum fund requirement of \$10,000.<sup>23</sup> Similarly, the reduction of LSC’s Net Debit Cap at DTC, depending on the volume and timing of LSC customer transactions, also limits the services LSC can provide its customers through DTC. DTC’s new Net Debit Cap for LSC was reduced by 33% from \$75 million to \$50 million. If customer transactions exceed the new lower Net Debit Cap, then either LSC could not clear a customer transaction, or it would have wait until its net debit decreased sufficiently to allow for the customer transaction. In the case of both the increased Required Fund Deposit and the reduced Net Debit Cap, the DTCC Entities effectively limit the volume of customer transactions that LSC can clear and settle through the DTCC Entities (and unless LSC posts its full Required Fund Deposit, preclude access to NSCC at all) which is both fundamentally important to LSC and a primary service provided by the DTCC Entities.

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<sup>21</sup> *Consolidated Arbitration Applications for Review of Action Taken by FINRA*, Rel. No. 34-89495, 2020 SEC LEXIS 3312, at \*3 (Aug. 6, 2020); *see also Morgan Stanley & Co., Inc.*, Exchange Act Rel. No. 34-39459, 53 SEC 379, 1997 SEC LEXIS 2598, at \*12-13 (Dec. 17, 1997), *William J. Higgins*, Rel. No. 34-24429, 48 SEC 713, 1987 SEC LEXIS 1879, at \*11-12 (1987).

<sup>22</sup> *Morgan Stanley & Co., Inc.*, Exchange Act Rel. No. 34-39459, 53 SEC 379, 1997 SEC LEXIS 2598, at \*13 (Dec. 17, 1997).

<sup>23</sup> *See supra*, at 3.

The Commission has found similar actions by SROs to meet the definition of a limitation on access to services within the meaning of Section 19(d). In *Securities Industry and Financial Markets Association* (“SIFMA”), the Commission analyzed what constitutes “a limitation on access to services” and found that rule changes made by the New York Stock Exchange (“NYSE”) and the NASDAQ Stock Market LLC that charged additional fees for certain exchange data would be considered a “limitation to access to the SRO’s services” as the SIFMA members contended that these fees were priced so high to be outside a reasonable range of fees under the Exchange Act.<sup>24</sup> While the Commission’s order in *SIFMA* was reversed by the District Court on the grounds that review under Section 19(d) does not apply to generally applicable fees,<sup>25</sup> the Limiting Sanctions are not generally applicable, but specifically target LSC, thus the logic of the underlying Commission decision is fully applicable here.

Furthermore, the clearing and settlement services provided by the DTCC Entities are “fundamentally important” to LSC and the central services provided by the DTCC Entities. The Commission has found that such “principal services” constitute the “fundamentally important” services that trigger its jurisdiction when reviewing an SRO’s action that limits those services. In *William J. Higgins*, members of the NYSE were denied permission to install telephones to communicate from the exchange floor with non-members located off-floor.<sup>26</sup> The Commission opined that “[t]he operation of a trading floor and access to the floor is the principal service offered by a national securities exchange to its members...” and that limitation of such access to services would be subject to the Commission’s review under Section 19(d).<sup>27</sup>

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<sup>24</sup> Rel. No. 1921, File No. 3-15350, 2014 SEC LEXIS 3906 (Oct. 20, 2014).

<sup>25</sup> *Nasdaq Stock Mkt., LLC v. SEC*, 961 F.3d 421 (2020).

<sup>26</sup> Rel. No. 34-24429, 48 SEC 713, 1987 SEC LEXIS 1879 (May 6, 1987).

<sup>27</sup> *Id.* at \*11-12.

Similarly, in *Consolidated Arbitration Applications*, the Commission found that a limitation was fundamentally important when it involved access to FINRA’s arbitration platform.<sup>28</sup> In making this determination, the Commission pointed to FINRA’s corporate charter which states that one of its functions is “[t]o promote self-discipline among members, and to investigate and adjust grievances between the public and members and between members” and FINRA’s rules that require members firms and associated persons to arbitrate certain disputes.<sup>29</sup>

Here, the Limiting Sanctions restrict LSC’s access to services that are even more fundamental than access to an SRO’s arbitration platform. The Commission has previously stated that “DTC’s role as an SRO and securities depository offering book-entry clearing and settlement services is central in this scheme, and those services are the fundamental ones offered by DTC.”<sup>30</sup> Moreover, the DTCC’s mission statement in its charter states that DTCC “promotes the safe, sound and efficient operation of the [DTCC] and its subsidiaries, including the clearance and settlement activities conducted by its registered clearing agency subsidiaries.”<sup>31</sup> The clearing and settlement services that are being restricted as a result of the Limiting Sanctions are not only “fundamentally important” services to LSC, but they are the primary function and the reason for the existence of the DTCC Entities.

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<sup>28</sup> Rel. No. 34-89495, 2020 SEC LEXIS 3312, at \*3 (Aug. 6, 2020).

<sup>29</sup> *Id.* at \*4-5.

<sup>30</sup> *Intl. Power Grp., Ltd.*, Rel. No. 66611, 2012 SEC LEXIS 844 at \*15 (Mar. 15, 2012) (finding that DTC’s suspension of its clearing and settlement services with respect to petitioner-issuer’s securities held by clearing agency’s participants constitutes a denial or limitation of DTC’s services under Section 19(d)).

<sup>31</sup> DTCC, *The Board of Directors of the Depository Trust & Clearing Corporation, The Depository Trust Company, Fixed Income Clearing Corporation and the National Securities Clearing Corporation Mission Statement and Charter* (Feb. 2020).

**B. In the alternative, the Commission has jurisdiction because the Limiting Sanctions constitute final disciplinary sanctions imposed by the DTCC Entities.**

The Limiting Sanctions also constitute “final disciplinary sanctions” against LSC, which provides for an alternative basis for the Commission’s jurisdiction over this appeal under Section 19(d)(1) of the Exchange Act.<sup>32</sup>

While Section 19(d)(1) does not further define “disciplinary sanction,” both the NSCC and DTC Rules describe the limitation on access to services as an example of a disciplinary action. NSCC Rule 15 (Assurances of Financial Responsibility and Operational Capability) Section 4 states that a participant’s failure to furnish information, or otherwise comply to other protocols of providing adequate assurances of financial responsibility, may “subject the participant to . . . disciplinary proceedings pursuant to Rule 48.”<sup>33</sup> NSCC Rule 48 (Disciplinary Proceedings) Section 1 states:

[NSCC] may discipline any Member or Limited Member (each hereinafter referred to as a “participant” for purposes of this Rule 48) for a violation of any provision of the Rules or the Procedures of [NSCC], such participant’s agreements with [NSCC], or for any error, delay or other conduct detrimental to the operations of [NSCC], or for not providing adequate facilities for such participant’s business with [NSCC], by expulsion, suspension, *limitation of or restriction on activities, functions and operations*, fine or censure or any other fitting sanction . . . (Emphasis added.)<sup>34</sup>

NSCC Rule 48 Section 2 states that “[b]efore imposing any disciplinary sanction on a participant pursuant to this Rule, the Corporation shall notify such participant . . . of the charges against such participant and its right to a hearing.”<sup>35</sup>

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<sup>32</sup> While the term described here is a “final” disciplinary sanction, as described in the Factual Background section above, the imposition of the Limiting Sanctions has been treated as final by the DTCC Entities.

<sup>33</sup> National Securities Clearing Corporation Rules & Procedures, Rule 15 Section 4 (Feb. 25, 2021).

<sup>34</sup> *Id.* at Section 1.

<sup>35</sup> *Id.* at Section 2.



