Required fields are shown with yellow backgrounds and asterisks.

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SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
Form 19b-4

File No. * SR 2026 - * 004
Amendment No. (req. for Amendments *)

Filing by CME Securities Clearing Inc.

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * ☑ Amendment * ☐ Withdrawal ☐

Section 19(b)(2) * ☑ Section 19(b)(3)(A) * ☐ Section 19(b)(3)(B) * ☐

Pilot ☐

Extension of Time Period for Commission Action * ☐

Date Expires *

Rule

☐ 19b-4(f)(1) ☐ 19b-4(f)(4)
☐ 19b-4(f)(2) ☐ 19b-4(f)(5)
☐ 19b-4(f)(3) ☐ 19b-4(f)(6)

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010

Section 806(e)(1) * ☐ Section 806(e)(2) * ☐

Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934 Section 3C(b)(2) * ☐

Exhibit 2 Sent As Paper Document ☐ Exhibit 3 Sent As Paper Document ☐

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Modify Rules to address Member enforcement of contractual termination rights against an authorized User or secondary security interests in and liens against User funds and Member participation in the close-out of an authorized Defaulting User's positions.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * [redacted] Last Name * [redacted]

Title * [redacted]

E-mail * [redacted]

Telephone * [redacted] Fax

Signature

Pursuant to the requirements of the Securities Exchange of 1934, CME Securities Clearing Inc. has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date 05/21/2026

By [redacted]
(Name *)

(Title *) [redacted]

NOTE: Clicking the signature block at right will initiate digitally signing the form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

John McKinlay Sign Digitally signed by John McKinlay Date: 2026.05.21 10:36:47 -05'00'

Required fields are shown with yellow backgrounds and astericks.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFS website.

Form 19b-4 Information *

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SR-CMESC-2026-004_19b-4 narrative

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A - Notice of Proposed Rule Change, Security-Based Swap Submission, or Advanced Notice by Clearing Agencies *

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SR-CMESC-2026-004_Ex. 1A.docx

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2- Notices, Written Comments, Transcripts, Other Communications

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Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

☐ Exhibit Sent As Paper Document

Exhibit 3 - Form, Report, or Questionnaire

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Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

☐ Exhibit Sent As Paper Document

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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SR-CMESC-2026-004_Ex. 5.docx

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

1. Text of the Proposed Rule Change

(a) The proposed rule change of CME Securities Clearing Inc. ("CMESC") is annexed hereto as Exhibit 5. It consists of modifications to the CMESC Rulebook (the "Rules")[1] to (i) support Members' risk management of and enhance their ability to authorize persons as Users, by providing Members the means to enforce contractual termination rights against their authorized Users under their contractual arrangements with their authorized Users; (ii) create legal structures to provide security entitlement to an authorizing Member in each Supported User Account associated with such Member's authorization and to grant secondary security interests in and liens against Independent User funds held by CMESC while affirming CMESC's first priority and unencumbered lien and security interest in such User funds; and (iii) strengthen and clarify Members' ability to participate in the close-out (liquidation) of positions of Users they authorize in the event of the User's Default. The proposed rule change includes proposed new Rule 316 (Member Exercise of Contractual Rights Against an Authorized User) and new Rule 317 (Member Second Priority Lien Against Independent User Margin) and modifications to Rule 101 (Definitions), Rule 405 (Default Management Process), Rule 513 (Margin Deposited for Supported Users Using the Repo or Cash Treasury Clearing Services), Rule 602 (Submission of Transaction Data), and Rule 1507 (Default Management). Each modification is described in more detail below. These modifications will support Members' risk management of their authorized Users and are designed to support Members' ability and capacity to authorize Users. This, in turn, will support CMESC's efforts to attract and to on-board Members and Users prior to CMESC's launch of its Clearing Services and on an ongoing basis thereafter by enhancing the attractiveness of CMESC's Clearing Services offering for prospective Members, thereby promoting the prompt and accurate clearance and settlement of transactions in or involving U.S. Treasury securities.

(b) Not applicable.

(c) Not applicable.

2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by CMESC's Board of Directors on February 24, 2026, and April 23, 2026.

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

(a) Purpose

Background

On December 1, 2025, the Securities and Exchange Commission ("Commission" or "SEC") issued an order approving CMESC's Form CA-1 ("Application") for registration as a clearing agency to provide central counterparty services for transactions involving U.S. Treasury securities, finding the Application satisfies the requirements of the Securities Exchange Act of

[1] Capitalized terms used herein and not defined have the meanings assigned to such terms in the Rules, as applicable, available at https://www.cmegroup.com/rulebook/CMESC/CMESC%20Rulebook.pdf.

1934, as amended ("Act") and rules and regulations thereunder.[2] Based on engagement with market participants and trade associations during the Commission's review of the Application, CMESC has identified enhancements to its Rules designed to enhance Members' risk management flexibility and mitigate potential constraints on their ability to authorize Users due to potential capital constraints. More specifically, the proposed rule change is designed to further support prompt close-out of a User's positions, whether the User is subject to a termination event under binding contractual terms between it and its authorizing Member or the User is in Default to CMESC under the Rules.

1. Member Risk Management Considerations

As provided in the Rules, a person may become a Participant to utilize CMESC's Clearing Services as a Member or a User.[3] Members may clear proprietary Eligible Securities Transactions through CMESC[4] and may authorize Users to clear their own proprietary Eligible Securities Transactions through CMESC.[5] A person may become a User only with the authorization of a Member but is contractually bound to settle its Eligible Securities Transactions directly with CMESC.[6] Users may participate in CMESC's Clearing Services as Independent Users or Supported Users.[7] An Independent User is obligated to post margin and make Outstanding Exposure Settlement payments to CMESC for its Independent User Account.[8] In contrast, for a Supported User, the Member authorizing the Supported User is obligated to post margin and make Outstanding Exposure Settlement payments to CMESC for the Supported User Account associated with the Member's authorization.[9]

A Member has certain obligations under the Rules with respect to persons admitted as Users pursuant to the Member's authorization. An authorizing Member must establish, maintain, and enforce User Due Diligence Policies and Procedures that demonstrate the Member's ability to, among other things, determine the risk profile of each User it authorizes and monitor the risks associated with clearing Eligible Securities Transactions by its authorized Users through CMESC.[10] In the event of a User Default, if any losses remain after CMESC applies the margin posted to the Account of the Defaulting User associated with the Member's authorization as well as certain other assets available to CMESC as provided in the Rules,[11] the authorizing Member will be required to provide funds to discharge such remaining losses pursuant to Rule 406(b)(iii)

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[2] Release No. 34–104281 (Dec. 1, 2025), 90 FR 55926 (Dec. 4, 2025), *available at* https://www.federalregister.gov/documents/2025/12/04/2025-21908/cme-securities-clearing-inc-order-granting-an-application-for-registration-as-a-clearing-agency.

[3] *See e.g.*, Rule 301.

[4] *Id*.

[5] *See e.g.*, 302(a) and 305(c).

[6] *See e.g.*, Rules 305(d) and 1504(b).

[7] *See e.g.*, Rule 301(b).

[8] *See e.g.*, Rules 501 (margin) and 506 (Outstanding Exposure Settlement).

[9] *See e.g.*, Rules 501 and 513 (margin) and 506 (Outstanding Exposure Settlement).

[10] *See* Rule 306(c)(iii).

[11] When the Defaulting User is an Independent User, CMESC may also apply any other assets of the Independent User held by, pledged to, or otherwise available to the Corporation on behalf of that Independent User. *See* Rule 406(b)(ii)(A). When the Defaulting User is a Supported User, CMESC may also apply any collateral in excess of the margin requirement posted to it for the Supported User of the authorizing Member that such Member has not designated to CMESC as Funded Supported User Margin for any other Supported User Account or Supported User Margin for any other Supported User Account. *See* Rule 406(b)(ii)(B).

