A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] 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. Waiver of the operative delay would allow the Exchange to immediately delay the implementation of SR–NASDAQ–2021–009 and provide the Exchange additional time to test and implement new LULD closing cross functionalities. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[13]

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. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or 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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2021–105 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–NASDAQ–2021–105. 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 website (*https://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 website 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 the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2021–105 and should be submitted on or before January 26, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2021–28570 Filed 1–4–22; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93873; File No. SR–NSCC–2021–017]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Add Fees for NSCC's MF Info Xchange Service, Modify Fees for NSCC's Alternative Investment Product Service and Make Certain Other Clarification Changes to Addendum A of the NSCC Rules

December 29, 2021.

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 December 27, 2021, 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 primarily by the clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and subparagraphs (f)(2) and (f)(4)[4] of Rule 19b–4 thereunder. 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

(a) The proposed rule change of National Securities Clearing Corporation (''NSCC'') is annexed hereto as Exhibit 5 and consists of modifications to Addendum A (Fee Structure) (''Addendum A'') of NSCC's Rules & Procedures (''Rules'') in order to (i) add fees for NSCC's MF Info Xchange service, (ii) make certain adjustments in the fees for NSCC's Alternative Investment Product service (''AIP'') and (iii) make certain other clarification changes to Addendum A, as described below.[5]

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

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(2) and (f)(4).

[5] Capitalized terms used herein and not otherwise defined shall have the meaning assigned to such terms in the Rules, *available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

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 purpose of this proposed rule change is to (i) add fees for MF Info Xchange, (ii) make certain adjustments in the fees for AIP and (iii) make certain clarifications to Addendum A, as described below. The fee changes are being made to better align fees with the costs of services provided by NSCC by adjusting the fees so that the revenue received by NSCC would be closer to the costs of building and providing the services consistent with NSCC's cost-based plus markup fee model.[6] In general, fee levels for NSCC are set by NSCC after periodic reviews of a number of factors, including revenues, operating costs and potential service enhancements. NSCC also continuously engages in discussions with NSCC Members regarding proposed fee changes and potential impacts.

(i) MF Info Xchange Fees

MF Info Xchange facilitates and centralizes the delivery and receipt of time-critical notifications, including corporate actions, service disruptions, large trade notifications and other critical alerts. The service was launched on November 30, 2018 with 3 event types.[7] Given the limited number of event types available for event notifications upon the launch of MF Info Xchange, NSCC did not charge fees initially for the use of the service.[8] NSCC indicated that it would file with the Commission an appropriate rule change proposal to implement any fees for MF Info Xchange if NSCC added fees for the service.[9] Fund Members are typically funds or asset managers of funds and use MF Info Xchange to send notifications regarding the funds to their distribution partners. NSCC Members that are not Fund Members are typically broker/dealers or other distributors that use MF Info Xchange to receive and track such notifications sent by the Fund Members as well as send notifications to Fund Members about their funds.

Since the launch, MF Info Xchange has been enhanced with an additional 25 event types and additional user interface capabilities. NSCC believes that it is appropriate to begin charging fees for the service given the added capabilities and in order to offset the costs of building and maintaining the service.

NSCC is proposing to implement a two-tiered billing structure for MF Info Xchange based on the anticipated amount of use of the service by NSCC Members.[10] Based on a review of the usage by NSCC Members, NSCC believes that NSCC Members that are not Fund Members and larger Fund Members use the service more than smaller Fund Members. NSCC believes that the number of Security Issue IDs that a Fund Member maintains on Fund/SERV® is a good indication of the size of the Fund Member and the level of usage of MF Info Xchange by such Fund Member. Most notifications in MF Info Xchange relate to a specific security issuance and each Security Issue ID represents a security issuance. Therefore, Fund Members that maintain more Security Issue IDs, will have a greater number of security issuances for which notifications will need to be sent. NSCC Members that are not Fund Members typically receive notifications from multiple Fund Members and often benefit from receiving notifications for a large number of security issuances.

