

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-77750; File Nos. SR-DTC-2016-801; SR-NSCC-2016-801]

Self-Regulatory Organizations; The Depository Trust Company; National Securities Clearing Corporation; Notice of Filing of and No Objection to Advance Notices To Renew the Credit Facility

April 29, 2016.

Pursuant to section 806(e)(1) of title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (“Clearing Supervision Act”) ¹ and Rule 19b-4(n)(1)(i) under the Securities Exchange Act of 1934 (“Act”),² notice is hereby given that on April 15, 2016, The Depository Trust Company (“DTC”) and National Securities Clearing Corporation (“NSCC,” together with DTC, “Clearing Agencies”) filed with the Securities and Exchange Commission (“Commission”) the advance notices SR-DTC-2016-801 and SR-NSCC-2016-801 (“Advance Notices”) as described in Items I, II and III below, which Items have been prepared primarily by the Clearing Agencies. The Commission is publishing this notice to solicit comments on the Advance Notices from interested persons and providing notice that the Commission does not object to the Advance Notices.

I. Clearing Agencies’ Statement of the Terms of Substance of the Advance Notices

The Advance Notices are filed by the Clearing Agencies in connection with the proposed renewal (the “Renewal”) of the Clearing Agencies’ 364-day committed revolving credit facility (the “Credit Facility”). The Renewal is described in greater detail below.³

II. Clearing Agencies’ Statement of the Purpose of, and Statutory Basis for, the Advance Notices

In their filings with the Commission, the Clearing Agencies included statements concerning the purpose of and basis for the Advance Notices and discussed any comments they received on the Advance Notices. The text of these statements may be examined at the places specified in Item IV below.

The Clearing Agencies have prepared summaries, set forth in sections A and B below, of the most significant aspects of such statements.

(A) Clearing Agencies’ Statement on Comments on the Advance Notices Received From Members, Participants, or Others

The Clearing Agencies have not solicited or received any written comments relating to these proposals. The Clearing Agencies will notify the Commission of any written comments received by the Clearing Agencies.

(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Description of the Proposed Change

As part of their liquidity risk management regime, the Clearing Agencies maintain a 364-day committed revolving line of credit with a syndicate of commercial lenders, which is renewed every year. The terms and conditions of the current Renewal would be specified in the Fifteenth Amended and Restated Revolving Credit Agreement, to be dated as of May 10, 2016 (“Renewal Agreement”), among the Clearing Agencies,⁴ the lenders party thereto, the administrative agent and the collateral agent, and are substantially the same as the terms and conditions of the existing credit agreement, dated as of May 12, 2015, as heretofore amended (“Existing Agreement”),⁵ except that pricing and the amount of the aggregate commitment for NSCC may change. The substantive terms of the Renewal Agreement are set forth in the Summary of Indicative Principal Terms and Conditions, dated March 24, 2016, which is not a public document. The aggregate commitments being sought under the Renewal would be for an amount up to \$14 billion for NSCC and DTC together, of which all but a \$1.9 billion commitment would be the aggregate commitment to NSCC as borrower as is provided in the Existing Agreement.

⁴ The Renewal Agreement would provide for both DTC and NSCC as borrowers, with an aggregate commitment of \$1.9 billion for DTC and the amount of any excess aggregate commitment for NSCC. The borrowers are not jointly and severally liable and each lender has a ratable commitment to each borrower. DTC and NSCC provide separate collateral to secure their respective borrowings.

⁵ See Securities Exchange Act Release No. 74906 (May 7, 2015), 80 FR 27714 (May 14, 2015) (SR-DTC-2015-801; SR-NSCC-2015-801).

Expected Effect on Risks to the Clearing Agencies, Their Participants, and the Market

The Renewal would continue to promote the reduction of risks to the Clearing Agencies, their members, and the securities market in general because it would (1) help DTC maintain sufficient liquidity resources to complete system-wide settlement on each business day, with a high degree of confidence and notwithstanding the failure-to-settle of the Participant, or affiliated family of Participants, with the largest net settlement obligation; and (2) help NSCC maintain sufficient liquidity resources to timely meet its settlement obligations with a high degree of confidence. The Renewal Agreement and its substantially similar predecessor agreements have been in place since the introduction of same day funds settlement at the Clearing Agencies.

Management of Identified Risks

The Clearing Agencies require same day liquidity resources to cover the failure-to-settle of NSCC’s Member, or affiliated family of Members, with the largest aggregate liquidity exposure, or of DTC’s Participant, or affiliated family of Participants, with the largest net settlement obligation. If an NSCC Member defaults or a DTC Participant fails to satisfy its end-of-day net settlement obligation, each Clearing Agency may borrow under its line of credit to enable it, if necessary, to fund settlement among non-defaulting Members or DTC Participants.