(User Default). If the Member fails to do so, CMESC may declare the Member in Default pursuant to Rule 406(b)(iii) and then apply the resources in the financial resources waterfall as provided for and in the priority specified in Rule 406(a) (Member Default), including such Defaulting Member's contribution to the Guaranty Fund.

A Member must enter into an Authorization Agreement with each User it authorizes pursuant to which the Member agrees to authorize the User, as provided in Rule 305(c) (Member Authorization Agreement Between a Member and Authorized User). The Authorization Agreement is a commercial matter between the Member and authorized User, though its terms must be consistent with the Member's and User's respective rights and obligations to CMESC and to one another under the Rules. As provided in Rule 306(d) (Notice of Termination of User Authorization), a Member or User must provide CMESC with ten Business Days' advance notice of its termination of the Authorization Agreement for any reason, subject to CMESC's discretion to provide a shorter notification period. CMESC understands that Members want the certainty that its authorization of a given User will terminate immediately upon notification to CMESC in certain circumstances, in order to further support such Members' ability to manage risk arising from its authorized Users' cleared activity.

2. Bank Regulatory Capital Considerations for Certain Members

CMESC understands that for a bank or firm affiliated with a bank that becomes a Member, it is beneficial for the Member to have explicit means to enforce any contractual rights it may have under its agreement(s) governing its relationship with an authorized User to terminate all the authorized User's Eligible Securities Transactions cleared through CMESC in the User Account associated with the Member's authorization, so that such agreement(s) may be treated as qualified master netting agreements[12] under bank regulatory capital requirements.[13] CMESC further understands there may be regulatory capital benefits for a Member that is a bank or bank affiliate if such Member has a security interest, secondary to CMESC's, in the margin or other funds posted to the Account of an authorized User and to have assurance that in the event of an authorized User Default, the Defaulting User's open positions at CMESC will be closed out (*i.e.*, liquidated or terminated) promptly.

Thus, CMESC is filing the proposed rule change to address each of these considerations for prospective Members. Specifically, the proposed modifications will enhance Members' abilities to enforce contractual termination rights and contractual liens against a User's margin or

[12] *See* 12 C.F.R. § 50.3 (definition of "qualifying master netting agreement").

[13] Pursuant to the relevant capital rules, we understand that a banking organization is only permitted to recognize the effects of financial collateral or offsetting transactions for capital purposes if the banking organization satisfies certain requirements, including that the banking organization must have the right to terminate the transaction and set off or apply collateral "promptly upon an event of default" under the bilateral agreement between the banking organization and its client. We further understand from comment letters submitted on CMESC's application for registration as a clearing agency that if a covered Member is unable to meet these requirements, it must hold capital without regard to such collateral or offsetting transactions, i.e., against its "gross exposure" to the customer and further, that the significant costs associated with gross exposure capital calculations could make the costs of offering clearing services to clients prohibitively expensive for relevant Members. *See e.g.* letter from Allison Lurton, General Counsel and Chief Legal Officer, FIA, dated Mar. 10, 2025, on SEC Notice of Filing of an Application for Registration as a Clearing Agency Under Section 17A of the Securities Exchange Act of 1934 [Release No. 34-102200 (Jan. 15, 2025), 90 FR 7713 (Jan. 22, 2025); File No. 600-44].

other funds held by CMESC (subordinate to CMESC's rights thereto) that Members may have under their contractual arrangements with their authorized Users, provided that neither the authorizing Member nor its User is in Default to CMESC. The proposed rule change will also further strengthen and clarify a Member's ability to participate in the liquidation of an authorized User's positions in the event of the User's Default.

The proposed changes are described in detail as follows.

Description of the Proposed Rule Change

1. Proposed Changes Relating to a Member's Contractual Termination Rights Outside an Authorized User's Default to CMESC

CMESC proposes two changes to its Rules to further facilitate a Member's enforcement of its contractual termination rights in relation to a User it authorizes. First, CMESC proposes adopting new Rule 316 (Member Exercise of Contractual Rights Against an Authorized User), which sets out a process whereby a Member may, pursuant to a request to CMESC and subject to certain conditions, immediately assume an authorized User's positions pursuant to the Member's contractual termination rights, provided that neither the User nor the Member is in Default to CMESC. Second, CMESC proposes changes to Rule 602 (Submission of Transaction Data) to recognize explicitly that a Member may submit transactions for an authorized User's Account if the User has given the Member the authority to do so, provided again that neither the User nor the Member is in Default. The proposed changes to Rule 602 will cover trade submission by a Member both as a routine matter and as a potential means for a Member to exercise contractual termination rights in relation to an authorized User by submitting liquidating transactions for the authorized User's Account.

As noted, proposed Rule 316 sets out the process and conditions for a Member to assume an authorized User's positions pursuant to contractual termination rights as between the Member and the User. Proposed Rule 316(a) applies to the circumstance when a User is in default to its authorizing Member, or is otherwise subject to a termination event, under one or more binding agreements between the Member and User and neither party is in Default (as that term is defined in the Rules). Proposed Rule 316(a) introduces the term "Contractual Terms" to refer to such binding agreement(s) and the terms "Affected Member" and "Affected User" to refer to the Member and to the User, respectively, when this circumstance arises. It also introduces the term "Affected User Account" for purposes of proposed Rule 316 and defines the term separately in relation to an Affected User that is a Supported User and an Affected User that is an Independent User. When the Affected User is a Supported User, the Affected User Account is the Account that CMESC maintains in the name of the Affected Member for the exclusive benefit of the Affected Supported User. For an Independent User as the Affected User, the term covers the Independent User's Account associated with the Affected Member's authorization of the User.

Proposed Rule 316(b) sets out that an Affected Member may submit a written request to CMESC, in such form as CMESC may prescribe, to promptly transfer all the positions in Eligible Securities Transactions in the Affected User Account to the Account of the Affected Member. The Member's request may also request the transfer of initial margin or other funds in the Affected User Account to the Account of the Affected Member. CMESC will promptly effect the requested

transfer, provided the conditions set out in other paragraphs of Rule 316 are met. Proposed Rule 316(b) explicitly sets out that each Eligible Securities Transaction that is transferred is novated to the Affected Member, such that the transaction is terminated in the Affected User's Account and an equivalent position is established as a cleared position booked to the Account of the Affected Member, with the Affected Member substituted as CMESC's counterparty to the Eligible Securities Transaction.

Proposed Rule 316(c) sets out the condition that transfers pursuant to the proposed Rule will only occur if the Affected User is not in Default to CMESC at the time of the request or at the time the transfers are to be effected. If a User is subject to a Default to CMESC under the Rules, CMESC's default management rules will govern and, as acknowledged in this part of the proposed Rule, the authorizing Member(s) will have the opportunity to close-out the Defaulting User's positions as permitted under and in accordance with the proposed changes to Rule 405(c) and Rule 1507(b), as explained below.

Proposed Rule 316(d) sets forth certain conditions that apply when an Affected Member submits a written request to transfer the Affected User's positions pursuant to the Rule. A Member's request to transfer an Affected User's positions pursuant to proposed Rule 316 is deemed by CMESC to constitute an election of the Member to terminate its Authorization Agreement with the User with immediate effectiveness, and thus, the Member is ceasing to authorize the Affected User. Proposed Rule 316(d) also eliminates the need for the Member to separately submit advance notice of termination of the Authorization Agreement pursuant to Rule 311(d) (Notice of Termination of User Authorization).

The predicate for proposed Rule 316 is that the Member requesting the transfer of the Affected User's positions has the contractual right to do so under the Contractual Terms. CMESC is not a party to the Contractual Terms, and the negotiation of such terms is a commercial matter between the Member and its authorized User. Accordingly, Rule 316(d) sets out that when an Affected Member submits a written request to CMESC to effect a transfer pursuant to this Rule, the Affected Member is deemed to represent, warrant and covenant to CMESC that the Affected User is in default to the Affected Member, or subject to a termination event, under the Contractual Terms, and that it has the authority under the Contractual Terms to request CMESC to take such action. The Affected Member also is deemed to represent to CMESC that the Affected Member has reasonably determined that it will be able to meet its initial margin and other obligations on all positions in its Member Account following completion of the transfer of positions to such Account covered by the request, and that its exercise of its rights under the Contractual Terms and Rule 316 is consistent with, and does not and will not cause the Affected Member to be in violation of, its obligations to the Affected User under applicable law.