Fund/SERV is an NSCC service providing for the processing and settling of Fund/SERV Eligible Funds.[11] Each Fund/SERV Eligible Fund that is processed through Fund/SERV is required to be assigned a Security Issue ID, such as a CUSIP.[12] NSCC is proposing to charge NSCC Members that are not Fund Members that use MF Info Xchange and Fund Members that maintain more than 25 Security Issue IDs on Fund/SERV that use MF Info Xchange, $1,500 per month (''Tier 1''). NSCC is proposing to charge Fund Members that maintain 25 or fewer Security Issue IDs on Fund/SERV that use MF Info Xchange $250 per month (''Tier 2'').

NSCC believes that the tiered structure will align the fees with the costs of services provided by NSCC by setting the fees so that the revenue received by NSCC would be sufficient to recover the costs of building and maintaining the service. The tiered billing structure is similar to NSCC's billing structure for its Mutual Fund Profile Service (''MFPS''). Users of MFPS that use Phases I & II[13] that have greater than 25 Security Issue IDs in MFPS pay $1,250.00 per month whereas users that have 25 or fewer Security Issue IDs registered in MFPS that use Phases I & II pay $250.00 per month.[14] Based on its experience with MFPS[15] and discussions with Fund Members, NSCC believes that the threshold of greater than 25 Security Issue IDs has been a good estimation of the size of the Fund Member and the amount of use of the service by each Fund Member. Also based on pricing levels and usage in MFPS and discussions with NSCC Members, NSCC believes that the $1,500 and $250 pricing levels are sufficient to recover the costs of building and maintaining the service without being so excessive as to materially disincentivize use of MF Info Xchange.

[6] NSCC has in place procedures to control costs and to regularly review pricing levels against costs of operation. NSCC's fees are cost-based plus a markup as approved by its Board of Directors. This markup is applied to recover development costs and operating expenses, and to accumulate capital sufficient to meet regulatory and economic requirements. *See* NSCC Disclosure Framework for Covered Clearing Agencies and Financial Market Infrastructures, available at *https://www.dtcc.com/-/media/Files/Downloads/legal/policy-and-compliance/NSCC_Disclosure_Framework.pdf,* at 120.

[7] *See* Securities Exchange Act Release No. 84611 (November 16, 2018), 83 FR 59427 (November 23, 2018) (SR–NSCC–2018–010). The initial 3 event types were Fund Merger, Fund Closure—Hard Close and Fund Closure—Soft Close.

[8] *Id.*

[9] *Id.*

[10] For purposes of this filing, NSCC Members refers to Members and Limited Members.

[11] Fund/SERV Eligible Fund means a fund or other pooled investment entity which are subject of orders processed through Mutual Fund Services. *See* definition of ''Fund/SERV Eligible Fund, Rule 1, *supra* note 5 and Section 1(c) of Rule 3, *supra* note 5.

[12] *See* Section 1(c) of Rule 3, *supra* note 5, which requires that unless otherwise required by NSCC, each Fund/SERV Eligible Fund be assigned a CUSIP number. CUSIP is a registered trademark of the American Bankers Association.

[13] Phases I & II are also known as MFPS I (Daily Price and Rate File) and MFPS II (Security Issue Database and Distribution Database). The terms Phase I and Phase II are used in the Rules because MFPS I and MFPS II were implemented in phases with MFPS I implemented first in 1996 and MFPS II implemented in 1999. *See* Securities Exchange Act Release No. 37171 (May 8, 1996), 61 FR 24344 (May 14, 1996) (SR–NSCC–96–04) (order approving MFPS I implementation) and Securities Exchange Act Release No. 40614 (October 28, 1998), 63 FR 59615 (November 4, 1998) (SR–NSCC–98–09) (notice of filing of rule change implementing MFPS II).

[14] Section IV.J.b. of Addendum A and accompanying footnote 5 in Addendum A, *supra* note 5. *See also* Securities Exchange Act Release No. 61413 (January 25, 2010), 75 FR 4894 (January 29, 2010) (SR–NSCC–2009–12) (NSCC introduced the credit for MFPS for smaller fund families that had 25 or fewer funds in their fund family) and Securities Exchange Act Release No. 84771 (December 10, 2018), 83 FR 64393 (December 14, 2018) (SR–NSCC–2018–012) (NSCC reduced the fees in MFPS to current levels) (''2018 Filing'').

