Exchange notes that, with respect to the change to require the use of the Pilot Securities beginning thirty days prior to the start of the Pilot Period, the proposed change reduces the number of securities on which affected members otherwise would have been required to collect data pursuant to the Plan and Exchange Rule 11.27(b). In addition, the proposed rule change applies equally to all similarly situated members. Therefore, the Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and Rule 19b–4(f)(6) [26] thereunder because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) by its terms, become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b–4(f)(6) [27] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[28] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that so that the proposed rule change can become operative on August 30, 2016.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to implement the proposed rules immediately thereby preventing delays in the implementation of the Plan. The Commission notes that the Plan is scheduled to start on October 3, 2016. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[29]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[30]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the 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–BatsBYX–2016–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBYX–2016–25. This file number 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 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 proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change 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 such filing also will be available for inspection and copying at the principal office of the Exchange. 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–BatsBYX–2016–25 and should be submitted on or before October 6, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Brent J. Fields,

Secretary.

[FR Doc. 2016–22145 Filed 9–14–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78808; File No. SR–NSCC–2016–004]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Describe the Backtesting Charge and the Bank Holiday Charge That May Be Imposed on Members

September 9, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 2, 2016, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to the Rules and Procedures of NSCC ("NSCC Rules") [3] in order to include two margin charges (the "Backtesting Charge" and "Bank

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6).

[27] 17 CFR 240.19b–4(f)(6).

[28] 17 CFR 240.19b–4(f)(6)(iii).

[29] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[30] 15 U.S.C. 78s(b)(3)(C).

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The NSCC Rules are available at *http://www.dtcc.com/legal/rules-and-procedures.* Capitalized terms used herein and not otherwise defined shall have the meaning assigned to such terms in the NSCC Rules.

Holiday Charge'' as further described below) that may be imposed on NSCC Members. The Backtesting Charge is assessed for those Members whose portfolios experience backtesting deficiencies over the prior 12-month period, as described further below. The Backtesting Charge is calculated to mitigate exposures to the Corporation caused by settlement risks that may not be adequately captured by the Corporation's portfolio volatility model. The Bank Holiday Charge is applied to all NSCC Members on the business day prior to any day on which the U.S. equities markets are open for trading, but the Board of Governors of the Federal Reserve System observes a holiday and banks are closed (''Holiday''). The Bank Holiday Charge addresses the risk exposure that a Member's trading activity on the applicable Holiday poses to the Corporation. The proposed rule change would amend NSCC Procedure XV to include the Backtesting Charge and Bank Holiday Charge as additional charges that may be added to its Members' Clearing Fund Required Deposit, including the manner and circumstances in which NSCC calculates and imposes such charges. NSCC is filing this proposed rule change in order to provide transparency in the NSCC Rules with respect to these existing charges, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change provides transparency in the NSCC Rules with respect to the Backtesting Charge and the Bank Holiday Charge, two margin charges that NSCC may temporarily impose on a Member as part of such Member's Required Deposit to the NSCC Clearing Fund.

NSCC may impose the Backtesting Charge on an NSCC Member when the Corporation has observed deficiencies in the backtesting of such Member's Required Deposit over the prior 12-month period, such that NSCC determines the value-at-risk (''VaR'') margin charge being calculated for that Member may not fully address the projected liquidation losses estimated from that Member's settlement activity.

The Bank Holiday Charge addresses the risk exposure that occurs on Holidays when NSCC is unable to collect Clearing Fund from its Members. NSCC imposes the Bank Holiday Charge on all Members to cover the additional day of exposure that is not contemplated in the prior day's VaR charge.

(i) Background

A. Backtesting and the Required Deposit

NSCC's Clearing Fund addresses potential Member exposure through a number of risk-based component charges (as margin) calculated and assessed daily. Each of the component charges collectively constitute [sic] a Member's Required Deposit. The objective of the Required Deposit is to mitigate potential losses to NSCC associated with liquidation of the Member's portfolio in the event that NSCC ceases to act for a Member (hereinafter referred to as a ''default''). NSCC determines Required Deposit amounts using a risk-based margin methodology that is intended to capture market price risk. The methodology uses historical market moves to project or forecast the potential gains or losses on the liquidation of a defaulting Member's portfolio, assuming that a portfolio would take three days to liquidate or hedge in normal market conditions. The projected liquidation gains or losses are used to determine the Member's Required Deposit, which is calculated to cover projected liquidation losses at a 99 percent confidence level. The aggregate of all Members' Required Deposits constitutes NSCC's Clearing Fund, which NSCC would be able to access should a defaulting Member's own Required Deposit be insufficient to satisfy losses to NSCC caused by the liquidation of that Member's portfolio.

