

The Exchange states that this change will harmonize the handling of all no-change orders and quotes so that any no-change order or bulk message bid or offer will lose priority.<sup>7</sup> Further, the Exchange states that this proposal will also codify current System functionality that causes a resting order to lose its priority position if any cancel/replace message is submitted if any term other than the Max Floor (if a Reserve Order)<sup>8</sup> or the stop price (if a Stop or Stop-Limit order<sup>9</sup>) is modified.<sup>10</sup>

### III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>11</sup> In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5)<sup>12</sup> and 6(b)(8)<sup>13</sup> of the Exchange Act. Section 6(b)(5) of the Exchange Act requires that the rules of a national securities exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Exchange Act requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or

appropriate in furtherance of the purposes of the Exchange Act.

The Commission believes that requiring the System to handle all cancel/replace orders in a uniform manner with respect to priority of affected resting orders is consistent with the Exchange Act in that such requirement is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. Furthermore, the Commission believes that narrowly restricting when a resting order retains its priority after the System receives a subsequent cancel/replace message (*e.g.*, its only modifies the Max Floor of the resting order) is designed, to, among other things, promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest without imposing any unreasonable burdens on competition.

Accordingly, the Commission finds that the proposed rule change is consistent with the Exchange Act.

### IV. Conclusion

*It is therefore ordered* that, pursuant to Section 19(b)(2) of the Exchange Act,<sup>14</sup> the proposed rule change (SR-CBOE-2022-038) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95650; File No. SR-NSCC-2022-009]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Designation of Longer Period for Commission Action on a Proposed Rule Change To Adopt Intraday Volatility Charge and Eliminate Intraday Backtesting Charge

September 1, 2022.

On July 7, 2022, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange

Commission (“Commission”) proposed rule change SR-NSCC-2022-009 (the “Proposed Rule Change”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> The Proposed Rule Change was published for comment in the **Federal Register** on July 20, 2022,<sup>3</sup> and the Commission has received comments regarding the changes proposed in the Proposed Rule Change.<sup>4</sup>

Section 19(b)(2) of the Act<sup>5</sup> provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for the Proposed Rule Change is September 3, 2022.

The Commission is extending the 45-day period for Commission action on the Proposed Rule Change. The Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change so that it has sufficient time to consider and take action on the Proposed Rule Change.

Accordingly, pursuant to Section 19(b)(2) of the Act<sup>6</sup> and for the reasons stated above, the Commission designates October 18, 2022, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove proposed rule change SR-NSCC-2022-009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**J. Matthew DeLesDernier,**  
*Deputy Secretary.*

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 95286 (July 7, 2022), 87 FR 43355 (July 20, 2022) (File No. SR-NSCC-2022-009) (“Notice of Filing”).

<sup>4</sup> Comments are available at <https://www.sec.gov/comments/sr-nsc-2022-009/srnscc2022009.htm>.

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> *Id.*

<sup>7</sup> 17 CFR 200.30-3(a)(31).

<sup>7</sup> See *id.*

<sup>8</sup> A “Reserve Order” is a limit order with both a portion of the quantity displayed and a reserve portion of the quantity not displayed. See CBOE Rule 5.6.

<sup>9</sup> A “Stop (Stop-Loss)” order is an order to buy (sell) that becomes a market order when the consolidated last sale price (excluding prices from complex order trades if outside of the NBBO) or NBB (NBO) for a particular option contract is equal to or above (below) the stop price specified by the User. A “Stop-Limit” order is an order to buy (sell) that becomes a limit order when the consolidated last sale price (excluding prices from complex order trades if outside of the NBBO) or NBB (NBO) for a particular option contract is equal to or above (below) the stop price specified by the User. See CBOE Rule 5.6.

<sup>10</sup> See Notice, *supra* note 3, at 44439.

<sup>11</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78f(b)(8).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</sup> 17 CFR 200.30-3(a)(12).