[15] After NSCC lowered its fees in 2019 for funds with 25 or fewer Security IDs on MFPS from $850 to $250, the number of such funds using MFPS has doubled. *See* 2018 Filing, *Id.*

(ii) AIP Fee Changes

AIP is a standardized, trading and reporting platform that links the alternative investments industry to securely and efficiently exchange data and money relating to alternative investment products, including hedge funds, funds of funds, private equity, non-traded real estate investment trusts, managed futures and limited partnerships. NSCC has undertaken a strategic review of its pricing structure for AIP, and developed a revenue and pricing strategy with the goal of aligning the pricing of AIP with costs of providing the service. As a result of the review, NSCC has determined that certain fees in AIP have, over time, become misaligned with the costs of service as a result of increased technology run costs relating to the service. NSCC would also like to lower certain fees relating to capital calls and lower volume transfers [16] to incentivize greater use of those products. In connection with the realignment, NSCC is proposing to eliminate a cap of $250,000 currently in place for AIP Distributors. Currently, there are certain products for which a $250,000 fee cap applies for AIP Distributors.[17] Once an AIP Distributor has been charged $250,000 for transactions relating to such products in a calendar year, it will not pay with respect to transactions in those products for the remainder of the calendar year.[18] The fee cap was put in place to incentivize greater use of AIP with respect to certain products for AIP Distributors.[19]

NSCC believes that the fee cap has been successful in incentivizing AIP Distributors to use AIP and to require more of their fund counterparties (*i.e.,* AIP Manufacturers) to use AIP.[20] Given the growth of AIP and to readjust the overall revenues, NSCC no longer believes that the fee cap is necessary as an incentive or appropriate given AIP's operating margin.

NSCC is also proposing to increase lower volume record transaction fees for AIP Manufacturers from $1 to $2 (AIP Distributors will continue to pay $1) in order to better align revenues of AIP with the costs of providing the services.

NSCC is proposing to lower fees relating to capital calls to incentivize use of AIP with respect to capital calls. Capital calls are considered ''Trades'' in the Rules and higher volume Trades are currently priced at a range from $5 per trade to $4 per trade depending on the number of trades in each calendar year [21] and lower volume Trades are $10 per trade.[22] In addition to capital calls, Trades include initial purchases, subsequent purchases, partial redemption requests, full redemption requests and commitments. NSCC has received feedback from AIP Members indicating that capital calls are performed more frequently than other types of Trades and as a result, AIP Members have not been using AIP for capital calls because the AIP Members believe the price is currently too high for both higher volume products and lower volume products with respect to capital calls. As a result, NSCC is proposing to reduce the price for all capital calls to $2 to incentivize use of AIP for capital calls. This reduction would apply to capital calls with respect to higher volume products and lower volume products.

NSCC is also proposing to lower fees relating to lower volume transfers to incentivize use of AIP with respect to lower volume transfers. NSCC has received feedback from AIP Members that lower volume transfers are also priced too high and as a result AIP Members have not been using AIP for lower volume transfers. NSCC is proposing to reduce lower volume transfers from $5 to $2 in order to incentivize use of AIP for lower volume transfers.

(iii) Clarification Changes

NSCC is also proposing to add a heading for Mutual Fund Services in Addendum A and renumber the headings in Addendum A to reflect that a number of services listed in Addendum A fall within Mutual Fund Services. NSCC would also renumber other sections of Addendum A to reflect the renumbering for Mutual Fund Services.

(iv) Proposed Rule Changes

A. MF Info Xchange Fees

NSCC is proposing to add the fees to MF Info Xchange in new proposed section IV.G.5 of Addendum A.