NSCC employs daily backtesting to determine the adequacy of each Member's Required Deposit. NSCC compares the Required Deposit [4] for each Member with the simulated liquidation gains/losses using the actual positions in the Member's portfolio, and the actual historical security returns. NSCC investigates the cause(s) of any backtesting deficiencies. As a part of this investigation, NSCC pays particular attention to Members with backtesting deficiencies that bring the results for that Member below the 99 percent confidence target (*i.e.,* greater than two backtesting deficiency days in a rolling twelve-month period) to determine if there is an identifiable cause of repeat backtesting deficiencies. NSCC also evaluates whether multiple Members may experience backtesting deficiencies for the same underlying reason.

While multiple factors may contribute to a Member's backtesting deficiency, NSCC has observed that some Members with position increases after the calculation of their Required Deposit may incur backtesting deficiencies due to the additional exposure that is not mitigated until the collection of the Required Deposit on the next business day.

B. Calculation of the Backtesting Charge

The objective of the Backtesting Charge is to increase Required Deposits for Members that are likely to experience backtesting deficiencies on the basis described above by an amount sufficient to maintain such Member's backtesting coverage above the 99 percent confidence threshold. Because the settlement activity and size of the backtesting deficiencies varies among impacted Members, NSCC must assess a Backtesting Charge that is specific to each impacted Member. To do so, NSCC examines each impacted Member's historical backtesting deficiencies observed over the prior 12-month period to identify the three largest backtesting deficiencies that have occurred during that time. The presumptive Backtesting Charge amount equals that Member's third largest historical backtesting deficiency, subject to adjustment as further described below. NSCC believes that applying an additional margin charge equal to the third largest historical backtesting deficiency to a Member's Required Deposit would bring the Member's historically-observed backtesting coverage above the 99 percent target.[5] If assessed, the resulting Backtesting Charge is added to the Required Deposit for such Member determined pursuant to NSCC's risk-based margining methodology, and is imposed on a daily basis for a one-month period.

This charge is only applicable to those Members whose overall 12-month

[4] For backtesting comparisons, NSCC uses the Required Deposit amount, without regard to the actual collateral posted by the Member.

[5] Each occurrence of a backtesting deficiency reduces a Member's overall backtesting coverage by 0.4 percent (1 exception/250 observation days). Accordingly, an increase equal to the third largest backtesting deficiency would bring backtesting coverage up to 99.2 percent.

trailing backtesting coverage falls below the 99 percent coverage target.

Although the third largest historical backtesting deficiency for a Member is used as the Backtesting Charge in most cases, NSCC retains discretion to adjust the charge amount based on other circumstances that may be relevant for assessing whether an impacted Member is likely to experience future backtesting deficiencies and the estimated size of such deficiencies. Examples of relevant circumstances that would be considered in calculating the final, applicable Backtesting Charge amount include material differences in the three largest backtesting deficiencies observed over the prior 12-month period, variability in the net settlement activity after the collection of the Member's Required Deposit, seasonality in observed backtesting deficiencies and observed market price volatility in excess of the Member's historical VaR charge. Based on NSCC's assessment of the impact of these circumstances on the likelihood of, and estimated size of, future backtesting deficiencies for a Member, NSCC may, in its discretion, adjust the Backtesting Charge for such Member in an amount that NSCC determines to be more appropriate for maintaining such Member's backtesting results above the 99 percent coverage threshold (including a reasonable buffer).

C. Communication With Members and Imposition of the Backtesting Charge

If NSCC determines that a Backtesting Charge should apply to a Member that was not assessed a Backtesting Charge during the immediately preceding month or that the Backtesting Charge applied to a Member during the previous month should be increased, NSCC will notify the Member on or around the 25th calendar day of the month prior to the assessment of the Backtesting Charge, or prior to the increase to the Backtesting Charge.

NSCC imposes the Backtesting Charge as an additional charge applied to each impacted Member's Required Deposit on a daily basis for a one month period, and reviews each applied Backtesting Charge each month. If an impacted Member's trailing 12-month backtesting coverage exceeds 99 percent (without taking into account historically-imposed Backtesting Charges), the Backtesting Charge is removed.

D. Holidays and the Required Deposit

As described above, NSCC determines its Members' Required Deposit amounts using a risk-based margin methodology that is intended to capture market price risk, assuming that a portfolio would take three days to liquidate or hedge in normal market conditions.

The Bank Holiday Charge may be applied on the business day prior to any Holiday. This charge approximates the exposure that a Member's trading activity on the applicable Holiday could pose to NSCC. Since NSCC cannot collect margin on the Holiday, the Bank Holiday Charge is due on the business day prior to the applicable Holiday.