It is important that CMESC be protected in the event a dispute arises between an Affected Member and Affected User when CMESC acts upon the Affected Member's request given that CMESC is adopting Rule 316 to facilitate a Member's rights under Contractual Terms between the Affected Member and Affected User to which CMESC is not a party. Indeed, the Contractual Terms may well govern aspects of the relationship between a Member and a User beyond the Member's authorization of the User or even extend to relationships with or among their respective affiliates. Thus, proposed Rule 316(e) sets out that CMESC has no liability to the Affected Member or the Affected User for any loss or costs that they may incur in connection with the

transfer of any positions from the Affected User Account to the Account of the Affected Member pursuant to the proposed Rule. Proposed Rule 316(e) also provides that the Affected Member will indemnify CMESC and its affiliates and their respective officers, employees and agents against any and all losses, liabilities, damages, claims, costs or expenses they may suffer or incur arising out of or in connection with any dispute between the Affected Member and Affected User regarding any action taken or not taken pursuant to proposed Rule 316.

As noted, as an alternative to the transfer of all the positions in Eligible Securities Transactions in the Affected User Account, CMESC also proposes changes to Rule 602 to facilitate a Member's ability to liquidate an authorized User's transactions pursuant to its contractual termination rights by submitting liquidating transactions for the authorized User's Account associated with the Member's authorization. Specifically, CMESC is proposing to add a new sentence to existing Rule 602 to provide that transaction data may be submitted by a Member for the Account of a User that it authorizes, provided that the User is not in Default. CMESC believes it is beneficial to clarify explicitly in Rule 602 that a Member may submit transaction data for the Account of a User that it authorizes only when the User is not in Default. This is consistent with proposed Rule 316(c), which provides that CMESC will not effect any transfer of positions in the Affected User's Account to the Affected Member's Account if the Affected User is subject to a Default under the Rules. CMESC believes that if an authorized User is in Default, no transaction data should be submitted to the Defaulting User's Account and the Rules regarding default management, *e.g.*, Rule 405(c) and 1507(b), should apply to facilitate the prompt close-out (*e.g.*, liquidation) of the Defaulting User Positions, as described below.

In addition, a Member could submit transactions on behalf of an authorized User either as a routine matter or in connection with contractual termination rights pursuant to the proposed changes to Rule 602. To assure the Member has the authority to submit transactions for the User's Account, proposed changes to Rule 602 set out that, when the Member submits transaction data for an authorized User, the Member is deemed to represent that it has the authority to do so. As the Member's authority to submit transactions for a User it authorizes is a matter between the Member and authorized User, the proposed changes to Rule 602 further provide that the Member indemnifies CMESC and its affiliates and their respective officers, employees and agents against any and all losses, liabilities, damages, claims, costs or expenses they may suffer or incur arising out of or in connection with any dispute between the Member and User regarding such action taken by the Member.

2. Proposed Changes Relating to a Member's Subordinate Security Interest in User Collateral

This section describes CMESC's proposed modifications to its Rules with respect to a Member's rights to margin or other funds posted to the User Account of a User it has authorized. The purpose of the proposed changes is to establish explicit structures whereby the authorizing Member will have a claim to the return of any excess margin of the User associated with the Member's authorization that remain following CMESC's default management process for a Defaulting User or following the termination of a Member's authorization of a User and satisfaction of the User's obligations to CMESC. The legal approach differs for a Supported User and an Independent User, each of which is discussed below.

First, CMESC is proposing modifications to Rule 513, which governs the treatment of margin deposited with CMESC for Supported User Accounts, to add new paragraph (c) to provide explicitly that CMESC will maintain a Supported User Account as a "securities account" under Article 8 of the New York Uniform Commercial Code (proposed Rule 513(c) uses the defined term "NY UCC") and that CMESC is the securities intermediary in relation to the Member that establishes the Supported User Account in its name for the benefit of the Supported User of the Member.

As explained above, the authorizing Member for a Supported User is responsible for posting initial margin (and Outstanding Exposure Settlement) for the Account of the Supported User. Thus, as set out in existing Rule 513, CMESC will establish within its books and records a Supported User Account for each Supported User of the authorizing Member, in the name of the Member for the benefit of the Supported User.[14] Under existing Rule 504 (Corporation Lien), each Member and each User grants to CMESC to secure its obligations to CMESC a first priority and unencumbered security interest and lien against any property, cash, securities, or collateral deposited with, held by, pledged to, or otherwise available to, CMESC by such Member or User, and thus, CMESC has a first priority and unencumbered security interest in and lien against the initial margin and other funds deposited in the Supported User Account. By providing that CMESC will maintain a Supported User Account as a "securities account" under Article 8 of the NY UCC and that CMESC is the securities intermediary in relation to the Member that establishes the Supported User Account for the benefit of the Supported User, the Member will be the entitlement holder for the Supported User Account and be entitled to the return of any excess margin or other funds remaining following CMESC's default management process and termination of the Member's authorization of the Supported User and satisfaction of CMESC's first priority claim.

Proposed Rule 513(c) also clarifies that all margin, whether in the form of cash or Qualified Margin Securities, or other funds credited to the Supported User Account for the benefit of a Supported User of the Member are treated as "financial assets" within the meaning of Article 8 of the NY UCC, that New York is the "securities intermediary's jurisdiction" for purposes of the NY UCC, and that New York law will govern all issues specified in Article 2(1) of the Hague Securities Convention (which if not overridden means the Hague Securities Convention would determine the law applicable to such issues).[15] As a related change, CMESC is proposing to add a definition to

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[14] *See* Rule 513(b)(i). If the authorizing Member is a broker-dealer, CMESC will also maintain a master grouping of the Supported User Accounts designated as a "Special Account for the Exclusive Benefit of the Supported Users as Customers of [name of broker-dealer Member]." *See* Rule 513(b)(iv).

[15] Article 2(1) of the Hague Securities Convention states:

> This Convention determines the law applicable to the following issues in respect of securities held with an intermediary – a) the legal nature and effects against the intermediary and third parties of the rights resulting from a credit of securities to a securities account; b) the legal nature and effects against the intermediary and third parties of a disposition of securities held with an intermediary; c) the requirements, if any, for perfection of a disposition of securities held with an intermediary; d) whether a person's interest in securities held with an intermediary extinguishes or has priority over another person's interest; e) the duties, if any, of an intermediary to a person other than the account holder who asserts in competition with the account holder or another person an interest in securities held with that intermediary; f) the requirements, if any, for the realisation of an interest in securities held with an intermediary; g) whether a disposition of securities held with an intermediary extends to entitlements to dividends, income, or other distributions, or to redemption, sale or other proceeds.

Rule 101 of the term "NY UCC," which is used in proposed new paragraph (c) of Rule 513. As defined, the term means "the Uniform Commercial Code enacted by the State of New York as in effect from time to time."

A different approach is taken with respect to Independent Users, as they will establish Accounts in their own name with CMESC and are responsible for posting initial margin (and Outstanding Exposure Settlement) directly to CMESC. Thus, CMESC is proposing new Rule 317 under which CMESC will recognize and accommodate the grant of a second priority security interest to a Member by an authorized Independent User in initial margin or other funds credited to the User's Independent User Account.