B. AIP Fee Changes

NSCC is proposing to state that all capital calls are $2 per trade in new proposed Section IV.L.1.c (for higher volume capital calls) and new proposed Section IV.L.2.c (for lower volume capital calls) of Addendum A. NSCC would add ''(other than capital calls)'' in proposed sections IV.L.1.b. and IV.L.2.b. of Addendum A to reflect that capital calls would be separately covered in other sections. NSCC is proposing to increase the lower volume record transactions fees for AIP Manufacturers in new proposed section IV.L.2.a. of Addendum A from $1 dollar per trade to $2 dollar per trade. NSCC is also proposing to reduce lower volume transfers from $5 to $2 in new proposed Section IV.L.2.d. of Addendum A. NSCC is proposing to remove the $250,000 fee cap for AIP Distributors in new proposed Section IV.L.3. and to remove the accompanying footnote 12 of Addendum A.

Based on feedback from NSCC Members and a review of other pricing levels, NSCC believes that:

- Reducing fees to $2 for all capital calls and reducing lower volume transfers to $2 would incentivize NSCC Members to begin using AIP with respect to capital calls and with respect to lower volume transfers
- increasing the lower volume record transaction fees from $1 to $2 and removing the fee cap for AIP Distributors would raise revenue to an appropriate level to help ensure that AIP operates with a positive operating margin without being so excessive as to materially disincentivize the use of AIP for lower volume record transactions or the use of AIP by AIP Distributors

C. Clarification Changes

NSCC is proposing to add a heading ''Mutual Fund Services'' in Section IV.G. of Addendum A and proposing to renumber Mutual Fund Services under that heading to reflect the services that fall within Mutual Fund Services. NSCC is also proposing to renumber sections following Section IV.G. to reflect the renumbering within Section IV.G. of Addendum A.

(iii) Expected Member/NSCC Impact

A. MF Info Xchange Fees

The fee changes for MF Info Xchange would impact all users of the service.

[16] AIP has a tiered billing system based on whether services are being used for higher volume products or lower volume products. *See* Section L.O.3 of Addendum A, *supra* note 5, which indicates which products are considered higher volume and which are considered lower volume. Fees are lower with respect to higher volume products.

[17] *See* Section IV.O.3. of Addendum A and accompanying footnote 12 of Addendum A, *supra* note 5.

[18] *Id.*

[19] *See* Securities Exchange Act Release No. 63634 (January 3, 2011), 76 FR 1475 (January 10, 2011) (SR–NSCC–2010–19) (stating that the fee cap was implemented to ''encourage broker-dealers to use the service and expand coverage of these products and increase the value of the overall market'').

[20] For instance, since the fee cap was put in place in 2010, the number of Eligible AIP Products on the AIP platform has grown from under 500 to over 7000.

[21] Section IV.O.1.ii of Addendum A, *supra* note 5.

[22] Section IV.O.2.ii of Addendum A, *supra* note 5.

Based on a review of users in the first quarter of 2021, it is anticipated that initially approximately 67% of the users will fall within Tier 1 and be charged $1,500 per month and approximately 33% of the users will fall within Tier 2 and be charged $250 per month. Of the users in Tier 1, approximately 67% are expected to be Fund Members that maintain more than 25 Security Issue IDs and approximately 33% are expected to be NSCC Members that are not Fund Members.

The fees are intended to cover the costs of developing and maintaining MF Info Xchange in accordance with NSCC's cost-based plus markup fee model.[23] Following the implementation of fees, assuming revenues and expenses remain constant,[24] NSCC anticipates recouping the costs of building MF Info Xchange within approximately three years of implementing the fees and expects to have a positive operating margin thereafter.

B. AIP Fee Changes

In general, NSCC anticipates that, as result of the proposed changes to remove the $250,000 fee cap, four AIP Distributors will see a fee increase for use of the affected products. Based on a review of client invoices in June 2021, which NSCC believes is representative of typical AIP usage, NSCC anticipates that as a result of all of the fee changes approximately 59% of AIP users comprised of mainly AIP Manufacturers engaging in lower volume activity will see a fee increase, approximately 40% of AIP users comprised of mainly AIP users engaging in higher volume activity will see no fee impact and less than 1% of AIP users will see a fee decrease.