In a similar vein, DTC Rule 21 (Disciplinary Sanctions) provides that the DTCC may discipline a participant “for not providing adequate facilities for its business with the [DTCC] by imposing any of the following sanctions: expulsion; suspension; *limitation of activities, functions and operations*; fine; censure; and any other fitting sanction. (Emphasis added.)”<sup>36</sup> Clearly, then, DTC defines a limitation of activities, functions, and operations, such as the Limiting Sanctions, as a disciplinary sanction.<sup>37</sup> The DTCC Entities here made an assessment of purported wrongdoing by LSC and imposed a disciplinary sanction in the form of the Limiting Sanctions, which is now subject to review by the Commission. This is consistent with the decision in *Morgan Stanley & Co., Inc.*, where the Commission distinguishes between a situation when the SRO does not make an assessment of whether an action was wrongful or otherwise takes any affirmative action (found not to be a disciplinary sanction subject to review) from when the SRO makes an assessment that an act was wrongful and imposes a disciplinary sanction, which would be subject to review.<sup>38</sup>

The fact that the DTCC Entities chose not to treat the Limiting Sanctions as disciplinary sanctions within the meaning of Rule 19d-1 is not dispositive. If an action by an SRO is appealable to the Commission, the SRO cannot avoid Commission review simply by electing not to treat it as a reviewable action and refusing to provide a member with the appropriate internal appeals process. The substance of the action—its adverse effects on the member—should govern whether the Commission views the action as a disciplinary sanction, regardless of

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<sup>36</sup> Rules, By-Laws and Organization Certificate of the Depository Trust Company, Rule 21, at 89 (Feb. 2008).

<sup>37</sup> *Id.* at 90.

<sup>38</sup> *Morgan Stanley & Co, Inc.*, Exchange Act Rel. No. 34-39459, 53 SEC 379, 1997 SEC LEXIS 2598, at \*7 (Dec. 17, 1997).



whether the SRO elects to treat its action as a disciplinary sanction.<sup>39</sup> The Limiting Sanctions, which limit the “activities,” “functions” or “operations” of LSC constitute disciplinary sanctions pursuant to both DTCC Entities’ rules, whether or not the DTCC Entities elected to follow their rules, and thus are subject to review by the Commission.

### CONCLUSION

The Commission is required to review an action by an SRO if the action limits a member’s access to services offered to any member by the SRO, and the member’s application is timely filed. The Limiting Sanctions increased LSC’s minimum Required Fund Deposit at NSCC and reduced LSC’s Net Debit Cap at DTC. As set forth above, these Limiting Sanctions restricted LSC’s access to the services of the DTCC Entities within the meaning of Section 19(d)(1) of the Exchange Act. Separately and in addition, the Commission also has jurisdiction over the Limiting Sanctions because they constitute final disciplinary sanctions within the meaning of Section 19(d)(1) of the Exchange Act.

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<sup>39</sup> In the context of limitation of access to services, as described above, the Commission only reviews SRO actions that limit access to “fundamentally important” services of an SRO. In that context, it is the harm done to the SRO’s member by the action that is critical to the determination. Lack of access to fundamentally important services harms the member in a way that access to ancillary services would not. Similarly, in the context of determining jurisdiction to review a final disciplinary sanction, the Commission should consider whether an SRO action functions as a final disciplinary sanction on a member, and not whether or not the SRO has elected to provide the appropriate internal processes for a final disciplinary sanction under its own rules.

Based on the foregoing, the Commission has jurisdiction over this appeal pursuant to Section 19(d) of the Exchange Act and should permit LSC's appeal to proceed to a review of its merits.

Dated: November 1, 2021

Respectfully submitted,



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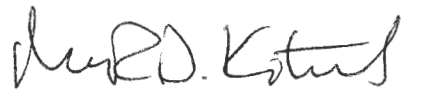
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**CERTIFICATE OF SERVICE**

I, Mark D. Kotwick, certify that on this 1<sup>st</sup> day of November 2021, I caused a copy of the Petitioner's Brief on the Commission's Jurisdiction over this Appeal, in the matter of LEK Securities Corporation, Administrative Proceeding No. 3-20543, to be served on the following via email:

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**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-20543**

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**In the Matter of**

**LEK SECURITIES CORPORATION,**

**Petitioner.**

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**LEK SECURITIES CORPORATION'S ("LSC")**  
**INDEX OF ATTACHMENTS**

<b><u>Exhibit</u></b>	<b><u>Description</u></b>
1.	McGuire Woods letter to Seward & Kissel, dated July 8, 2021
2.	DTCC letter to LSC, dated July 21, 2021
3.	LSC letter to DTCC, dated July 26, 2021
4.	DTCC letter to LSC, dated July 28, 2021
5.	DTCC email to LSC, dated August 2, 2021
6.	LSC letter to DTCC, dated August 4, 2021
7.	DTCC letter to LSC, dated August 6, 2021
8.	LSC letter to DTCC, dated August 19, 2021

# **LSC Exhibit 1**

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July 8, 2021

**Via E-Mail and Federal Express**

Mr. Paul T. Clark  
Mr. Anthony C.J. Nuland  
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**Re: Lek Securities Corporation**

Dear Messrs. Clark and Nuland:

I write on behalf of BMO Harris Bank, N.A. (“BMOH”) in response to your letters of May 14, 2021, June 15, 2021, and June 23, 2021 concerning Lek Securities Corporation (“LSC”). BMOH provides settlement services to LSC pursuant to a Clearinghouse Settlement Instructions Authentication Agreement (the “Agreement”) entered into by the parties on September 12, 2011.<sup>1</sup> Your most recent correspondence asserts “BMOH has an obligation to provide LSC with bona fide reasons for its proposed termination” of these settlement services and that BMOH is further obligated to “permit LSC to address any deficiencies in the relationship.”

Respectfully, BMOH has no such obligations. The Agreement provides, in relevant part: “Customer agrees that Bank may *in its sole good faith discretion discontinue the services contemplated by this letter without prior notice at any time.*” (Emphasis supplied.) By the plain terms of the Agreement, BMOH is under no obligation to provide LSC with “bona fide reasons” for discontinuing provision of settlement services, much less to “permit LSC to address any deficiencies.” To the contrary, BMOH may discontinue provision of settlement services upon its “sole good faith discretion” and “without prior notice at any time.” BMOH is acting within its sole good faith discretion so long as it is acting reasonably and not arbitrarily. *See, e.g., Cont’l Mobile Tel. Co. v. Chicago SMSA Ltd. P’ship*, 587 N.E.2d 1169, 1174 (Ill. App. 1992) (good faith requires a party to act “reasonably, not arbitrarily”).

While BMOH has no obligation to provide LSC with its reasons for terminating the Agreement, I nevertheless note the following facts and chronology that demonstrate BMOH is exercising its contractual right to terminate in good faith. On March 10, 2017, the Securities and Exchange Commission filed a complaint in the U.S. District Court for the Southern District of New York alleging that LSC and its principal Samuel Lek aided and abetted violations of the federal securities laws. On October 1, 2019, final judgment in the action was entered against LSC

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<sup>1</sup> A copy of the Agreement is enclosed for reference.

and Mr. Lek pursuant to which they admitted to the conduct alleged in the complaint and agreed to pay substantial monetary penalties. Mr. Lek was also permanently barred from the industry by the SEC and FINRA.

During this time period, BMOH held frequent discussions with LSC regarding its concerns about LSC's business, including collateral deficiencies, intraday overdrafts, and net capital. On October 22, 2019, following the entry of final judgment against LSC and Mr. Lek, BMOH communicated to LSC that it would reduce its National Securities Clearing Corporation ("NSCC") sublimit and advised LSC to find another bank for NSCC financing. BMOH further informed LSC that it intended eventually to reduce LSC's sublimit to \$0.

While BMOH initially held off reducing LSC's NSCC sublimit due to the impact of COVID-19, BMOH reduced the sublimit on September 8, 2020. On October 19, 2020, BMOH proposed further reductions and explicitly informed LSC that it needed to find another banking relationship for settlements. On November 9, 2020, BMOH further reduced the sublimit and established with LSC that the timeframe for complete termination of the parties' relationship would be the first or second quarter of 2021. Since that time, BMOH has held multiple meetings with LSC where it has consistently expressed its concerns, its intent to terminate the parties' relationship, and that LSC should find an alternative bank for settlement services.