Under proposed Rule 317, a Member and an Independent User authorized by the Member may enter into an Authorization Agreement or other appropriate related agreement (such as a control agreement) that contains a provision whereby the authorized Independent User grants the Member a second priority security interest and lien against any initial margin or other funds credited to the relevant Independent User Account. For purposes of proposed Rule 317, such credited initial margin or other funds are referred to as the "Independent User Funds." As provided in proposed Rule 317(a), the agreement under which the security interest is granted must contain certain minimum terms described below to assure that the agreement does not contain terms that conflict with CMESC's first priority security interest in and lien against such funds or CMESC's application of such funds in connection with the management of any Default of the Independent User.

First, in order for CMESC to recognize the Member's second priority security interest in the Independent User Funds, the agreement between the Member and authorized Independent User must contain the Member's acknowledgment of CMESC's first priority and unencumbered security interest in and lien against property, cash, securities, or collateral deposited with, held by, pledged to, or otherwise available to CMESC to secure the Independent User's obligations to CMESC created under Rule 504 (Corporation Lien). This acknowledgement reinforces CMESC's priority claim to Independent User Funds ahead of the authorizing Member under the Rules and is intended to avoid competing claims to Independent User Funds between CMESC and the authorizing Member.

Second, consistent with the Member's required acknowledgment of CMESC's first priority and unencumbered security interest and lien described above and again in the context of CMESC recognizing a Member's second priority security interest, the agreement between the Member and authorized Independent User must provide that the Member will "exercise control over the Independent User Funds only following (A) the occurrence of a User Default of the Independent User and subject to the condition that the Member will refrain from taking any action that could interfere with the Corporation's management of such User Default (it being understood that the Member's election to participate in the management of the User Default pursuant to and in accordance with Rule 405(c) and Rule 1507(b) does not constitute interference) or (B) following the effective date of termination of the Authorization Agreement between the Member and the Independent User and satisfaction of all obligations owing to the Corporation relating to the Independent User's Account associated with the Member's authorization of the Independent User and subject to the condition that the Independent User is not in Default." (As explained in the following section, CMESC is proposing revisions to Rules 405(c) and 1507(b).) These are

important contractual terms that reinforce CMESC's priority claim to apply Independent User Funds under the Rules and are intended to avoid competing claims to Independent User Funds between CMESC and the authorizing Member.

Third, the agreement must provide that "the Member will assert its security interest and lien only over those Independent User Funds that may remain following, as applicable, (A) completion of the Corporation's management of the Independent User's User Default or (B) closing of the Independent User's Account associated with the Member's authorization of the Independent User and satisfaction of all obligations related thereto, and (C) the Corporation's exercise in either case of its rights pursuant to its security interest and lien created under Rule 504." As with the other minimum required terms, these are important contractual terms that reinforce CMESC's priority claim to apply Independent User Funds under the Rules and are intended to avoid competing claims to Independent User Funds between CMESC and the authorizing Member.

For clarity, CMESC is including paragraph (b) in proposed Rule 317 to reaffirm that an Independent User may not grant any party a security interest in or lien against the initial margin or other funds credited to its User Account to any person other than CMESC or its authorizing Member associated with the User Account, and may only grant the lien to the authorizing Member in accordance with Rule 317.

Finally, paragraph (c) of proposed Rule 317 provides that CMESC will "cooperate with the Member and Independent User to execute such documents as the Member may reasonably request to perfect its security interest and enforce its lien, provided, however, that any such documentation and the terms thereof must be acceptable to the Corporation in its sole discretion." This provision recognizes that CMESC may have to execute documentation (such as a control agreement) to enable the Member to perfect its secondary security interest in and have an enforceable lien against the Independent User Funds (subordinate to CMESC's) and confirms that CMESC will cooperate with the Member to give effect to the purpose of proposed Rule 317, provided the terms of the documentation are acceptable to CMESC, *e.g.*, that they are consistent with (or as appropriate contain) the minimum required terms described above.

3. Proposed Changes Relating to a Member's Rights to Participate in the Liquidation of an Authorized User's Positions in the Event of the User's Default

CMESC is proposing changes to three Rules to further delineate and clarify a Member's right to participate in the close-out of an authorized User's positions in the event of the User's Default: (i) changes to Rule 405(c) (User Default); (ii) related conforming and clarifying changes to Rule 1507(b); and (iii) changes to the definition of the term "close-out" in Rule 101.

Rules 405 and 1507 together address the process that CMESC will follow in the event of the Default of a Member or User. CMESC is proposing changes to Rule 405 and related changes to Rule 1507(b) to set out explicitly that CMESC will promptly provide an authorizing Member the opportunity to participate in the close-out of the Defaulting User's positions on CMESC's behalf and to provide more detail with respect to how the Member may participate and the Member's obligations if it elects to participate. CMESC believes there are benefits both to CMESC and to the Member for the Member of an authorizing User to have the opportunity to

participate in the close-out of the positions of a Defaulting User it has authorized, given the Member's obligation under Rule 406(b)(iii) to cover any losses that exceed the Defaulting User's initial margin and other assets available to CMESC and the incentive that creates for the Member to seek to minimize losses in closing out the Defaulting User's positions on CMESC's behalf.

Also, a core objective in managing the Default of a User is that the Defaulting User's positions be closed out promptly. Although this is implicit in Rule 405, to provide clarity and certainty, CMESC proposes to set out explicitly in Rule 405(c) that when the authorizing Member declines to close out the positions, CMESC will liquidate them promptly in accordance with the Rule. The proposed changes to Rule 1507(b) reiterate the prompt liquidation standard, both when CMESC is responsible for closing out the positions and when the authorizing Member participates in the close-out.

CMESC is proposing numerous changes in Rule 405(c), which governs a User Default. CMESC is proposing to modify subparagraph (c)(i) to set out explicitly that CMESC will, pursuant to Rule 1507(b), promptly notify each authorizing Member of a Defaulting User that the Member may participate in the close-out of the positions in each User Account associated with the Member's authorization. Proposed Rule 405(c)(i) refers to the positions of a Defaulting User in each User Account associated with the Member's authorization as the "Defaulting User Positions." CMESC also proposes changes to clarify that after CMESC notifies a Member of its opportunity to participate in closing out the Defaulting User Positions on behalf of CMESC, the Member should promptly respond within the period CMESC prescribes and will be deemed to decline the opportunity to participate if the Member has not responded within such time.

CMESC is also proposing to delete the last sentence in Rule 405(c)(i), which sets out that a Member that agrees to liquidate the Defaulting User's portfolio on behalf of CMESC "will be directly and primarily responsible for meeting the financial and settlement obligations of the Corporation with respect to open positions of the Defaulting User authorized by that Member." Upon further consideration, CMESC believes that this sentence may create ambiguity in relation to a Member's potential obligation under Rule 406(b)(iii) to cover any losses that exceed the Defaulting User's initial margin and other assets available to CMESC, which is the operative standard, in the event of the Default of a User it has authorized. This sentence also becomes unnecessary in light of the other proposed changes to Rule 405, explained below.

CMESC proposes adding new subparagraph (ii) to Rule 405(c) to provide additional detail regarding how a Member may participate in the close-out of the Defaulting User Positions if it elects to do so. As set forth in proposed Rule 405(c)(ii), the Member may participate in the manner established in this part of the Rule (*i.e.*, Rule 405(c)(ii) and its subparts) or in another manner, both of which would be determined in consultation with CMESC. Proposed Rule 405(c)(ii) sets out two manners for a Member to participate in the close-out of the Defaulting User Positions. As provided in subparagraph (A), the Defaulting User Positions could be liquidated promptly in the Defaulting User's Account and reestablished in the Member's Account, whereby positions equivalent to the liquidated Defaulting User Positions (*i.e.*, equivalent to the cleared positions in the Defaulting User's Account) are novated to the Member and established as cleared positions booked to the Member's Account. Under this approach, the following conditions must be met.

- First, because the Member will be party to the positions reestablished in the Member's Account (*i.e.*, positions equivalent to those that were cleared in the Defaulting User's Account), the Member must represent to CMESC that the Member will be able to meet its initial margin and settlement obligations on all positions in its Member Account following reestablishment of the Defaulting User Position in its Member Account under proposed Rule 405(c)(ii)(A)I.