Any NSCC borrowing would be secured principally by (i) securities deposited by Members in NSCC’s Clearing Fund ⁶ (i.e., the Eligible Clearing Fund Securities, as defined in NSCC’s Rules, pledged by Members to NSCC in lieu of cash Clearing Fund deposits) and (ii) securities cleared through NSCC’s Continuous Net Settlement System that were intended for delivery to the defaulting Member upon payment of its net settlement obligation. In addition to the Credit Facility and the Clearing Fund, NSCC has diversified its liquidity resources by implementing a commercial paper and extendible-term note facility.⁷ As integral parts of NSCC’s risk management structure, the Credit

⁶ NSCC’s Clearing Fund (which operates as its default fund) addresses potential exposure through a number of risk-based component charges calculated and assessed daily and includes additional liquidity deposits by certain Members pursuant to NSCC’s Supplemental Liquidity Deposits rule (NSCC’s Rule 4(A), *supra* note 3).

⁷ See Securities Exchange Act Release No. 75730 (August 19, 2015), 80 FR 51638 (August 25, 2015) (SR-NSCC-2015-802).

¹ 12 U.S.C. 5465(e)(1).

² 17 CFR 240.19b-4(n)(1)(i).

³ Terms not defined herein are defined in NSCC’s Rules and Procedures (“NSCC Rules”), available at www.dtcc.com/~media/Files/Downloads/legal/rules/nscc_rules.pdf or DTC’s Rules, available at www.dtcc.com/~media/Files/Downloads/legal/rules/dtc_rules.pdf.

Facility, the commercial paper and extendible-term note facility and the Clearing Fund, together, provide NSCC liquidity to complete end-of-day net funds settlement.

Any DTC borrowing would be secured principally by securities that were intended to be delivered to the defaulting Participant upon payment of its net settlement obligation and securities previously designated by the defaulting Participant as collateral. The Credit Facility is built into DTC's primary risk management controls, the Net Debit Cap⁸ and Collateral Monitor,⁹ which together require that the end-of-day net funds settlement obligation of a Participant cannot exceed DTC's liquidity resources and is fully collateralized.

The Credit Facility is a cornerstone of each of the Clearing Agencies' risk management, and this Renewal is critical to each of the Clearing Agencies' risk management infrastructure. Because the Renewal Agreement would preserve substantially similar terms and conditions to the Existing Agreement, the Clearing Agencies believe that the Renewal would not otherwise affect or alter the management of risk at the Clearing Agencies.

Consistency With the Clearing Supervision Act

The Clearing Agencies believe the Renewal is consistent with section 805(b) of the Clearing Supervision Act.¹⁰ The objectives and principles of section 805(b) of the Clearing Supervision Act are the promotion of robust risk management, promotion of safety and soundness, reduction of

systemic risks, and support of the stability of the broader financial system.¹¹ The Clearing Agencies believe that the Renewal would promote these objectives and principles because it would provide a continuing source of committed liquidity for NSCC to meet its settlement obligations and for DTC to complete net funds settlement among non-defaulting Participants, thus mitigating liquidity risk.

The Clearing Agencies believe the Renewal also is consistent with Clearing Agency Standards, in particular, Commission Rule 17Ad-22(b)(3)¹² and Rule 17Ad-22(d)(11).¹³ Commission Rule 17Ad-22(b)(3)¹⁴ requires a central counterparty, like NSCC, to "establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in extreme but plausible market conditions" The Clearing Agencies believe the Renewal is consistent with Rule 17Ad-22(b)(3)¹⁵ because it would help NSCC maintain sufficient financial resources to withstand, at a minimum, a default by a Member to which NSCC has the largest exposure.

Commission Rule 17Ad-22(d)(11)¹⁶ requires that registered clearing agencies, like NSCC and DTC, "establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default." The Clearing Agencies believe that the Renewal is consistent with Rule 17Ad-22(d)(11)¹⁷ because it would provide the Clearing Agencies with a readily available liquidity resource that would enable the Clearing Agencies to continue to meet their obligations in a timely fashion, in the event of a Member default at NSCC or Participant default at DTC, thereby helping to contain losses and liquidity pressures from that default.

III. Date of Effectiveness of the Advance Notices and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) the date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The Clearing Agencies shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the Clearing Agencies with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the Advance Notices are filed, or the date further information requested by the Commission is received, if the Commission notifies the Clearing Agencies in writing that it does not object to the proposed change and authorizes the Clearing Agencies to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The Clearing Agencies shall post notice on their Web site of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the Advance Notices are consistent with the Clearing Supervision Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-DTC-2016-801 or SR-NSCC-2016-801 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-DTC-2016-801 or SR-NSCC-2016-801. One of these file numbers should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will

⁸ The Net Debit Cap risk control is designed so that DTC may complete settlement among non-defaulting Participants, even if the Participant or affiliated family of Participants with the largest settlement obligation that day fails to settle. Before completing a transaction in which a Participant is the receiver, DTC calculates the effect the transaction would have on such Participant's Settlement Account, and determines whether any resulting Net Debit Balance would exceed the Participant's Net Debit Cap. Any transaction that would cause the Net Debit Balance to exceed the Net Debit Cap is placed on a pending (recycling) queue until the Net Debit Cap will not be exceeded by processing the transaction.