In sum, BMOH has the contractual right to terminate its settlement relationship with LSC at its own good faith discretion and without prior notice pursuant to the Agreement. Your letters provide no authority to the contrary – indeed they cite not a single case, rule or law for the numerous duties you seek to create. Moreover, BMOH's decision to terminate the relationship is grounded in numerous valid concerns, including but not limited to: loss of confidence in LSC and its current management; regulatory concerns prompted by the SEC and FINRA actions; financial and reputational risk; and concerns about LSC's financial status. While BMOH is not required to provide any form of notice to terminate the Agreement, it nevertheless provided ample notice and in fact continued to provide settlement services to LSC for months while it sought an alternative settlement bank. These facts demonstrate BMOH's good faith here. *See, e.g., Nat'l Westminster Bank, U.S.A. v. Ross*, 130 B.R. 656, 679–80 (S.D.N.Y. 1991) (where lending agreement could be terminated "at any time without notice," Bank exercised good faith by providing "reasonable notice" to counterparty "of the Bank's desire to have [counterparty] obtain alternate financing, as well as the Bank's accommodation of [counterparty's] request that it be given a reasonable time to do so"), *aff'd sub nom. Yaeger v. Nat'l Westminster*, 962 F.2d 1 (2d Cir. 1992). To the extent your letters argue BMOH owes extra-contractual obligations to LSC because LSC cannot secure a settlement arrangement with another bank, this argument is without legal basis. *See, e.g., Mid-W. Energy Consultants, Inc. v. Covenant Home, Inc.*, 815 N.E.2d 911, 915-16 (Ill. App. 2004) (good faith "does not require a party with discretion to forbear from exercising its right to terminate a contract for the benefit of the other party to the agreement"); *Manufacturers Hanover Tr. Co. v. Yanakas*, 7 F.3d 310, 318 (2d Cir. 1993) (rejecting attempt to apply extra-contractual duties to bank based on allegation that borrower "was unable to find financing elsewhere").

\* \* \*



As noted, BMOH provided LSC with advance notice of its intent to terminate the parties' contractual relationship and has in fact provided LSC with months to find an alternative settlement bank. I am now formally notifying you that BMOH will discontinue the settlement services it provides pursuant to the Agreement **ninety days** from the date of this letter, on **October 6, 2021**. In the interim, BMOH is reducing LSC's uncommitted broker line of credit down from \$75,000,000 to \$50,000,000, effective immediately. Additionally, BMOH will reduce LSC's NSCC sublimit to \$4,000,000 on August 9, 2021, and will reduce the sublimit to \$0 on September 6, 2021. BMOH will not extend any of these deadlines.

To be clear, and for the avoidance of doubt, it remains BMOH's position that LSC must transition all of its business (including, but not limited to, its settlement business with BMOH) away from BMOH and Bank of Montreal. Should you have any questions regarding the foregoing, please contact me directly.

Very truly yours,  
*/s/ Jeffrey J. Chapman*  
Jeffrey J. Chapman  
*Counsel to BMO Harris Bank. N.A.*

Enclosure

Cc: John P. Davidson, OCC Chief Executive Officer (j davidson@theocc.com)  
Joseph Kamnik, Esq., OCC Chief Regulatory Officer (j kamnik@theocc.com)  
Linda Haven (linda.haven@bmo.com)  
Christina Kiel, Esq. (christina.kiel@bmo.com)  
Mark D. Kotwick, Esq. (kotwick@sewkis.com)  
William E. Goydan, Esq. (wgoydan@mcguirewoods.com)  
Alex Madrid, Esq. (amadrid@mcguirewoods.com)

BMO Harris Bank N.A.  
111 West Monroe Street  
Chicago, Illinois 60690

Attention: Futures and Securities Division

Re: Clearinghouse Settlement Instructions Authentication Agreement

The undersigned Customer does now and/or may from time to time hereafter participate in settlement programs established and operated by one or more clearinghouses, and the Customer has authorized such clearinghouses to issue settlement instructions to BMO Harris Bank N.A. ("*BMO Harris*") from time to time to charge or credit, as the case may be, the Customer's deposit account or accounts opened and established by Customer with BMO Harris from time to time (the "*Accounts*"). The terms of the BMO Harris Commercial Account Agreement ("*Account Agreement*") apply to and govern the Accounts and this letter of authorization and are hereby incorporated into this letter as through fully set forth herein. In the event a conflict between the terms of this authorization letter and terms of the Account Agreement, the terms of this authorization letter shall control.

The Customer hereby authorizes BMO Harris to charge or credit, as the case may be, any of the Accounts in accordance with the settlement instructions received by BMO Harris from any recognized clearinghouse. In making such charges and credits in accordance with settlement instructions, BMO Harris shall be entitled to (a) assume without further inquiry that the Customer is participating in a given settlement program for which BMO Harris receives settlement instructions from any recognized clearinghouse to charge or credit any Account, and (b) rely and act upon all information appearing in such settlement instructions as being correct, complete and authorized by Customer provided that such settlement instructions were received by BMO Harris in compliance with the security procedures agreed upon by BMO Harris and the applicable clearinghouse from time to time or was otherwise actually sent by such clearinghouse whether or not such security procedures were followed. The authority herein to charge the Customer's Accounts shall be unlimited as to amount.

All such settlement instructions shall be effective and binding upon the Customer, whether or not such settlement instructions were authorized and correct instructions of such clearinghouse. In the event that any settlement instruction contains an error or is unauthorized, the Customer agrees to resolve the related funds transfers directly with the applicable clearinghouse, and BMO Harris shall have no liability for such unauthorized or erroneous settlement instructions if BMO Harris acted in good faith and in compliance with the applicable security procedures.

The Customer will maintain at all times balances of available funds in the Accounts which are sufficient to satisfy all charges resulting from clearinghouse settlement instructions. In the event that the balance of available funds in any Account is insufficient to satisfy any such charges, BMO Harris may at its sole discretion, but without any obligation to do so, honor such charges which will result in a

deficiency or overdraft in such Account. Any such deficiency shall be immediately repaid to BMO Harris by the Customer upon your demand at the BMO Harris principal office in Chicago, Illinois, together with interest until paid at the rate then established by BMO Harris for such deficiencies, and all costs and expenses, including attorneys' fees and court costs, paid or incurred by BMO Harris in order to collect the same.

The authorization and agreements contained in this letter shall become effective upon the execution and delivery of this letter to BMO Harris by the Customer and it shall not be necessary for BMO Harris to execute any acceptance or acknowledgement hereof. This authorization shall supersede any previous authorization given by the Customer to BMO Harris with respect to clearinghouse settlement instructions. Notwithstanding the terms of the Account Agreement or any other agreement between Customer and Bank, Customer agrees that Bank may in its sole good faith discretion discontinue the services contemplated by this letter without prior notice at any time. This authorization shall remain in full force and effect until BMO Harris actually receives at the BMO Harris principal office in Chicago, Illinois, written notice addressed to BMO Harris, to the attention of the BMO Harris Futures and Securities Division, and signed by an officer of the Customer revoking or modifying this authorization. No such revocation or modification shall impair the authority contained herein with respect to any actions taken by BMO Harris prior to the actual receipt of such written notice, and thereafter for such period of time as may be reasonably required by BMO Harris to act upon such revocation or modification.

The foregoing authorization to change any and all Accounts applies to Accounts currently maintained with BMO Harris by the Customer which will be charged and/or credited pursuant to clearinghouse settlement instructions and any new Accounts established after the date hereof to be maintained with BMO Harris by the Customer which shall be charged and/or credited pursuant to clearinghouse settlement instructions.

The undersigned Customer hereby agrees to the terms of this authorization agreement as of the date set forth below.

Dated, 9/12/4, \_\_\_\_\_.

CUSTOMER NAME

Wak Securities Corp.