- Second, proposed Rule 405(c)(ii)(A)II. sets out that the Member, acting in a commercially reasonable manner and consistent with market convention, is responsible for determining the liquidation value of the portfolio of the Defaulting User Positions as of the date the positions are liquidated and reestablished in the Member's Account as equivalent cleared positions, which date is referred to for purposes of Rule 405(c)(ii) as the "Liquidation Date." Promptly following the Liquidation Date, the Member must provide a detailed written statement to CMESC, with supporting documentation, of the Member's calculation of such liquidation value, which must be satisfactory to CMESC. As between the Defaulting User and CMESC, if as of the Liquidation Date the liquidation value is less than the value of the portfolio of positions that are reestablished in the Member's Account (which as noted are reestablished as positions equivalent to those that were cleared in the Defaulting User's Account), the difference is fixed as the amount of the losses on such positions and if such liquidation value is greater than the value of the portfolio of positions reestablished in the Member's Account as of the Liquidation Date, the difference is fixed as the amount of gains on such positions.

- Finally, consistent with CMESC's rights under Rule 406(b)(ii) and other Rules to apply initial margin and other assets held by CMESC to losses associated with a User's Default, proposed Rule 405(c)(ii)(A)III. sets out that CMESC will credit the Member for the amount of any losses fixed pursuant to Rule 405(c)(ii)(A)II., with such amount credited using and limited to the Defaulting User's initial margin and other assets CMESC holds in respect of the Defaulting User's Account associated with the Member's authorization. If the amount to be credited to the Member exceeds the Defaulting User's margin and other assets held by CMESC in respect of the Defaulting User's Account, then the Member would incur such loss in acquiring the positions, but that would be consistent with the Member's obligation under Rule 406(b)(iii) to cover the losses that exceed the Defaulting User's initial margin and other assets available to CMESC. Conversely, CMESC will debit the Member for the amount of any gains fixed pursuant to Rule 405(c)(ii)(A)II. After the Liquidation Date, any gains or losses on the Defaulting User Positions that are liquidated in the Defaulting User's Account and reestablished in the Member's Account will belong to the Member, as provided in proposed Rule 405(c)(ii)(A)III.

As provided in proposed Rule 405(c)(ii)(B), the second manner in which CMESC proposes to allow a Member to participate in the close-out of the Defaulting User Positions is specific to the liquidation of any Defaulting User Position that is a Repo Transaction for which the Member is the contra party on the original transaction (*i.e.*, a "done-with" Repo Transaction). In this scenario, the Member may agree to terminate the position by accelerating the Off-Leg Settlement Date to a new Off-Leg Settlement Date that is on or before a date that CMESC specifies, consistent with the core objective that the Defaulting User Positions be liquidated promptly. Similar to the process in

proposed Rule 405(c)(ii)(A) described above, the Member must determine the liquidation value of the original (*i.e.*, pre-accelerated) Defaulting User Position as of the accelerated Off-Leg Settlement Date, which is used as the Liquidation Date, in the same manner as it would calculate the liquidation value for positions reestablished in its Account pursuant to Rule 405(c)(ii)(A)II. This liquidation value will be used to fix the loss or gain on the position as between CMESC and the Defaulting User and if multiple Repo Transactions between the Member and Defaulting User are accelerated pursuant to proposed Rule 405(c)(ii)(B), the losses or gains will be determined on an aggregate basis for such positions. CMESC will credit or debit the Member for the losses or gains fixed pursuant to this Rule 405(c)(ii)(B) in the manner provided in Rule 405(c)(ii)(A)III. CMESC believes a Member may find the approach outlined in proposed Rule 405(c)(ii)(B) an effective way to reduce losses realized upon the close-out of any Defaulting User Positions that are "done-with" Repo Transactions with the Member and is including this approach to provide additional flexibility to determine (in consultation with CMESC) the appropriate mean(s) for the Member to participate in the close-out of the Defaulting User Positions.

The proposed changes described above to elaborate on how a Member may participate in closing out the Defaulting User Positions do not change the Member's obligation under Rule 406(b)(iii) to cover any losses that exceed the Defaulting User's initial margin and other assets available to CMESC. Therefore, CMESC proposes adding a new subparagraph (iii) under Rule 405(c) to clarify that the Member's obligation under Rule 406(b)(iii) to fully discharge the losses and liabilities to CMESC associated with the User's Default in each User Account associated with the Member's authorization, once such losses and liabilities are finalized, remains in effect, notwithstanding the Member's decision to participate in the close-out of the Defaulting User Positions. As noted above, Rule 406(b)(iii) is the operative provision that governs the Member's potential liability in relation to the Default of a User it has authorized.

CMESC also proposes changes to existing subparagraph (ii) of Rule 405(c), which is proposed to be renumbered as Rule 405(c)(iv), to align with the revised provisions discussed above regarding the actions that CMESC will take to close-out, including liquidation of, the Defaulting User Positions in relation to any authorizing Member that declines to participate in the close-out of the Defaulting User Positions associated with the Member's authorization. CMESC proposes to clarify that CMESC will *promptly* initiate the close-out process described in the Rules for the User Account of the Defaulting User associated with the Member's authorization. CMESC also proposes to delete the last sentence, which is a "for avoidance of doubt" provision that is adequately explained in Rule 406(b)(iii), as described above.

CMESC also proposes changes to existing subparagraph (iii) of Rule 405(c), which is proposed to be renumbered as Rule 405(c)(v), to set out more directly that CMESC will apply the financial resources described in Rule 406(b), in the order provided in and subject to Rule 406(b), to the Defaulting User's obligations owed to CMESC, regardless whether the authorizing Member elects to participate in the close-out of the Defaulting User Positions pursuant to Rule 405(c).

As a result of the proposed changes to Rule 405 described above, CMESC is proposing conforming and clarifying changes to Rule 1507(b). First, existing Rule 1507(b) provides that in the case of a User Default, before CMESC takes any of the actions described in Rule 1507(e), CMESC will notify the Defaulting User's authorizing Member(s) that the Member may "terminate the Defaulting User's obligations to the Corporation by satisfying them in full," but subject to the

qualification "if time permits." CMESC proposes to delete "if time permits" and "terminate the Defaulting User's obligations to the Corporation by satisfying them in full," and to add new text to Rule 1507(b) to specify that CMESC will promptly notify the authorizing Member(s) of the Member's right to close-out the Defaulting User's positions pursuant to and in accordance with Rule 405(c), noting parenthetically that the Member and CMESC will act promptly to effect the close-out.

Finally, CMESC is proposing clarifying changes to the definition of "close-out" in Rule 101. The current definition covers extinguishing a Member's or User's cash receipt entitlement in relation to the sale of Eligible Securities under a Repo Transaction. The term is used in the proposed changes to Rule 405(c) and 1507(b) in the broader sense of liquidating or terminating any cleared Eligible Securities Transaction. Thus, CMESC proposes to modify the definition of the term "close-out" to mean the liquidation or termination of a cleared Eligible Securities Transaction. This definition is consistent with how the term is used in other CMESC Rules.