The fee changes are intended to realign AIPs revenue with its costs. AIP had a negative operating margin in 2020 and it is anticipated to have a negative operating margin in 2021. Following the fee changes, AIP anticipates that it will have a positive operating margin in 2022 and going forward, consistent with NSCC's cost-based plus markup fee model.[25]

[23] *See* note 6, *supra.*

[24] It is not certain that revenues and expenses will remain constant. Costs of providing the service may change, for instance, if NSCC Members request service enhancements or NSCC's technology costs change. In addition, revenues may change depending on the number of users of the service. NSCC regularly reviews pricing levels against costs of operation. As with its other services, if NSCC determines that its operating margin is too high or too low, NSCC would change pricing levels accordingly. *See* 2018 Filing, *supra* note 14.

[25] *Id.*

(iv) Implementation Timeline

NSCC expects to implement the proposed rule changes on January 1, 2022. As proposed, a legend would be added to Addendum A stating there are changes that became effective upon filing with the Commission but have not yet been implemented. The proposed legend also would include January 1, 2022, as the date on which such changes would be implemented and the file number of this proposal, and state that, once this proposal is implemented, the legend would automatically be removed from Addendum A.

2. Statutory Basis

NSCC believes this proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, NSCC believes this proposal is consistent with Sections 17A(b)(3)(D) [26] and 17A(b)(3)(F) [27] of the Act and Rule 17Ad–22(e)(23)(ii),[28] as promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(D) of the Act [29] requires, in part, that the Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. The proposed fee changes set forth above are consistent with 17A(b)(3)(D) of the Act [30] because the proposed fees would be allocated equitably among the NSCC Members that subscribe for those services based on each NSCC Member's use of such services. In addition, NSCC believes that the proposed fee changes are reasonable because they would enable NSCC to better align its revenue with the costs and expenses required for NSCC to provide the services to NSCC Members consistent with NSCC's cost-based plus markup fee model.[31] Specifically, NSCC has determined that assuming revenue and expenses remain constant,[32] adding the fee for MF Info Xchange would allow NSCC to recoup the investments it has made in building the service within approximately three years and allow it to operate with a positive operating margin going forward. Based on the current usage and projected revenue for AIP, the realignment of fees would result in overall revenue that would be closer to the costs of providing the service and at the same time provide incentives for users to use AIP for capital calls and lower volume transfers. Therefore, by establishing fees that align with the costs of delivery of these products and services and allocating those fees equitably among the subscribing NSCC Members, the proposed fee changes are consistent with the requirements of Section 17A(b)(3)(D) of the Act.[33]

[26] 15 U.S.C. 78q–1(b)(3)(D).

[27] 15 U.S.C. 78q–1(b)(3)(F).

[28] 17 CFR 240.17Ad–22(e)(23)(ii).

[29] 15 U.S.C. 78q–1(b)(3)(D).

[30] *Id.*

[31] *See* note 6, *supra.*

[32] *See* note 24, *supra.*

Section 17A(b)(3)(F) of the Act [34] requires, in part, that the Rules promote the prompt and accurate clearance and settlement of securities transactions. NSCC believes that the proposed clarifications adding the Mutual Fund Services heading in Addendum A and renumbering Addendum A as forth above would enhance NSCC Members' ability to understand the fees associated with Mutual Fund Services. Specifically, the proposed clarifications would clarify which services fall within Mutual Fund Services, similar to the structure for Insurance & Retirement Services and AIP in Addendum A. As such, the proposed clarifications would allow NSCC Members to have a better understanding of the Rules in relation to their activities and thereby assist in promoting the requirements of Section 17A(b)(3)(F) of the Act.[35]

Rule 17Ad–22(e)(23)(ii) under the Act [36] requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. The proposed clarifications adding the Mutual Fund Services heading in Addendum A and renumbering Addendum A as set forth above would help ensure that the fees set forth in Addendum A are clear and transparent to NSCC Members. Having a clear and transparent Addendum A would help NSCC Members to better understand NSCC's fees and help provide NSCC Members with increased predictability and certainty regarding the fees they incur in participating in NSCC. As such, by improving the clarity and transparency of the Rules, NSCC believes the proposed clarifications are consistent with Rule 17Ad–22(e)(23)(ii) under the Act.[37]

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

NSCC believes the proposed rule changes to add fees for MF Info Xchange

[33] 15 U.S.C. 78q–1(b)(3)(D).