By: [Signature]

Name: Daniel M. Hawks

Its: Chief Financial Officer

## **LSC Exhibit 2**

Via e-mail

July 21, 2021

Charles Lek  
Chief Executive Officer  
Lek Securities Corporation  
4 World Trade Center, 44th Floor  
New York, NY 10007  
[charles.lek@leksecurities.com](mailto:charles.lek@leksecurities.com)

Re: Lek Securities Corporation: Membership in DTC and NSCC (Member #0512)

Dear Mr. Lek,

DTCC recently became aware of several material developments in regards to the liquidity profile of Lek Securities Corporation ("Lek"), which raises concerns about the firm's financial responsibility, operational capability and its continued ability to meet its obligations to NSCC and DTC. Among other developments, we became aware of the following:

- BMO Harris Bank reportedly reduced Lek's \$75MM line of credit to \$50MM, and informed Lek that it will further reduce the line to \$4MM as of August 4, 2021 and would terminate the line of credit as of September 6, 2021. Lek is reportedly in discussion with Lakeside Bank to increase its \$7.5MM line of credit and with Investors Bank for new line of credit to compensate for the reduction of the BMO Harris Bank credit facility, although definitive agreements have not yet been reached.

We note that, unless Lakeside Bank increases the amount available to Lek under its line of credit, or Lek obtains another facility from Investor Bank or another bank, as far as we are aware, Lek would have only \$7.5MM of external bank borrowing availability after the termination of the BMO Harris Bank line of credit in September 2021.

- BMO Harris Bank reportedly informed Lek it will no longer operate as Lek's Settling Bank as of October 6, 2021. Lek is reportedly pursuing the engagement of Lakeside Bank as its Settling Bank, although an agreement to establish this relationship has not yet been reached.
- FINRA is reportedly assessing the circumstances surrounding Lek's parent company's promissory note, under which Lek is a borrower, and, specifically, the impact of Lek's borrowings under this promissory note on Lek's customer reserve requirement.

We note that the result of this assessment could further greatly reduce Lek's liquidity.

Ongoing Membership Requirements: Reporting Requirements

Please confirm the accuracy of the above items, or provide written clarifications where necessary, including all relevant details regarding each of the three matters outlined above, in writing no later than **July 30, 2021**. Such information is required to be provided to NSCC and DTC pursuant to Lek's ongoing membership requirements set forth in the NSCC and DTC Rules, including, but not limited to NSCC Rule 2B and DTC Rule 2 and Lek's continued failure to provide this information could result in disciplinary action against the firm.

To that end, we note that Lek has already failed to provide NSCC and DTC with timely notification of the above described changes to Lek's financial condition, as required by its ongoing membership requirements set forth in NSCC Rule 2B and DTC Rule 2. Therefore, pursuant to Addendum P of the NSCC Rules and the DTC Fine



Schedule, Lek will be fined for this failure to provide timely notification. Notification of this fine will be delivered to Lek in a separate correspondence.

We also reiterate the importance of keeping DTCC apprised of all developments that could impact Lek's ability to remain a member in good standing at NSCC and DTC. Lek's ongoing membership requirements include timely notifications of any changes in the firm's liquidity resources, Settling Bank relationship, and any other material changes in condition or developments. For example, without limitation, Lek is required to inform us of any significant changes in its borrowing capacity under its stock loan/ borrowing arrangements.

This ongoing reporting requirement also requires, without limitation, Lek to notify us if there are any developments on FINRA's investigation into the recommendations in the final AML/Microcap settlement independent consultant's report, the counterclaims by Lek in regards to the consultant's report, or any changes to controls or business made by Lek as a result of this matter.

#### Request for Information

To allow NSCC and DTC to assess Lek's current financial condition, and pursuant to NSCC Rule 2B and DTC Rule 2, please also send us the following information by **Friday, July 30** at the latest.

- All recent correspondence with BMO Harris Bank relevant to both its line of credit and its Settling Bank relationship with Lek.
- A written plan on how Lek will address the reduction and ultimate termination of the BMO Harris line of credit and termination of its Settling Bank relationship with BMO Harris.
- Should the outcome of FINRA's inquiries into the structure of Lek's Promissory Note from its parent company lead to a full or partial negative impact on Lek's reserve requirements, how Lek intends to offset this impact to its liquidity.
- Information regarding Lek's parent company's financial standing and its funding/borrowing that supports the promissory notes it has extended to Lek, including all written materials and information provided to FINRA regarding these matters.

We remind you that Lek's ongoing membership requirements include the timely submission of any such information that NSCC and DTC may deem necessary or advisable, and your failure to comply with these requests will be deemed a violation of those requirements.

#### Ongoing Adequate Assurances Risk Controls

As noted above, the material developments described above raises concerns about the firm's financial responsibility, operational capability, and its continued ability to meet its obligations to NSCC and DTC. Therefore, pursuant to NSCC Rule 15 and DTC Rule 9(A), NSCC and DTC are also imposing the following risk controls to mitigate the risks such developments may present. Such controls will be effective until such time as we determine that Lek's risk profile has improved such that the above-mentioned liquidity concerns and any other material concerns have been alleviated.

- **Effective July 28**, Lek shall be subject to an increased Clearing Fund deposit, such that Lek's Required Fund Deposit to the NSCC Clearing Fund shall at all times be no lower than of \$3 IMM.
- **Effective July 28**, 2021 DTC will reduce Lek's Net Debit Cap to \$50 million from its current level of \$75 million.
- **Effective Friday, July 28**, in order to help us closely monitor Lek's available liquidity resources, Lek shall provide to NSCC and DTC a daily report detailing Lek's liquidity resources, including a description of all available liquidity resources, how much of each resources is utilized each day, and how much excess

liquidity is still available under each resources each day. Please see attached to this letter the required format of this daily report.

Please send the requested information to [mleibrock@dtcc.com](mailto:mleibrock@dtcc.com), [dmcelligott@dtcc.com](mailto:dmcelligott@dtcc.com), [thulse@dtcc.com](mailto:thulse@dtcc.com), [srosales@dtcc.com](mailto:srosales@dtcc.com), and [lpellecchio@dtcc.com](mailto:lpellecchio@dtcc.com). If Lek fails to provide the requested information in the required format by the prescribed due dates, NSCC and DTC will immediately consider additional actions available to them under their respective rules, which may include a restriction on Lek's access to NSCC's and DTC's services and facilities, and a termination of its membership with these clearing agencies.

We look forward to maintaining an open dialogue with Lek in connection with the matters described herein and in connection with our ongoing monitoring and assessment of the firm's risk profile and activities with NSCC and DTC.

This letter is without waiver of any of NSCC's, DTC's, and DTCC's legal and equitable rights, all of which are hereby expressly reserved, including, without limitation, NSCC's, DTC's, and DTCC's right to seek additional adequate assurances or take such other steps as it deems appropriate under its Rules and Procedures.

Sincerely,

Michael Leibrock  
Managing Director  
Depository Trust & Clearing Corporation

cc: Dan McElligott  
Tim Cuddihy  
Tim Hulse  
Isaac Montal



**Please provide the following Liquidity information on a daily basis, starting on July 23.**

Using the table below, please provide an inventory of your firm's available liquidity sources and provide any supporting documentation (e.g. loan agreements, etc.). Please indicate the intended use of each liquidity source, which of these sources are available for meeting clearing fund requirements at DTCC, and any limitations or restrictions on the use of each liquidity source. Please provide documentation for each liquidity source as well.

Please describe what liquidity sources your firm typically uses to meet clearing fund requirement each day (i.e. what is your primary source, what is your secondary source, and what sources are available only as a back-up if additional liquidity is needed).

Please confirm whether your firm has had any significant change in its available liquidity resources since the last report provided to DTCC and confirm if the firm expects to have a need to raise any new sources of liquidity in the near term. If the firm has had or expects any significant change in liquidity, please describe the specific actions your firm has taken or plans to take and provide supporting documentation (e.g. executed or draft loan agreement).