(b) Statutory Basis

For the reasons set forth below, CMESC believes the proposed rule change is consistent with Section 17A of the Act[16], SEC Rule 17ad-22(e)(13),[17] SEC Rule 17ad-22(e)(18),[18] SEC Rule 17ad-22(e)(19),[19] and SEC Rule 17ad-22(e)(21)(i). [20]

Consistency with Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.[21] CMESC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act because it will further support Members' management of risks associated with authorizing persons as Users and enhance Members' ability to authorize Users by addressing potential constraints imposed by bank regulatory capital requirements and enhancing Members' abilities to enforce contractual termination rights and secondary lien rights against authorized Users' margin or other funds held by CMESC that Members may have under their contractual arrangements with their authorized Users. The proposed rule change will also further strengthen and clarify a Member's ability to participate in the liquidation of an authorized User's positions in the event of the User's Default. These modifications will thus support Members' ability to participate in and authorize Users in CMESC's Clearing Services, which will promote the prompt and accurate clearance and settlement of transactions in or involving U.S. Treasury securities (including eligible secondary market securities transactions that market participants may be

[16] 15 U.S.C. § 78q-1(b)(3)(F).
[17] 17 C.F.R. § 240.17ad-22(e)(13).
[18] 17 C.F.R. § 240.17ad-22(e)(18).
[19] 17 C.F.R. § 240.17ad-22(e)(19).
[20] 17 C.F.R. § 240.17ad-22(e)(21)(i).
[21] 15 U.S.C. §78q-1(b)(3)(F).

required to centrally clear pursuant to the rules of a covered clearing agency adopted pursuant to SEC Rule 17ad-22(e)(18)(iv)[22]).

Consistency with Rule 17ad-22(e)(13)

SEC Rule 17ad-22(e)(13) requires, in part, that the rules of a covered clearing agency be reasonably designed to ensure the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations. CMESC believes that the proposed rule change is consistent with Rule 17ad-22(e)(13) because the proposed changes to Rule 405(c) and Rule 1507(b) are designed to achieve the core objective in default management that the Defaulting User's positions be closed out promptly to minimize losses and liquidity demands and continue to meet CMESC's settlement obligations. The requirement to take prompt action to close-out, including liquidate, the Defaulting User's positions is reflected in multiple places in the proposed rule change. Specifically, proposed Rule 405(c) provides that CMESC will promptly notify each authorizing Member of a Defaulting User that the Member may participate in closing out the positions in each User Account associated with the Member's authorization. CMESC also proposes changes to clarify that, after CMESC notifies a Member of its opportunity to participate in closing out the Defaulting User Positions, the Member should promptly respond within the period CMESC prescribes and will be deemed to decline the opportunity if the Member has not responded within such time. In addition, proposed Rule 405(c)(ii) provides two non-exclusive manners in which authorizing Members may participate in closing out positions of Defaulting Users they authorize, both requiring that the Defaulting User Positions be closed out promptly and that the Member provide a detailed written statement of its calculation of the liquidation value promptly following the Liquidation Date. Similarly, if the authorizing Member declines to participate in the close-out of the Defaulting User's positions associated with the Member's authorization, proposed Rule 405(d)(iv) requires CMESC to promptly initiate the close-out process described in the Rules for the User Account of the Defaulting User. Finally, proposed changes to Rule 1507(b) specify that CMESC will "promptly" notify the authorizing Member of the Member's right to close-out the Defaulting User's positions and make clear that the Member and CMESC will act promptly to effect the close-out pursuant to and in accordance with proposed changes to Rule 405(c).

All of the above proposed changes are reasonably designed to ensure that CMESC will have the authority and operational capacity to take timely action to promptly close-out a Defaulting User's positions. In addition, as described in detail above, by proposing changes to Rule 405(c) to provide the authorizing Member the opportunity to participate in a prompt close-out of the User's positions, CMESC believes that the proposed changes to Rule 405(c) will help minimize losses from the User Default and, thus, contain losses and liquidity demands, enabling CMESC to continue to meet its obligations. Therefore, CMESC believes that the proposed rule change is consistent with SEC Rule 17ad-2(e)(13).

Consistency with Rule 17ad-22(e)(18)(iv)(C)

CMESC believes that the proposed rule change is consistent with SEC Rule 17ad-22(e)(18)(iv)(C), which requires, in part, a covered clearing agency that provides central

[22] 17 C.F.R. § 240.17ad-22(e)(18)(iv).

counterparty services for transactions in U.S. Treasury securities to ensure that it has appropriate means to facilitate access to clearance and settlement services for eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants such as Independent Users and Supported Users. As detailed above, the proposed rule change consists of (i) proposed new Rule 316 and proposed changes to Rule 602 designed to support Members' risk management and enhance their ability and capacity to authorize persons as Users, by providing Members the clear means to enforce contractual termination rights under their contractual arrangements with authorized Users in circumstances when the authorized Users are not in Default under CMESC's Rules; (ii) proposed changes to Rule 513 to create a legal structure to provide an authorizing Member with a securities entitlement under the NY UCC to excess assets in the Supported User Account associated with such Member's authorization and proposed new Rule 317 to provide a Member the means to obtain and perfect a secondary security interest in and lien against Independent User Funds held by CMESC for the Independent User Account associated with the Member's authorization, while affirming CMESC's first priority and unencumbered security interest in and lien against the Independent User funds; and (iii) proposed changes to Rules 405(c) and 1507(b) designed to strengthen and clarify Members' abilities to participate in the close-out of positions of Users they authorize in the event of an authorized User's Default. These proposed changes are designed to enhance the ability and capacity of Members to authorize Users, which will support CMESC's efforts to attract and to on-board Members and Users prior to CMESC commencing operations of its Clearing Services and on an ongoing basis thereafter and enhance access to CMESC's Clearing Services for prospective Members and Users. As such, CMESC believes that the proposed rule change is reasonably designed to provide appropriate means to facilitate access to clearance and settlement services for eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants, consistent with Rule 17ad-22(e)(18)(iv)(C).

Consistency with Rule 17ad-22(e)(19)

SEC Rule 17ad-22(e)(19) requires that the rules of a covered clearing agency identify, monitor and manage material risks to the clearing agency arising from arrangements that indirect participants have with direct participants to access the clearing agency's clearing and settlement services. The existing Rules define a Member's rights and obligations with respect to any User it authorizes while at the same time recognizing (in Rule 306(c)) that a Member and an authorized User may enter into separate commercial terms between them. Those features are unchanged. Rather, the proposed rule change provides a means for a Member to enforce contractual liquidation rights and any secondary rights to User collateral it may negotiate with an authorized User, subject to terms that protect CMESC's ability to manage risk pursuant to its Rules. In this respect, as conditions to liquidate an authorized User's positions under proposed Rule 316 or under Rule 602 as proposed to be revised, a Member represents that it has the contractual authority to do so and indemnifies CMESC and related parties against any losses, liabilities, damages, claims or expenses they may incur arising out of any dispute between the Member and its authorized User or in the case of action under proposed Rule 316 regarding any action taken or not taken pursuant to that Rule. With respect to a Member's rights to collateral of an authorized User, the proposed rule change establishes structures whereby the Member's claim is *secondary* to CMESC's rights as explained above. In this respect, a Member's claim to such collateral is limited to the return of any excess margin or other funds remaining following CMESC's default management process if the User is in Default or following termination of the Member's authorization of the User and

satisfaction of the User's obligations to CMESC. For these reasons, CMESC believes that the proposed rule change is appropriate to manage potential risks to CMESC arising from arrangements that its Users have with Members and is consistent with SEC Rule 27ad-22(e)(19).

Consistency with Rule 17ad-22(e)(21)(i)

SEC Rule 27ad-22(e)(21)(i) requires that a covered clearing agency have clearing and settlement arrangements that are efficient and effective in meeting the requirements of its participants and the markets the clearing agency services. CMESC believes the proposed rule change is consistent with Rule 27ad-22(e)(21)(i), meeting the needs of Members and Users, in that it will enhance Members' ability to authorize Users by addressing potential constraints imposed by bank regulatory capital requirements and will further support the enforceability of certain contractual terms that are separately negotiated between a Member and an authorized User.

4. Self-Regulatory Organization's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[23] requires that the rules of a clearing agency not impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. CMESC believes that the proposed rule change would not impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. CMESC believes that the proposed rule change may enhance competition because, as detailed above, the proposed rule change would further support Members' risk management of Users they authorize and enhance Members' ability and capacity to authorize Users, thereby facilitating access to CMESC's Clearing Services for eligible secondary market transactions in U.S. Treasury securities. CMESC also believes that the proposed rule change would indirectly benefit Users and prospective Users by enhancing their abilities to access CMESC by supporting Members' capabilities to authorize Users.

