

fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’ . . . .”<sup>18</sup> Accordingly, the Exchange does not believe its proposed fee change imposes 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*

The Exchange neither solicited nor received comments on the proposed rule change.

#### **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<sup>19</sup> and paragraph (f) of Rule 19b-4<sup>20</sup> 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. If the Commission takes such action, the Commission will 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:

<sup>18</sup> *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f).

#### *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](mailto:rule-comments@sec.gov). Please include File Number SR–CboeEDGX–2022–014 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–CboeEDGX–2022–014. 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 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–CboeEDGX–2022–014 and should be submitted on or before April 20, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–06631 Filed 3–29–22; 8:45 am]

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<sup>21</sup> 17 CFR 200.30–3(a)(12).

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–94494; File No. SR–NSCC–2021–016]

### **Self-Regulatory Organizations; National Securities Clearing Corporation; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Enhance Capital Requirements and Make Other Changes**

March 23, 2022.

#### **I. Introduction**

On December 13, 2021, National Securities Clearing Corporation (“NSCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR–NSCC–2021–016 (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 December 29, 2021,<sup>3</sup> and the Commission has received comments regarding the changes proposed in the Proposed Rule Change.<sup>4</sup>

On January 26, 2022, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.<sup>6</sup> This order institutes proceedings, pursuant to Section 19(b)(2)(B) of the Act,<sup>7</sup> to determine whether to approve or disapprove the Proposed Rule Change.

#### **II. Summary of the Proposed Rule Change**

As described in the Notice, NSCC proposes to amend the Rules and Procedures (“Rules”) in order to (1) revise its capital requirements for Members and Limited Members (collectively, “members”), (2) streamline its two credit risk monitoring systems, Watch List and enhanced surveillance list, and (3) make certain other clarifying, technical, and

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

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

<sup>3</sup> Securities Exchange Act Release No. 93856 (December 22, 2021), 86 FR 74185 (December 29, 2021) (SR–NSCC–2021–016) (“Notice”).

<sup>4</sup> Comments are available at <https://www.sec.gov/comments/sr-nsc-2021-016/srnscc2021016.htm>.

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

<sup>6</sup> Securities Exchange Act Release No. 94068 (January 26, 2022), 87 FR 5544 (February 1, 2022) (SR–NSCC–2021–016).

<sup>7</sup> 15 U.S.C. 78s(b)(2)(B).

supplementary changes to implement items (1) and (2).<sup>8</sup>

First, NSCC proposes to revise various aspects of its capital requirements for several types of members. NSCC proposes to increase minimum capital requirements for certain members. For example, for U.S. broker-dealers, the capital requirements would be determined using a tiered system based generally on the volatility component of a member's margin (referred to as the value-at-risk tier). NSCC also proposes to revise how it measures certain members' capital by incorporating common equity tier 1 capital, and the standards established in the capital adequacy rules and regulations of the Federal Deposit Insurance Corporation. NSCC would revise the reporting requirements concerning the capital requirements for certain members. In addition, for certain types of members who currently do not have specific amounts for their minimum capital requirements, the proposal would establish such a requirement.

Second, NSCC proposes to revise its Watch List and enhanced surveillance list, which are both currently used for credit risk monitoring. NSCC proposes to revise its Watch List and delete its enhanced surveillance list. NSCC also proposes to clarify that members on the Watch List are reported to NSCC's management committees and regularly reviewed by NSCC's senior management.

Third, NSCC proposes to (1) revise or add headings and sub-headings as appropriate, (2) revise defined terms and add appropriate defined terms to facilitate the proposed changes, (3) rearrange and consolidate paragraphs to promote readability, (4) fix typographical and other errors, and (5) other changes in order to improve clarity and the accessibility and transparency of the Rules.

### III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act<sup>9</sup> to determine whether the Proposed Rule Change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and

policy issues raised by the Proposed Rule Change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the Proposed Rule Change, providing the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the Proposed Rule Change.

Pursuant to Section 19(b)(2)(B) of the Act,<sup>10</sup> the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the Proposed Rule Change's consistency with Section 17A of the Act,<sup>11</sup> and the rules thereunder, including the following provisions:

- Section 17A(b)(3)(F) of the Act,<sup>12</sup> which requires, among other things, that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to protect investors and the public interest;

- Section 17A(b)(3)(I) of the Act,<sup>13</sup> which requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act;

- Rule 17Ad-22(e)(18) under the Act,<sup>14</sup> which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access by direct and, where relevant, indirect participants and other financial market utilities, require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis.

### IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written

submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the Proposed Rule Change. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act,<sup>15</sup> Section 17A(b)(3)(I) of the Act,<sup>16</sup> Rule 17Ad-22(e)(18) under the Act,<sup>17</sup> or any other provision of the Act, or the rules and regulations thereunder.