Please describe the firm's liquidity stress testing (including the stress scenarios considered) and contingency plan in the event of an unexpected spike in the need for liquidity.

Source of Liquidity (i.e. name of counterparty, etc.)	Type of Liquidity Source (e.g. cash, line of credit, other)	Committed or Uncommitted	Secured or Unsecured	Intended Use	Available for Meeting DTCC Clearing Fund Requirements (yes/no)	Restrictions on Usage (describe)	Amount of Liquidity Source	Amount Currently Used			Balance Remaining	Collateral Available (if applicable)	Balance Available to Access
								Total	Used for Clearing Fund at NSCC and/or FICC	Used for Other Needs			
<i>Example: TBD Bank</i>	<i>Line of credit</i>	<i>Uncommitted</i>	<i>Secured</i>	<i>Margin requirements</i>	<i>yes</i>	<i>N/A</i>	<i>\$30,000,000</i>	<i>\$8,000,000</i>	<i>\$3,000,000</i>	<i>\$5,000,000</i>	<i>\$22,000,000</i>	<i>\$12,000,000</i>	<i>\$12,000,000</i>

Member Signature \_\_\_\_\_  
 Print Name \_\_\_\_\_  
 Print Title \_\_\_\_\_  
 Date: \_\_\_\_\_

## **LSC Exhibit 3**



July 26, 2021

Michael Leibrock  
Managing Director  
Depository Trust & Clearing Corporation  
55 Water Street  
New York, NY 10041

By Email:  
mleibrock@dtcc.com; dmcelligott@dtcc.com; thulse@dtcc.com; srosales@dtcc.com;  
lpellecchio@dtcc.com.

Dear Mr. Leibrock:

This letter is in response to your letter dated July 21, 2021, which was emailed to us yesterday evening. We are surprised that DTCC has taken action against our firm that could have a serious impact on our business based on unsubstantiated, and as it happens, inaccurate information. A simple phone call would have enabled you to avoid making decisions based on materially inaccurate information.

We regret that Bank of Montreal Harris ("BMOH") has decided to end its almost 30-year relationship with us at a time when our liquidity and capital are at its strongest. However, as explained below, we do not believe that this will have a significant impact on our liquidity. In fact, BMOH's action has forced us to look for other sources of liquidity and this has resulted in the establishment of more diverse and reliable sources of funding for our firm. We note that our capital is strong and easily meets our regulatory requirements as set forth in the table below:

Equity	13,670,010
Subordinated Debt	4,985,143
Total	18,655,153
Non-Allowable	3,978,871
Net Capital	14,676,282
Requirement	3,531,972
Excess Net Capital	11,144,310
Net Capital as a function of Requirement	4.16

Rather than attempt to correct each inaccuracy recited in you letter, I will limit my response to pointing out the most material ones and providing you with an overview of our firm's sources of liquidity:

Material inaccuracies:

- BMOH will not reduce our line of credit to \$4MM as of August 4, 2021. The line will stand at \$50MM until October 6, 2021. Moreover, Lakeside Bank has already increased its line of credit from \$12.5MM to \$30MM. Therefore, as of August 6, the firm will have \$80MM in credit available to it, making the statement that we will have only \$7.5MM available to us materially inaccurate.
- Although BMO Harris Bank has informed us that it will no longer operate as Lek's Settling Bank as of October 6, 2021, Lakeside is already in the process of taking over this role and will step in as settlement bank months before BMOH's intended withdrawal date. Accordingly, there should be no reason for concern. An email from Lakeside confirming this is attached for your review.
- The firm has entered into a borrowing program with Lek Securities Holdings Limited. This program allows the firm to issue unsecured notes and has allowed us to raise almost \$100MM. The program has proven to be successful and provided us with significant liquidity. We find it difficult to image how this lending program could affect the firm's Customer Reserve Requirement under SEC Rule 15(c)3-3.

Lek Securities Corporation has access to the following sources of funds:

	Previous	Future	Change
BMO	75,000,000	50,000,000	(25,000,000)
Lakeside	12,500,000	30,000,000	17,500,000
Unsecured Notes	-	96,000,000	96,000,000
			88,500,000

As you can see from the above table, we now have access to more liquidity, not less. Moreover, in addition to the above, we are informed by Investor's Bank that they intend to provide us with a \$20MM line of credit, and that Lakeside Bank is working with a number of other banks to create a large, syndicated loan facility for our benefit.

Given the success that we have had in securing funding that is both larger and more diverse than our existing credit facilities, your statement that we [have] "already failed to provide NSCC and DTC with timely notification of [.....] changes to [our] financial condition, as required by [our] ongoing membership requirements set forth in NSCC Rule 2B and DTC Rule 2", is inaccurate. Moreover, your intention to impose a fine based of materially false information without an opportunity to be heard seems improper.

We agree that it is important to keep DTCC apprised of all developments that could impact our ability to remain a member in good standing at NSCC and DTC. However, the issues surrounding our sources of funding is not such a development. The firm is committed to keep DTCC and NSCC apprised of all material changes in condition and other developments. As an example, you mentioned our borrowing

capacity under our stock loan/ borrowing arrangements. These limits have been significantly increased over the last several months. We did not inform you of this, because these are positive developments and we did not think this to be of concern to you, but we will make a point of informing you of these types of developments in the future.

Request for Information

*All recent correspondence with BMO Harris Bank relevant to both its line of credit and its Settling Bank relationship with Lek.*

Please refer to the attached letter dated July 8, 2021, from Jeffrey J. Chapman to Mr. Paul T. Clark and Mr. Anthony C.J. Nuland.

*A written plan on how Lek will address the reduction and ultimate termination of the BMO Harris line of credit and termination of its Settling Bank relationship with BMO Harris.*

We anticipate that Lakeside Bank will assume the role of Lek Securities' settlement bank. We have enclosed a letter from Lakeside Bank evidencing their willingness to assume this role. Our sources of funds have been outlined above.

*Should the outcome of FINRA's inquiries into the structure of Lek's Promissory Note from its parent company lead to a full or partial negative impact on Lek's reserve requirements, how Lek intends to offset this impact to its liquidity.*

We do not believe that there should be any concerns with respect to this program and we do not want to speculate on possible future FINRA actions and our possible responses. We will however keep you informed of any developments.

*Information regarding Lek's parent company's financial standing and its funding/borrowing that supports the promissory notes it has extended to Lek, including all written materials and information provided to FINRA regarding these matters.*

FINRA has already sought detailed information in an 8210 request with respect to the borrowing program involving our parent company. In our response, we outlined the exact workings of the program. Therefore, in response to this question, we are making reference to FINRA's request and our response with documents attached.

Ongoing Adequate Assurances Risk Controls

In your letter you are proposing significant restrictions to our business effective July 28. We believe that these restrictions are not warranted, and we urgently request that no such action is taken until DTCC and NSCC have conducted a full investigation and our firm has had an opportunity to be heard. In particular, demanding \$31MM in collateral from us, even if our firm were to have no open positions at NSCC, is punitive and undermines our liquidity program.

I trust that this satisfies your request for information. Nevertheless, we would welcome the opportunity to discuss these matters with you on the phone. We very much regret that DTCC and NSCC have been so badly misinformed, and we think it to be of the greatest importance that we maintain open lines of communication and that no one acts on false rumors and misinformation.

Also to ensure that all relevant regulators are in the loop, we are sending a copy of this letter to the following staff members at FINRA: David Aman, Ornella Bergeron, Melanie Chan, Joseph DiPaolo, Bari Havlik, Michael MacPherson, John Martino, Emily Noelker and Isabel Patel.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Charles F. Lek".