CMESC recognizes that various Members may perceive varying degrees of benefits of the proposed rule change conferred on them, depending on each Member's regulatory status and its entity type. CMESC believes that the effect of the proposed rule change on competition is distributed equally among all types of prospective Members because it will apply to all Member types and would not disadvantage or favor any particular type of Member in relationship to the other types of potential Members. As such, CMESC believes that the proposed rule change would promote competition and does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

CMESC currently does not have any Members or Users and has not received nor solicited any written comments from others related to this proposal. CMESC has not received any unsolicited written comments on this proposal from any interested parties. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b-4 and the General Instructions thereto.

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[23] 15 U.S.C. 78q-1(b)(3)(I).

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. CMESC reserves the right to not respond to any comments received.

6. Extension of Time Period for Commission Action

CMESC does not consent to an extension of time period specified in Section 19(b)(2) of the Act[24] for Commission action.

7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

(a) Not applicable.

(b) Not applicable.

(c) Not applicable.

(d) Not applicable.

8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

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

Not applicable.

11. Exhibits

Exhibit 1. Not applicable.

[24] 15 U.S.C. §78s(b)(2).

Exhibit 1A. Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 2 Not applicable.

Exhibit 3. Not applicable.

Exhibit 4. Not applicable.

Exhibit 5. Proposed changes to the Rules.

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- ; File No. SR-CMESC-2026-004]

Self-Regulatory Organizations; CME Securities Clearing Inc.; Notice of Filing of Proposed Rule Change to Support Members' Risk Management of and Enhance Their Ability to Authorize Persons as Users

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[25] and Rule 19b-4 thereunder,[26] notice is hereby given that on [DATE], CME Securities Clearing Inc. ("CMESC") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I, II, and III below, which Items have been substantially prepared by CMESC. CMESC filed the proposed rule change pursuant to Section 19(b)(2) of the Act.[27] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. CMESC's Statement of the Terms and Substance of the Proposed Rule Change

The proposed rule change of CME Securities Clearing Inc. ("CMESC") is annexed hereto as Exhibit 5 and consists of modifications to the CMESC Rulebook (the "Rules")[28] to (i) support Members' risk management of and enhance their ability to authorize persons as Users, by providing Members the means to enforce contractual termination rights against their authorized Users under their contractual arrangements with their authorized Users; (ii) create legal structures to provide security entitlement to an authorizing Member in each

[25] 15 U.S.C. §78s(b)(1).
[26] 17 CFR §240.19b-4.
[27] 15 U.S.C. §78s(b)(2).
[28] Capitalized terms used herein and not defined have the meanings assigned to such terms in the Rules, as applicable, available at https://www.cmegroup.com/rulebook/CMESC/CMESC%20Rulebook.pdf.

Supported User Account associated with such Member's authorization and to grant secondary security interests in and liens against Independent User funds held by CMESC while affirming CMESC's first priority and unencumbered lien and security interest in such User funds; and (iii) strengthen and clarify Members' ability to participate in the close-out (liquidation) of positions of Users they authorize in the event of the User's Default. The proposed rule change includes proposed new Rule 316 (Member Exercise of Contractual Rights Against an Authorized User) and new Rule 317 (Member Second Priority Lien Against Independent User Margin) and modifications to Rule 101 (Definitions), Rule 405 (Default Management Process), Rule 513 (Margin Deposited for Supported Users Using the Repo or Cash Treasury Clearing Services), Rule 602 (Submission of Transaction Data), and Rule 1507 (Default Management). Each modification is described in more detail below. These modifications will support Members' risk management of their authorized Users and are designed to support Members' ability and capacity to authorize Users. This, in turn, will support CMESC's efforts to attract and to on-board Members and Users prior to CMESC's launch of its Clearing Services and on an ongoing basis thereafter by enhancing the attractiveness of CMESC's Clearing Services offering for prospective Members, thereby promoting the prompt and accurate clearance and settlement of transactions in or involving U.S. Treasury securities. The proposed revisions to the CMESC Rules are annexed hereto as Exhibit 5.

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

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

A. CMESC's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

1. Purpose

Background

On December 1, 2025, the Securities and Exchange Commission ("Commission" or "SEC") issued an order approving CMESC's Form CA-1 ("Application") for registration as a clearing agency to provide central counterparty services for transactions involving U.S. Treasury securities, finding the Application satisfies the requirements of the Securities Exchange Act of 1934, as amended ("Act") and rules and regulations thereunder.[29] Based on engagement with market participants and trade associations during the Commission's review of the Application, CMESC has identified enhancements to its Rules designed to enhance Members' risk management flexibility and mitigate potential constraints on their ability to authorize Users due to potential capital constraints. More specifically, the proposed rule change is designed to further support prompt close-out of a User's positions, whether the User is subject to a termination event under binding contractual terms between it and its authorizing Member or the User is in Default to CMESC under the Rules.

1. Member Risk Management Considerations

As provided in the Rules, a person may become a Participant to utilize CMESC's Clearing Services as a Member or a User.[30] Members may clear proprietary Eligible

[29] Release No. 34–104281 (Dec. 1, 2025), 90 FR 55926 (Dec. 4, 2025), *available at* https://www.federalregister.gov/documents/2025/12/04/2025-21908/cme-securities-clearing-inc-order-granting-an-application-for-registration-as-a-clearing-agency.

[30] *See e.g.*, Rule 301.

Securities Transactions through CMESC[31] and may authorize Users to clear their own proprietary Eligible Securities Transactions through CMESC.[32] A person may become a User only with the authorization of a Member but is contractually bound to settle its Eligible Securities Transactions directly with CMESC.[33] Users may participate in CMESC's Clearing Services as Independent Users or Supported Users.[34] An Independent User is obligated to post margin and make Outstanding Exposure Settlement payments to CMESC for its Independent User Account.[35] In contrast, for a Supported User, the Member authorizing the Supported User is obligated to post margin and make Outstanding Exposure Settlement payments to CMESC for the Supported User Account associated with the Member's authorization.[36]

A Member has certain obligations under the Rules with respect to persons admitted as Users pursuant to the Member's authorization. An authorizing Member must establish, maintain, and enforce User Due Diligence Policies and Procedures that demonstrate the Member's ability to, among other things, determine the risk profile of each User it authorizes and monitor the risks associated with clearing Eligible Securities Transactions by its authorized Users through CMESC.[37] In the event of a User Default, if any losses remain after CMESC applies the margin posted to the Account of the Defaulting User associated with the Member's authorization as well as certain other assets available to CMESC as provided in the Rules,[38] the authorizing Member will be required to provide

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[31] *Id.*
[32] *See e.g.*, 302(a) and 305(c).
[33] *See e.g.*, Rules 305(d) and 1504(b).
[34] *See e.g.*, Rule 301(b).
[35] *See e.g.*, Rules 501 (margin) and 506 (Outstanding Exposure Settlement).
[36] *See e.g.*, Rules 501 and 513 (margin) and 506 (Outstanding Exposure Settlement).
[37] *See* Rule 306(c)(iii).
[38] When the Defaulting User is an Independent User, CMESC may also apply any other assets of the Independent User held by, pledged to, or otherwise available to the Corporation on behalf of that Independent

funds to discharge such remaining losses pursuant to Rule 406(b)(iii) (User Default). If the Member fails to do so, CMESC may declare the Member in Default pursuant to Rule 406(b)(iii) and then apply the resources in the financial resources waterfall as provided for and in the priority specified in Rule 406(a) (Member Default), including such Defaulting Member's contribution to the Guaranty Fund.