⁹ DTC tracks Collateral in a Participant's account through the Collateral Monitor. At all times, the Collateral Monitor reflects the amount by which the Collateral Value in the account exceeds the Net Debit Balance in the account. When processing a transaction, DTC verifies that the Collateral Monitor of each of the deliverer and receiver will not become negative when the transaction is processed. If the transaction would cause either party's Settlement Account to have insufficient collateral to support its net settlement obligation, the transaction will recycle until the deficient account has sufficient Collateral to proceed or until the applicable cutoff time occurs.

¹⁰ 12 U.S.C. 5464(b).

¹¹ *Id.*

¹² 17 CFR 240.17Ad-22(b)(3).

¹³ 17 CFR 240.17Ad-22(d)(11).

¹⁴ 17 CFR 240.17Ad-22(b)(3).

¹⁵ *Id.*

¹⁶ 17 CFR 240.17Ad-22(d)(11).

¹⁷ *Id.*

post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the Advance Notices that are filed with the Commission, and all written communications relating to the Advance Notices between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filings also will be available for inspection and copying at the principal office of the Clearing Agencies and on DTCC's Web site (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-DTC-2016-801 or SR-NSCC-2016-801 and should be submitted on or before May 26, 2016.

V. Commission Findings and Notice of No Objection

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive.¹⁸ The stated purpose is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities ("FMUs") and strengthening the liquidity of systemically important FMUs.¹⁹ Section 805(a)(2) of the Clearing Supervision Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the Supervisory Agency or the appropriate financial regulator.²⁰ Section 805(b) of the Clearing Supervision Act states that the objectives and principles for the risk management standards prescribed under section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;

- reduce systemic risks; and
- support the stability of the broader financial system.²¹

The Commission has adopted risk management standards under section 805(a)(2) of the Clearing Supervision Act and the Act ("Clearing Agency Standards").²² The Clearing Agency Standards require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.²³ Therefore, it is appropriate for the Commission to review advance notices against these Clearing Agency Standards and the objectives and principles of these risk management standards as described in section 805(b) of the Clearing Supervision Act.²⁴

The Commission believes that the proposal in the Advance Notices is consistent with Clearing Agency Standards, in particular, Rule 17Ad-22(d)(11) of the Act²⁵ for NSCC and DTC, and Rule 17Ad-22(b)(3) of the Act²⁶ for NSCC. Rule 17Ad-22(d)(11) requires that registered clearing agencies "establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable . . . establish default procedures that ensure that the clearing agency can take timely action to contain losses and liquidity pressures and to continue meeting its obligations in the event of a participant default."²⁷ The Commission believes that the proposal is consistent with Rule 17Ad-22(d)(11) because the renewed Credit Facility will provide the Clearing Agencies with a readily available liquidity resource that will enable them to continue to meet their respective obligations in a timely fashion, in the event of a member default, thereby helping to contain losses and liquidity pressures from that default.

Rule 17Ad-22(b)(3) of the Act requires a central counterparty, like NSCC, to "establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [m]aintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in

extreme but plausible market conditions" ²⁸ The Commission believes that the proposal is consistent with Rule 17Ad-22(b)(3) because the renewed credit facility will continue to provide NSCC with a readily available liquidity resource that helps NSCC maintain sufficient financial resources to withstand, at a minimum, a default by an NSCC member to which NSCC has the largest exposure.

For these reasons, the Commission believes the Advance Notices are consistent with the objectives and principles described in section 805(b) of the Clearing Supervision Act,²⁹ including that they reduce systemic risks and support the stability of the broader financial system. As discussed above, the renewal of the Credit Facility will provide the Clearing Agencies needed liquidity if they experience severe liquidity pressure from a member default. Given that the Clearing Agencies have been designated as systemically important FMUs, the Clearing Agencies' ability to provide their clearing services during such an event contributes to reducing systemic risks and supporting the stability of the broader financial system.

For the reasons stated above, the Commission does not object to the Advance Notices.

VI. Conclusion

It is therefore noticed, pursuant to section 806(e)(1)(I) of the Clearing Supervision Act,³⁰ that the Commission *does not object* to the Advance Notices SR-DTC-2016-801 and SR-NSCC-2016-801 and that DTC and NSCC be and hereby are *authorized* to implement the change as of the date of this notice.

By the Commission.

Brent J. Fields,
Secretary.

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²¹ 12 U.S.C. 5464(b).

²² See 17 CFR 240.17Ad-22; Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7-08-11).

²³ *Id.*

²⁴ 12 U.S.C. 5464(b).

²⁵ 17 CFR 240.17Ad-22(d)(11).

²⁶ 17 CFR 240.17Ad-22(b)(3).

²⁷ 17 CFR 240.17Ad-22(d)(11).

¹⁸ See 12 U.S.C. 5461(b).

¹⁹ *Id.*

²⁰ 12 U.S.C. 5464(a)(2).

²⁸ 17 CFR 240.17Ad-22(b)(3).

²⁹ 12 U.S.C. 5464(b).

³⁰ 12 U.S.C. 5465(e)(1)(I).