Charles F. Lek  
Chief Executive Officer

## **LSC Exhibit 4**



Via e-mail

July 28, 2021

Charles Lek  
Chief Executive Officer  
Lek Securities Corporation  
4 World Trade Center, 44th Floor  
New York, NY 10007  
[charles.lek@leksecurities.com](mailto:charles.lek@leksecurities.com)

Re: Lek Securities Corporation: Membership in DTC and NSCC (Member #0512)

Dear Mr. Lek,

NSCC and DTC (collectively, DTCC) have reviewed the response from Lek Securities Corporation (“Lek”) dated July 26, 2021 (“Lek Response”) in connection with DTCC’s July 21, 2021 letter (“DTCC Letter”). As an initial matter, the Lek Response did not adequately address the questions in the DTCC Letter, nor did Lek provide DTCC with all the requested information and documentation. For example, the letter from Bank of Montreal Harris (“BMOH”) dated July 8, 2021 (“BMOH Letter”) is inconsistent with certain representations Lek made, both on the phone and in the Lek Response, that \$50MM of BMOH line of credit (“BMOH LOC”) will not be reduced and that it will continue past October 6, 2021. Specifically, the BMOH Letter states, in part:

I am now formally notifying you that BMOH will discontinue the settlement services it provides pursuant to the Agreement ninety days from the date of this letter, on October 6, 2021. In the interim, BMOH is reducing LSC’s uncommitted broker line of credit down from \$75,000,000 to \$50,000,000, effective immediately. Additionally, BMOH will reduce LSC’s NSCC sublimit to \$4,000,000 on August 9, 2021, and will reduce the sublimit to \$0 on September 6, 2021. BMOH will not extend any of these deadlines. To be clear, and for the avoidance of doubt, it remains BMOH’s position that LSC must transition all of its business (including, but not limited to, its settlement business with BMOH) away from BMOH and Bank of Montreal.

If Lek believes that the \$50MM of the BMOH LOC will not be reduced after August 9, 2021 or September 6, 2021 and/or that the \$50MM BMOH LOC will continue in full after October 6, 2021, Lek needs to provide DTCC with a letter of confirmation from BMOH as to Lek’s position that also clarifies: (i) what portion of BMOH LOC will remain after August 9, 2021, after September 6, 2021, and after October 6, 2021, (ii) what dollar amount would be available to Lek for meeting its requirements at DTC and NSCC after August 6, 2021, after September 6, 2021, and after October 6, 2021, and (iii) what relationship BMOH will have with Lek after October 6, 2021.

We further note that Lek did not seem to make a good faith effort to produce all recent correspondence with BMOH, as requested by DTCC, because it only provided the BMOH Letter. Although Lek claimed that it first learned of BMOH’s decisions with respect to its relationship with Lek on July 8, 2021, the BMOH Letter clearly indicates that conversations between Lek and BMOH have been ongoing on these topics since 2019, with several recent correspondences in May and June of this year. DTCC is therefore reiterating its request in the DTCC Letter, as well as specifically requesting all correspondence with BMOH since January 1, 2019 relating to the BMOH plans to change its relationship with Lek, including, but not limited to, correspondence related to the BMOH LOC and BMOH’s role as Settling Bank. Such correspondence should include, without limitation, the letters dated May 14, 2021, June 15, 2021, and June 23, 2021 that were referenced in BMOH Letter.

In addition, Lek needs to provide DTCC with a written plan and an updated summary of Lek’s expected liquidity resources after August 9, 2021, after September 6, 2021 and after October 6, 2021, as previously requested.

The table of liquidity resources on page 2 of the Lek Response (“Table”) is vague, confusing, and, as of now, unsubstantiated by Lek. First, the Table shows the BMOH LOC being reduced from \$75MM to \$50MM, but it does not reflect that BMOH will further reduce the \$50MM BMOH LOC to zero after October 6, 2021. If the BMOH LOC will end on October 6, 2021, then it should not be cited as a future source of liquidity in the Table. Second, the Table reflects an increase of Lek’s line of credit with Lakeside Bank to \$30MM. Lek has not yet provided DTCC with documentation (including all terms and conditions of the facility(ies)) from Lakeside Bank of the increase in the facility to \$30MM. Such documentation needs to also detail how the Lakeside facility can be used and what amount of the facility is available to Lek for meeting requirements at NSCC and DTC. Third, the Table reflects a future \$96MM in liquidity from Unsecured Notes but does not identify the specific source of those funds. If this line item is not referencing Lek’s promissory note with its parent company (“Lek Promissory Note”), which previously was disclosed as a \$100MM note, please provide DTCC with the documentation for these Unsecured Notes (including all terms and conditions of the Notes), including, but not limited to, how the funds can be used and what amount of the funds would be available to Lek for meeting requirements at NSCC and DTC.

If the “Unsecured Notes” line item in the Table is referring to the Lek Promissory Note, this should not be reflected as new source of funding that will supplement Lek’s liquidity in the future. It is DTCC’s understanding that the Lek Promissory Note has been in place since earlier this year – and DTCC believes that it would be misleading to note it as a new source of liquidity to offset the loss of liquidity support from BMOH. Further, with respect to the Lek Promissory Note, the DTCC Letter had additionally requested that Lek provide DTCC with its parent company’s financial standing and its funding/borrowing that supports the promissory notes it has extended to Lek, including all written materials and information provided to FINRA regarding these matters. In the Lek Response, Lek indicated that that it was attaching FINRA’s 8210 request, Lek’s answers to the request, and relevant documents. While there were documents provided with the Lek Response, DTCC was unable to view the documents since they were password-protected. Please provide copies of unprotected documents or the password to the protected documents. In addition, please ensure that Lek also provides any other responsive documents, including, but not limited to (i) the annual financial statements of Lek’s ultimate parent, Lek Securities Holdings Limited, the provider of the Promissory Note, for the three most recent fiscal years as well as its most recent year-to-date interim financial statement, and (ii) any material and information communicated to FINRA after the date of the Lek Response. This is critical because, although Lek represents that it has “more diverse” funding, it appears that the primary liquidity support for Lek is its parent company via the Lek Promissory Note, which demonstrates a lack of significant external liquidity support. Finally, Lek’s belief that there should be no concerns about the Lek Promissory Note notwithstanding, DTCC reiterates its request for Lek’s plan to offset a possible full or partial negative impact on its reserve requirement as a result of FINRA’s inquiries.

In addition to the above requests and the requests in the DTCC Letter, DTCC has additional follow-up requests relating to the Lek Response. First, Lek has indicated in the Lek Response that it has increased its borrowing capacity under its stock loan/borrowing arrangements. Please provide DTCC with specific details and documentation on how much this borrowing capacity has increased, the current borrowing capacity, who Lek’s counterparties are, and how Lek utilizes the liquidity under these arrangements. Second, the Lek Response indicated that Investor’s Bank intends to provide Lek with a \$20MM line of credit. Please provide DTCC with all the documentation (including all terms and conditions of the facility) from Investor’s Bank. The documentation should also detail how the Investor’s Bank facility can be used by Lek and what amount of the facility is available to Lek for meeting requirements at NSCC and DTC. Third, please provide an updated organization chart for senior management at Lek along with their job descriptions.

Finally, to reiterate DTCC’s request in the DTCC Letter, **effective July 30, 2021** (adjusted from July 28, 2021), Lek must provide to NSCC and DTC the requested daily report of Lek’s liquidity resources, including a description of all liquidity resources, how much of each resource is utilized each day, and how much excess liquidity is still available under each resource each day. Please see the DTCC Letter or pages [4-5] of this letter for the format and information to be provided each day.

Also **effective with Monday’s morning, August 2, 2021, collection of NSCC Clearing Fund** (adjusted from July 28, 2021) and as described in the DTCC Letter:

- Lek may be subject to an increased Clearing Fund deposit, such that Lek’s Required Fund Deposit to the NSCC Clearing Fund shall be, at all times, no lower than \$31MM.

- Lek's Net Debit Cap may be reduced to \$50MM.