E. Calculation and Notification of the Holiday Charge

NSCC would determine the appropriate methodology for calculating the Bank Holiday Charge in advance of each applicable Holiday. Potential methodologies for calculating the Bank Holiday Charge include, for example, time scaling of the VaR charge [6] or application of stress scenarios that cover potential market price risk exposure that may not be appropriately covered by scaling the VaR charge. NSCC would establish a methodology for calculating each Bank Holiday Charge that would take into consideration the market conditions prevailing at that time in order to permit NSCC to calculate a Bank Holiday Charge that appropriately estimates the risk that may be presented to NSCC on the applicable Holiday, when Members' Required Deposit cannot be collected. The Bank Holiday Charge would represent a percentage increase of the volatility charge on the business day prior to the Holiday, and such percentage increase applies uniformly to all Members. This means that if the Bank Holiday Charge is levied, the same methodology (*i.e.,* formula) is applied to all Members (that is, the Bank Holiday Charge is not a set dollar amount applied to all Members).

Members would be notified of the applicable methodology by an Important Notice issued no later than 10 business days prior to the application the Bank Holiday Charge, and the charge is collected on the business day prior to the applicable Holiday. The Bank Holiday Charge is removed from the Required Deposit on the business day following the Holiday.

[6] Market price risk and volatility increase with time as there is a greater potential for loss. This additional risk exposure is often approximated by time scaling of volatility by multiplying square root of the additional period of risk (e.g., if the VaR charge is calibrated to a 3-day risk horizon, an additional day of exposure could be approximated by $\sqrt{4/3}$ * VaR charge).

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are within the custody or control of the clearing agency.[7] Rule 17Ad–22(b)(1) under the Act requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to measure its credit exposures to its participants at least once a day and limit its exposures to potential losses from defaults by its participants under normal market conditions, so that the operations of the clearing agency would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.[8] Rule 17Ad–22(b)(2) under the Act requires a clearing agency to maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions.[9]

By incorporating the Backtesting Charge and the Bank Holiday Charge into the NSCC Rules, the proposed change addresses exposure that could subject NSCC to potential losses under normal market conditions in the event that a Member defaults. Specifically, the proposed rule change seeks to remedy potential situations that are described above where NSCC could be undermargined by requiring additional margin. Therefore, NSCC believes the

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(b)(1).

[9] 17 CFR 240.17Ad–22(b)(2).

proposed rule change enhances the safeguarding of securities and funds that are in the custody or control of NSCC, consistent with section 17(b)(3)(F) of the Act.

NSCC's Backtesting Charge is calculated and imposed to cover credit exposures estimated by NSCC based on historical backtesting deficiencies with the goal of maintaining each Member's Required Deposit above the 99 percent coverage threshold. This management of NSCC's credit exposures to Members is consistent with Rule 17Ad–22(b)(1) under the Act. Further, the charge is part of the Members' Required Deposits designed to maintain the coverage of credit exposures at a confidence level of at least 99 percent, which limits NSCC's exposures to Members under normal market conditions. It therefore is also consistent with Rule 17Ad–22(b)(2) under the Act. The proposed Backtesting Charge seeks to address backtesting deficiencies that could potentially leave NSCC undermargined by using the risk-based methodology described above to limit its credit exposure to Members.

NSCC's Bank Holiday Charge is calculated and imposed to cover credit exposures that results from market price moves that occur on a Holiday and are not incorporated in each Member's Required Deposit. This management of NSCC's credit exposures to Members is consistent with Rules 17Ad–22(b)(1) and 17Ad–22(b)(2) under the Act.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that either the Backtesting Charge or the Bank Holiday Charge impose any burden on competition that is not necessary or appropriate.[10] These charges are necessary for NSCC to limit its exposure to potential losses from defaults by Members.

The Backtesting Charge is imposed on each Member on an individualized basis in an amount reasonably calculated to maintain its Required Deposit above NSCC's 99 percent coverage threshold. NSCC employs reasonable methods to calculate and impose an individualized charge in an amount designed to maintain each impacted Member's future backtesting coverage above the 99 percent coverage threshold, including a reasonable buffer.

Because the market price movements that occur on Holidays are related to the behavior of the market as a whole, the impact of such price movements on NSCC's risk is considered general market price risk. Therefore, the Bank Holiday Charge is imposed on all Members on a uniform basis in an amount reasonably calculated to mitigate the market price changes that could occur on a Holiday when banks are closed and NSCC is unable to collect Clearing Fund. The Bank Holiday Charge would represent a percentage increase of the volatility charge on the business day prior to the Holiday, and such percentage increase applies uniformly to all Members. This means that if the Bank Holiday Charge is levied, the same methodology (*i.e.,* formula) is applied to all Members (that is, the Bank Holiday Charge is not a set dollar amount applied to all Members).

NSCC believes any burden on competition imposed by the addition of these two charges to the NSCC Rules would be necessary and appropriate to limit NSCC's exposures to the risks being mitigated by such charges.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received any written comments relating to this proposal. NSCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the 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–NSCC–2016–004 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–NSCC–2016–004. This file number 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 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 proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change 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 filing also will be available for inspection and copying at the principal office of NSCC 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–NSCC–2016–004 and should be submitted on or before October 6, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

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[10] 15 U.S.C. 78q–1(b)(3)(I).

[11] 17 CFR 200.30–3(a)(12).