Interested persons are invited to submit written data, views, and arguments regarding whether the Proposed Rule Change should be approved or disapproved by April 20, 2022. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by May 4, 2022.

The Commission asks that commenters address the sufficiency of NSCC's statements in support of the Proposed Rule Change, which are set forth in the Notice,<sup>18</sup> in addition to any other comments they may wish to submit about the Proposed Rule Change.

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](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2021-016 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-NSCC-2021-016. 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

<sup>8</sup> The description of the Proposed Rule Change is based on the statements prepared by NSCC in the Notice. See Notice, *supra* note 3. Capitalized terms used herein and not otherwise defined herein are defined in the Rules, available at [https://www.dtcc.com/-/media/Files/Downloads/legal/rules/nscc\\_rules.pdf](https://www.dtcc.com/-/media/Files/Downloads/legal/rules/nscc_rules.pdf).

<sup>9</sup> 15 U.S.C. 78s(b)(2)(B).

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

<sup>11</sup> 15 U.S.C. 78q-1.

<sup>12</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>14</sup> 17 CFR 240.17Ad-22(e)(18).

<sup>15</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>16</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>17</sup> 17 CFR 240.17Ad-22(e)(18).

<sup>18</sup> See Notice, *supra* note 3.

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 (<http://dtcc.com/legal/sec-rule-filings.aspx>). 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-NSCC-2021-016 and should be submitted on or before April 20, 2022. Rebuttal comments should be submitted by May 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>19</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94513; File No. SR-CBOE-2022-012]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Rules Relating to the Continuing Education for Registered Persons as Provided Under Exchange Rule 3.33 and To Amend Related Registration Requirements as Provided Under Rule 3.30

March 24, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 15, 2022, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of

the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules relating to the Continuing Education for Registered Persons as provided under Exchange Rule 3.33 and to amend related Registration Requirements as provided under Rule 3.30. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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 Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

###### (i) Background

The continuing education program for registered persons of broker-dealers ("CE Program") currently requires registered persons to complete continuing education consisting of a Regulatory Element and a Firm Element. The Regulatory Element is delivered through a web-based delivery method called "CE Online," which is administered through the Financial Industry Regulatory Authority, Inc. ("FINRA") online continuing education system, and focuses on regulatory requirements and industry standards, while the Firm Element is provided by each firm and focuses on securities

products, services and strategies the firm offers, firm policies and industry trends. The CE Program for registered persons is codified under Exchange Rule 3.33.

The Securities and Exchange Commission (the "SEC" or the "Commission") recently approved a proposal submitted by FINRA relating to its CE Program.<sup>5</sup> The Exchange understands that other exchanges have or will propose similar amendments based on FINRA's rule changes. Therefore, the Exchange proposes to amend and enhance its own CE Program as provided under Rule 3.33 and its related Registration Requirements as provided under Rule 3.30 in response to FINRA's amended CE Program and to facilitate compliance with the Exchange's CE Program requirements by members of multiple exchanges. The Exchange proposes to implement the proposed rule changes to align with FINRA's CE Program implementation dates.<sup>6</sup> Specifically, the proposed implementation dates are as follows: Changes relating to proposed Rule 3.33(c) (Continuing Education Program for Persons Maintaining Their Qualification Following the Termination of a Registration Category) will become effective March 15, 2022; changes relating to Rule 3.30.09 (Waiver of Examination for Individuals Working for a Financial Services Industry Affiliate of a TPH)<sup>7</sup> (referred to as the "FSA waiver program" or "FSAWP") will become effective March 15, 2022; and all other changes, including changes to Rules 3.33(a) (Regulatory Element)<sup>8</sup> and 3.33(b) (Firm Element) will become effective January 1, 2023.

###### a. Regulatory Element

Exchange Rule 3.33(a) currently requires a registered person to complete the applicable Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date.<sup>9</sup> The Exchange may extend these

<sup>5</sup> See Securities and Exchange Act No. 93097 (September 21, 2021), 86 FR 53358 (September 27, 2021) (SR-FINRA-2021-015) (Order Approving a Proposed Rule Change To Amend FINRA Rules 1210 (Registration Requirements) and 1240 (Continuing Education Requirements)).

<sup>6</sup> See FINRA Regulatory Notice 21-41 (November 17, 2021).

<sup>7</sup> "TPH" refers to Trading Permit Holder. See Rule 1.1.

<sup>8</sup> An individual's initial annual Regulatory Element due date will be December 31, 2023.

<sup>9</sup> See Rule 3.33(a). An individual's registration anniversary date is generally the date they initially registered in the Central Registration Depository ("CRD") system. However, an individual's registration anniversary date would be reset if the individual has been out of the industry for two or

<sup>19</sup> 17 CFR 200.30-3(a)(31).

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).