Lek must send all requested information (and set forth in the DTCC Letter and this letter) to [mleibrock@dtcc.com](mailto:mleibrock@dtcc.com), [dmcelligott@dtcc.com](mailto:dmcelligott@dtcc.com), [thulse@dtcc.com](mailto:thulse@dtcc.com), [srosales@dtcc.com](mailto:srosales@dtcc.com), [lpellecchio@dtcc.com](mailto:lpellecchio@dtcc.com), and [Credit-MarketRisk@dtcc.com](mailto:Credit-MarketRisk@dtcc.com) no later than 12:00pm ET on **July 30, 2021**. If Lek fails to do so, NSCC and DTC will immediately consider additional actions, which may include, but is not limited to, a restriction on activity or a recommendation that NSCC and DTC cease to act for Lek.

DTCC reminds Lek that it is obligated to notify DTCC of developments that could impact Lek's ability to remain a member in good standing at NSCC and DTC, including, but not limited to, any changes in the firm's liquidity resources, settling bank, and any other significant developments. While Lek admitted in the Lek Response that such notification is "important," the Lek Response, in particular the BMOH Letter, reflects that Lek was aware of the pending material change in its credit and liquidity profile as a result of BMOH's termination for some time, and had failed to notify DTCC of these facts timely, as required by the DTC and NSCC Rules.

This letter is without waiver of any of NSCC's, DTC's, and DTCC's legal and equitable rights, all of which are hereby expressly reserved, including, without limitation, NSCC's, DTC's, and DTCC's right to seek additional adequate assurances or take such other steps as it deems appropriate under its Rules and Procedures.

Sincerely,

Michael Leibrock  
Managing Director  
Depository Trust & Clearing Corporation

cc: Dan McElligott  
Tim Cuddihy  
Tim Hulse  
Isaac Montal



**Please provide the following Liquidity information on a daily basis, starting on July 30.**

Using the table below, please provide an inventory of your firm’s available liquidity sources and provide any supporting documentation (e.g. loan agreements, etc.). Please indicate the intended use of each liquidity source, which of these sources are available for meeting clearing fund requirements at DTCC, and any limitations or restrictions on the use of each liquidity source. Please provide documentation for each liquidity source as well.

Please describe what liquidity sources your firm typically uses to meet clearing fund requirement each day (i.e. what is your primary source, what is your secondary source, and what sources are available only as a back-up if additional liquidity is needed).

Please confirm whether your firm has had any significant change in its available liquidity resources since the last report provided to DTCC and confirm if the firm expects to have a need to raise any new sources of liquidity in the near term. If the firm has had or expects any significant change in liquidity, please describe the specific actions your firm has taken or plans to take and provide supporting documentation (e.g. executed or draft loan agreement).

Please describe the firm’s liquidity stress testing (including the stress scenarios considered) and contingency plan in the event of an unexpected spike in the need for liquidity.

Source of Liquidity (i.e. name of counterparty, etc.)	Type of Liquidity Source (e.g. cash, line of credit, other)	Committed or Uncommitted	Secured or Unsecured	Intended Use	Available for Meeting DTCC Clearing Fund Requirements (yes/no)	Restrictions on Usage (describe)	Amount of Liquidity Source	Amount Currently Used			Balance Remaining	Collateral Available (if applicable)	Balance Available to Access
								Total	Used for Clearing Fund at NSCC and/or FICC	Used for Other Needs			
<i>Example: TBD Bank</i>	<i>Line of credit</i>	<i>Uncommitted</i>	<i>Secured</i>	<i>Margin requirements</i>	<i>yes</i>	<i>N/A</i>	<i>\$30,000,000</i>	<i>\$8,000,000</i>	<i>\$3,000,000</i>	<i>\$5,000,000</i>	<i>\$22,000,000</i>	<i>\$12,000,000</i>	<i>\$12,000,000</i>

Member Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

Date: \_\_\_\_\_

## **LSC Exhibit 5**



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**From:** Hulse, Timothy B. <[thulse@dtcc.com](mailto:thulse@dtcc.com)>

**Sent:** Monday, 2 August 2021, 08:41

**To:** Shaniqua Jones

**Cc:** Charles Lek; Leibrock, Michael; Cuddihy, Timothy J.; Rosales, Sandro; McElligott, Daniel M.

**Subject:** Lek Securities Corp. ("Lek")

Shaniqua,

DTCC has attempted to reach Charles directly on Friday and again this morning but have had no success. As discussed this morning, DTCC still has open questions regarding our request(s) for information from Lek. As of this morning, DTCC will set Lek's minimum required deposit at NSCC to \$20 million and lower Lek's net debit cap at DTC to \$50 million. A letter detailing our open questions will be delivered to Lek shortly.

Regards,

Timothy B. Hulse  
Financial Risk Management  
[thulse@dtcc.com](mailto:thulse@dtcc.com)  
Office: (212) 855-5641  
Cell: (917) 453-8674

**DTCC**

Securities Industry Manual, Section 1.1

DTCC Confidential (Yellow)

DTCC DISCLAIMER: This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error, please notify us immediately and delete the email and any attachments from your system. The recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email. Message content created by DTCC is automatically secured using Transport Layer Security (TLS) encryption and will be encrypted and sent through a secure transmission connection if the recipient's system is configured to support TLS on the incoming email gateway. If there is no TLS configured or the encryption certificate is invalid on the recipient's system, the email communication will be sent through an unencrypted channel. Organizations communicating with DTCC should be using TLS v1.2 or newer to ensure continuation of encrypted communications. DTCC will not be responsible for any disclosure of private information or any related security incident resulting from an organization's inability to receive secure electronic communications through the current version of TLS.

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**OS Received 11/01/2021**

## **LSC Exhibit 6**

August 4, 2021

**BY EMAIL**

Secretary of the Corporation  
DTCC  
55 Water Street  
New York, NY 10041  
corporatesecretary@dtcc.com

**Lek Securities Corporation (Member #0512): Changes to NSCC's  
Minimum Required Deposit and DTC's Net Debit Cap**

Dear Secretary of the Corporation:

This letter serves as our request under Rule 37 of the National Securities Clearing Corporation ("NSCC") for a hearing to review the NSCC's decision to set the minimum required deposit of Lek Securities Corporation ("LSC") to \$20 million, as communicated in an August 2, 2021 email from Timothy Hulse to Shaniqua Jones of LSC (the "August 2 Email"). A copy of the August 2 Email is attached hereto.

This letter also serves as our request under Rule 22 of the Depository Trust Company ("DTC") for a hearing to review the DTC's decision to reduce LSC's net debit cap to \$50 million, as communicated in the August 2 Email.

The setting of LSC's minimum required deposit to \$20 million and the reduction of LSC's net debit cap to \$50 million (the "Disciplinary Actions") are based on erroneous information and are not warranted under NSCC or DTC rules, and we therefore request hearings pursuant to NSCC and DTC rules so that LSC has the opportunity to be heard and in order to correct the factual record.

The imposition of NSCC's Disciplinary Action would be appropriate under NSCC Rule 48 only for "a violation of any provision of the Rules or the Procedures of the Corporation, such participant's agreements with the Corporation, or for any error, delay or other conduct detrimental to the operations of the Corporation, or for not providing adequate facilities for such participant's business with the Corporation." That predicate for the imposition of the NSCC's Disciplinary Action does not exist here. While the NSCC may have the authority to set minimum required deposits generally, when it does so without basis in fact, such action constitutes a "limitation of or restriction on activities" of LSC and is therefore a "disciplinary proceeding" with respect to LSC pursuant to NSCC Rule 48.

Secretary of the Corporation

August 4, 2021

Page 2

Similarly, the imposition of the DTC's Disciplinary Action would be appropriate under DTC Rule 21 only for "a violation of [DTC's] Rules or [ ] Procedures or for errors, delays or other conduct detrimental to the operations of the Corporation, other Participants or Pledgees, or for not providing adequate facilities for its business with the Corporation." That predicate for the imposition of the DTC's Disciplinary Action also does not exist with respect to LSC. While the DTC may have the authority to reduce (or increase) net debit caps generally, when it does so without basis in fact, as here, such action constitutes a "limitation of activities, functions and operations" of LSC and is therefore a "disciplinary sanction" on LSC pursuant to DTC Rule 21.