[34] 15 U.S.C. 78q–1(b)(3)(F).

[35] *Id.*

[36] 17 CFR 240.17Ad–22(e)(23)(ii).

[37] *Id.*

and increase certain fees for AIP, may have an impact on competition. NSCC believes these proposed rule changes could burden competition by negatively affecting such NSCC Members' operating costs. While these NSCC Members may experience increases in their fees when compared to their fees under the current fee structure, NSCC does not believe such change in fees would in and of itself mean that the burden on competition is significant. This is because even though the amount of the fee increase may seem significant in some instances to certain NSCC Members (*e.g.,* charging $1,500/mo for MF Info Xchange when it is free now and removing the AIP $250,000 fee cap), NSCC believes the increase in fees would similarly affect all NSCC Members that utilize the services, and therefore the burden on competition would not be significant.

Regardless of whether the burden on competition is deemed significant, NSCC believes any burden on competition that is created by these proposed rule changes would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.[38]

The proposed rule changes to add fees for MF Info Xchange and increase certain fees for AIP would be necessary in furtherance of the purposes of the Act because the Rules must provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.[39] As described above, NSCC believes that the proposed rule changes would result in fees that are equitably allocated (by applying uniformly to all NSCC Members that use the applicable services) and would result in reasonable fees (by allowing NSCC to recoup its expenses in building MF Info Xchange and allow both MF Info Xchange and AIP to operate with a positive operating margin). As such, NSCC believes these proposed rule changes would be necessary in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.[40]

NSCC also believes that the fees are appropriate in furtherance of the purposes of the Act because the fees are set so that the revenue received by NSCC would be closer to the costs of building and providing the services consistent with NSCC's cost-based plus markup fee model and are being equitably allocated among NSCC Members.[41] Moreover, NSCC believes that the fees will enable NSCC to pay for building and continue to operate MF Info Xchange. NSCC believes MF Info Xchange has a positive effect on competition among users because the service allows data providers to more effectively communicate event notifications relating to funds and other pooled investment entities (''Funds''). The service provides data providers with a more efficient method of distributing event notifications to parties that need to see such information in order to facilitate the trading and processing of Fund securities. NSCC believes this enhances competition among Funds and Fund participants by allowing parties to distribute such information more quickly and in a more streamlined manner. Based on experiences with the similar billing structure used in MFPS and discussions with NSCC Members, NSCC does not believe that that the addition of the proposed fees for MF Info Xchange would materially disincentivize use of MF Info Xchange. As such, NSCC believes these proposed rule changes would be appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.[42]

NSCC does not believe that any proposed fee reductions would have a burden on competition and may promote competition because the proposed fee reductions would allow NSCC Members to engage in a greater number of transactions with lower costs than the prices they would incur today for the same transactions.

NSCC does not believe that the proposed clarifications to add the Mutual Fund Services heading to Addendum A and to renumber Addendum A would have any impact on competition because such changes are clarifications of the Rules that would not affect the rights or obligations of NSCC Members.

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

NSCC has conducted ongoing outreach to NSCC Members in order to provide them with notice of the proposed changes to the affected fees.

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received by NSCC, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

NSCC reserves the right not to respond to any comments 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)[43] of the Act and paragraph (f)[44] of Rule 19b–4 thereunder. 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.

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–2021–017 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[38] 15 U.S.C. 78q–1(b)(3)(I).

[39] 15 U.S.C. 78q–1(b)(3)(D).

[40] 15 U.S.C. 78q–1(b)(3)(I).

[41] See note 6, *supra.*

[42] 15 U.S.C. 78q–1(b)(3)(I).

[43] 15 U.S.C 78s(b)(3)(A).

[44] 17 CFR 240.19b–4(f).

Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2021–017. 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 website (*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 website 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 website (*https://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–2021–017 and should be submitted on or before January 26, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–28518 Filed 1–4–22; 8:45 am]

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[45] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93880; File No. SR–ICEEU–2021–015]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to Adoption of the Counterparty Credit Risk Policy and Counterparty Credit Risk Procedures

December 30, 2021.

I. Introduction

On November 15, 2021, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4,[2] a proposed rule change to adopt a new Counterparty Credit Risk Policy (the ''CC Risk Policy'') and new Counterparty Credit Risk Procedures (the ''CC Risk Procedures'') and retire the existing Futures and Options Capital to Margin and Shortfall Margin Policy (the ''Capital to Margin Policy'') and existing Unsecured Credit Limits Procedures.[3] The proposed rule change was published for comment in the **Federal Register** on November 30, 2021.[4] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

i. Background

Both the CC Risk Policy and CC Risk Procedures would describe how ICE Clear Europe monitors and mitigates counterparty credit risk.[5] Both documents would define counterparty credit risk as (i) the risk that a Clearing Member misses its next payment to ICE Clear Europe, leaving ICE Clear Europe under-collateralized and therefore increasing the risk of using the Guaranty Fund contributions of other Clearing Members and ICE Clear Europe to manage a potential default of that Clearing Member and (ii) the risk that a Financial Service Provider (''FSP'') defaults without returning cash to ICE Clear Europe, leaving ICE Clear Europe with a loss on its investments or expected return of cash. Both the CC Risk Policy and CC Risk Procedures also would define ICE Clear Europe's overall objective with respect to counterparty credit risk as managing and minimizing this risk.

To achieve this objective, ICE Clear Europe, under both the CC Risk Policy and CC Risk Procedures, would (i) set and monitor credit eligibility criteria for Clearing Members and FSPs; (ii) establish credit scores for Clearing Members and FSPs; (iii) take mitigating actions to reduce ICE Clear Europe's exposure; (iv) perform trigger-based and periodic risk reviews of Clearing Members and FSPs; and (v) set and monitor exposure limits for Clearing Members and FSPs. The CC Risk Policy would explain in general how ICE Clear Europe would carry out these actions, and the CC Risk Procedures would supplement the CC Risk Policy with further detail regarding these actions. Thus, the description below is organized according to these five steps, with an explanation of those actions under both the CC Risk Policy and CC Risk Procedures.[6]

ii. Credit Eligibility Criteria

ICE Clear Europe would first assess prospective entities against certain credit eligibility criteria. The criteria that ICE Clear Europe would use for this assessment would be set forth in a new Counterparty Credit Risk Parameters and Reviews document, which would be a supporting document of the CC Risk Policy and CC Risk Procedures.[7] Overall, ICE Clear Europe would use this assessment against the credit criteria to assess the financial stability of Clearing Members and FSPs. ICE Clear Europe would assess prospective Clearing Members and FSPs against such criteria during onboarding and review existing Clearing Members and FSPs against such criteria at least annually.

After conducting the assessment, ICE Clear Europe would produce a credit recommendation for prospective Clearing Members based on financial

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

[2] 17 CFR 240.19b–4.

[3] Because the CC Risk Policy and CC Risk Procedures would incorporate the information currently found in the Capital to Margin Policy and Unsecured Credit Limits Procedures in substantially the same form, the proposed rule change would retire those two documents.

[4] Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the Counterparty Credit Risk Policy and Counterparty Credit Risk Procedures, Exchange Act Release No. 93668 (Nov. 24, 2021); 86 FR 68014 (Nov. 30, 2021) (SR–ICEEU–2021–015) (''Notice'').

[5] Capitalized terms not otherwise defined herein have the meanings assigned to them in the CC Risk Policy and CC Risk Procedures.

[6] As noted further below, ICE Clear Europe is taking the processes described in section vi from the existing Capital to Margin Policy and Unsecured Credit Limits Procedures.

[7] ICE Clear Europe included the Counterparty Credit Risk Parameters and Reviews document as a confidential Exhibit 3 to the filing.