The apparent crux of any purported concerns of NSCC, DTC and other SROs arises from a misunderstanding surrounding a letter from counsel to BMO Harris ("BMOH") concerning the orderly winddown of BMOH's relationship with LSC and incorrect assumptions concerning the impact of that winddown on LSC's liquidity and capital.

Separately from the August 2 Email, LSC received a letter on August 3 from the Depository Trust & Clearing Corporation ("DTCC") requesting specified information and was asked by DTCC to submit a response in writing by August 5. LSC is working on completing its written response and expects to submit it by the response deadline.

We look forward to the opportunity to be heard and correct the record with respect to this matter. The undersigned is a representative of LSC who may be contacted with respect to the hearings.

Respectfully submitted,



Charles F. Lek  
Chief Executive Officer

Cc: Timothy Hulse, DTCC  
Michael Leibrock, DTCC  
Timothy Cuddihy, DTCC  
Sandro Rosales, DTCC  
Daniel McElligott, DTCC  
Jeffrey Mooney, Securities and Exchange Commission  
Michael Macchiaroli, Securities and Exchange Commission  
Tom McGowan, Securities and Exchange Commission

## **LSC Exhibit 7**



Isaac Montal  
Managing Director & Deputy General Counsel

55 WATER STREET  
NEW YORK, NY 10041-0099

TEL: 212-855-3253  
[imontal@dtcc.com](mailto:imontal@dtcc.com)

August 6, 2021

VIA EMAIL

Charles Lek  
Lek Securities Corp.  
4 World Trade Center, 44th Floor  
New York, NY 10007

Dear Mr. Lek,

I write in response to the Lek Securities Corporation (“LSC”) letter to NSCC and DTC (collectively, “DTCC”) dated August 4, 2021 (“LSC Letter”). In the LSC Letter, LSC requested a hearing to review NSCC’s decision to set the minimum Required Fund deposit of LSC to \$20 million and DTC’s decision to reduce LSC’s Net Debit Cap to \$50 million. As explained below, LSC is not entitled to a hearing.

In the LSC letter, LSC concedes that NSCC has “the authority and is permitted to set minimum margin requirements generally,” and that DTC has “the authority and is permitted to reduce (or increase) net debit caps generally.” However, LSC argues that when NSCC and DTC took these actions “without basis in fact,<sup>1</sup> such action constitutes a ‘limitation of or restriction on activities’ of LSC and is therefore a ‘disciplinary proceeding’ with respect to LSC” pursuant to NSCC Rule 48 and DTC Rule 21.

As DTCC stated in its letter to LSC dated July 21, 2021, DTCC was imposing the minimum Required Fund Deposit and reducing the Net Debit Cap as risk controls to address the risk management concerns about LSC’s financial responsibility, operational capability, and ability to meet its obligations to DTCC, which arose from, among other things, the information in the BMO Harris letter (“BMOH Letter”) and concerns about the funding of LSC’s promissory note from its parent company.

LSC admits that both NSCC and DTC took permissible and authorized actions under their respective rules, but because LSC disagrees with NSCC’s and DTC’s judgment about the implication of the BMOH Letter and LSC’s current and future financial status, LSC claims that

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<sup>1</sup> LSC uses the term “without basis in fact” throughout the LSC Letter. Neither the NSCC Rules nor the DTC Rules say anything about taking an action “without basis in fact.”



their actions became impermissible and were somehow automatically converted to “disciplinary sanctions” that entitle LSC to a hearing under NSCC Rule 48 and DTC Rule 21.

There is nothing in the NSCC Rules or the DTC Rules to support LSC’s argument. Under the NSCC Rules and DTC Rules, the Required Fund Deposit and the Net Debit Cap are core risk management functions that are within NSCC’s and DTC’s discretion and which NSCC and DTC must carry out every day for the protection of itself, its Members and the market.

The minimum Required Fund Deposit was imposed in accordance with NSCC Rule 15, pursuant to which NSCC can require, among other things, increased clearing fund deposits as adequate assurance of a Member’s financial responsibility as NSCC deems necessary or advisable to promote the prompt and accurate clearance, settlement, and processing of securities transactions, or to protect itself, its Members, or the market.<sup>2</sup> Similarly, under the DTC Rules, DTC has discretion to set the amount of a Participant’s Net Debit Cap.<sup>3</sup> Moreover, a Participant is required to furnish to DTC any assurance of its financial ability requested by DTC and to conform to any conditions that DTC deems necessary for the protection of DTC, its Participants or the market.<sup>4</sup> None of these actions give rise to a right to a hearing under NSCC Rule 37 or DTC Rule 22.

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<sup>2</sup> Section 2 of NSCC Rule 15 provides that “[e]ach Member or Limited Member, or any applicant to become such, shall furnish to the Corporation such adequate assurances of its financial responsibility and operational capability as the Corporation may at any time or from time to time deem necessary or advisable in order to protect the Corporation, its participants, creditors or investors, to safeguard securities and funds in the custody or control of the Corporation and for which the Corporation is responsible, or to promote the prompt and accurate clearance, settlement and processing of securities transactions. . . . Adequate assurances of the financial responsibility or operational capability of a participant or applicant to become such, as may be required pursuant to these Rules and Procedures, may include, but shall not be limited to, as appropriate under the context of the participant’s use of the Corporation’s services . . . increased Clearing Fund deposits (including additional amounts required in respect of trade activity received by the Corporation after calculation of the applicable Required Fund Deposit) . . .”

<sup>3</sup> In DTC Rule 1, “Net Debit Cap” is defined as “an amount determined by the Corporation in the manner specified in the Procedures; provided, however, that the maximum Net Debit Cap of the Participant shall be the least of (i) a maximum amount applicable to all Participants based on the liquidity resources of the Corporation, (ii) the Settling Bank Net Debit Cap applicable to such Participant or (iii) any other amount determined by the Corporation, **in its sole discretion.**” (emphasis added).

<sup>4</sup> Section 2 of DTC Rule 9(A) provides, in part, that “At the request of the Corporation, a Participant or Pledgee shall immediately furnish the Corporation with such assurances as the Corporation shall require of the financial ability of the Participant or Pledgee to fulfill its commitments and shall conform to any conditions which the Corporation deems necessary for the protection of the Corporation, other Participants or Pledgees . . .”

This letter is without waiver of any of NSCC's, DTC's, and DTCC's legal and equitable rights, all of which are hereby expressly reserved, including, without limitation, NSCC's, DTC's, and DTCC's right to seek additional adequate assurances or take such other steps as it deems appropriate under its Rules and Procedures.

Sincerely,

Isaac Montal

cc: Jeffrey Mooney, Securities and Exchange Commission  
Michael Macchiaroli, Securities and Exchange Commission  
Tom McGowan, Securities and Exchange Commission  
Timothy Hulse, DTCC  
Michael Leibrock, DTCC  
Timothy Cuddihy, DTCC

## **LSC Exhibit 8**

August 19, 2021

Isaac Montal  
Managing Director and Deputy  
General Counsel  
Depository Trust & Clearing Corporation  
55 Water Street  
New York, NY 10041-0099

Dear Mr. Montal,

Your letter of August 6, 2021 on behalf of Depository Trust & Clearing Corporation (“DTCC”) and The Depository Trust Company (“DTC”) states that Lek Securities Corporation (“LSC”) is not entitled to a hearing at DTCC or DTC regarding their actions with respect to LSC taken pursuant to DTCC’s and DTC’s letters of July 21, 2021 and July 28, 2021.

Accordingly, LSC will treat the actions taken by DTCC and DTC pursuant to those letters limiting LSC’s access to the services offered by DTCC and DTC as final action for purposes of Rule 240.19d-3 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

Respectfully submitted



Charles F. Lek  
Chief Executive Officer