A Member must enter into an Authorization Agreement with each User it authorizes pursuant to which the Member agrees to authorize the User, as provided in Rule 305(c) (Member Authorization Agreement Between a Member and Authorized User). The Authorization Agreement is a commercial matter between the Member and authorized User, though its terms must be consistent with the Member's and User's respective rights and obligations to CMESC and to one another under the Rules. As provided in Rule 306(d) (Notice of Termination of User Authorization), a Member or User must provide CMESC with ten Business Days' advance notice of its termination of the Authorization Agreement for any reason, subject to CMESC's discretion to provide a shorter notification period. CMESC understands that Members want the certainty that its authorization of a given User will terminate immediately upon notification to CMESC in certain circumstances, in order to further support such Members' ability to manage risk arising from its authorized Users' cleared activity.

2. Bank Regulatory Capital Considerations for Certain Members

CMESC understands that for a bank or firm affiliated with a bank that becomes a Member, it is beneficial for the Member to have explicit means to enforce any contractual

User. *See* Rule 406(b)(ii)(A). When the Defaulting User is a Supported User, CMESC may also apply any collateral in excess of the margin requirement posted to it for the Supported User of the authorizing Member that such Member has not designated to CMESC as Funded Supported User Margin for any other Supported User Account or Supported User Margin for any other Supported User Account. *See* Rule 406(b)(ii)(B).

rights it may have under its agreement(s) governing its relationship with an authorized User to terminate all the authorized User's Eligible Securities Transactions cleared through CMESC in the User Account associated with the Member's authorization, so that such agreement(s) may be treated as qualified master netting agreements[39] under bank regulatory capital requirements.[40] CMESC further understands there may be regulatory capital benefits for a Member that is a bank or bank affiliate if such Member has a security interest, secondary to CMESC's, in the margin or other funds posted to the Account of an authorized User and to have assurance that in the event of an authorized User Default, the Defaulting User's open positions at CMESC will be closed out (*i.e.*, liquidated or terminated) promptly.

Thus, CMESC is filing the proposed rule change to address each of these considerations for prospective Members. Specifically, the proposed modifications will enhance Members' abilities to enforce contractual termination rights and contractual liens against a User's margin or other funds held by CMESC (subordinate to CMESC's rights thereto) that Members may have under their contractual arrangements with their authorized Users, provided that neither the authorizing Member nor its User is in Default to CMESC. The proposed rule change will also further strengthen and clarify a Member's ability to

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[39] *See* 12 C.F.R. § 50.3 (definition of "qualifying master netting agreement").

[40] Pursuant to the relevant capital rules, we understand that a banking organization is only permitted to recognize the effects of financial collateral or offsetting transactions for capital purposes if the banking organization satisfies certain requirements, including that the banking organization must have the right to terminate the transaction and set off or apply collateral "promptly upon an event of default" under the bilateral agreement between the banking organization and its client. We further understand from comment letters submitted on CMESC's application for registration as a clearing agency that if a covered Member is unable to meet these requirements, it must hold capital without regard to such collateral or offsetting transactions, i.e., against its "gross exposure" to the customer and further, that the significant costs associated with gross exposure capital calculations could make the costs of offering clearing services to clients prohibitively expensive for relevant Members. *See e.g.* letter from Allison Lurton, General Counsel and Chief Legal Officer, FIA, dated Mar. 10, 2025, on SEC Notice of Filing of an Application for Registration as a Clearing Agency Under Section 17A of the Securities Exchange Act of 1934 [Release No. 34-102200 (Jan. 15, 2025), 90 FR 7713 (Jan. 22, 2025); File No. 600-44].

participate in the liquidation of an authorized User's positions in the event of the User's Default.

The proposed changes are described in detail as follows.

Description of the Proposed Rule Change

1. Proposed Changes Relating to a Member's Contractual Termination Rights Outside an Authorized User's Default to CMESC

CMESC proposes two changes to its Rules to further facilitate a Member's enforcement of its contractual termination rights in relation to a User it authorizes. First, CMESC proposes adopting new Rule 316 (Member Exercise of Contractual Rights Against an Authorized User), which sets out a process whereby a Member may, pursuant to a request to CMESC and subject to certain conditions, immediately assume an authorized User's positions pursuant to the Member's contractual termination rights, provided that neither the User nor the Member is in Default to CMESC. Second, CMESC proposes changes to Rule 602 (Submission of Transaction Data) to recognize explicitly that a Member may submit transactions for an authorized User's Account if the User has given the Member the authority to do so, provided again that neither the User nor the Member is in Default. The proposed changes to Rule 602 will cover trade submission by a Member both as a routine matter and as a potential means for a Member to exercise contractual termination rights in relation to an authorized User by submitting liquidating transactions for the authorized User's Account.

As noted, proposed Rule 316 sets out the process and conditions for a Member to assume an authorized User's positions pursuant to contractual termination rights as between the Member and the User. Proposed Rule 316(a) applies to the circumstance when a User is in default to its authorizing Member, or is otherwise subject to a termination

event, under one or more binding agreements between the Member and User and neither party is in Default (as that term is defined in the Rules). Proposed Rule 316(a) introduces the term "Contractual Terms" to refer to such binding agreement(s) and the terms "Affected Member" and "Affected User" to refer to the Member and to the User, respectively, when this circumstance arises. It also introduces the term "Affected User Account" for purposes of proposed Rule 316 and defines the term separately in relation to an Affected User that is a Supported User and an Affected User that is an Independent User. When the Affected User is a Supported User, the Affected User Account is the Account that CMESC maintains in the name of the Affected Member for the exclusive benefit of the Affected Supported User. For an Independent User as the Affected User, the term covers the Independent User's Account associated with the Affected Member's authorization of the User.

Proposed Rule 316(b) sets out that an Affected Member may submit a written request to CMESC, in such form as CMESC may prescribe, to promptly transfer all the positions in Eligible Securities Transactions in the Affected User Account to the Account of the Affected Member. The Member's request may also request the transfer of initial margin or other funds in the Affected User Account to the Account of the Affected Member. CMESC will promptly effect the requested transfer, provided the conditions set out in other paragraphs of Rule 316 are met. Proposed Rule 316(b) explicitly sets out that each Eligible Securities Transaction that is transferred is novated to the Affected Member, such that the transaction is terminated in the Affected User's Account and an equivalent position is established as a cleared position booked to the Account of the Affected Member, with the Affected Member substituted as CMESC's counterparty to the Eligible Securities Transaction.

Proposed Rule 316(c) sets out the condition that transfers pursuant to the proposed Rule will only occur if the Affected User is not in Default to CMESC at the time of the request or at the time the transfers are to be effected. If a User is subject to a Default to CMESC under the Rules, CMESC's default management rules will govern and, as acknowledged in this part of the proposed Rule, the authorizing Member(s) will have the opportunity to close-out the Defaulting User's positions as permitted under and in accordance with the proposed changes to Rule 405(c) and Rule 1507(b), as explained below.

Proposed Rule 316(d) sets forth certain conditions that apply when an Affected Member submits a written request to transfer the Affected User's positions pursuant to the Rule. A Member's request to transfer an Affected User's positions pursuant to proposed Rule 316 is deemed by CMESC to constitute an election of the Member to terminate its Authorization Agreement with the User with immediate effectiveness, and thus, the Member is ceasing to authorize the Affected User. Proposed Rule 316(d) also eliminates the need for the Member to separately submit advance notice of termination of the Authorization Agreement pursuant to Rule 311(d) (Notice of Termination of User Authorization).

The predicate for proposed Rule 316 is that the Member requesting the transfer of the Affected User's positions has the contractual right to do so under the Contractual Terms. CMESC is not a party to the Contractual Terms, and the negotiation of such terms is a commercial matter between the Member and its authorized User. Accordingly, Rule 316(d) sets out that when an Affected Member submits a written request to CMESC to effect a transfer pursuant to this Rule, the Affected Member is deemed to represent, warrant

and covenant to CMESC that the Affected User is in default to the Affected Member, or subject to a termination event, under the Contractual Terms, and that it has the authority under the Contractual Terms to request CMESC to take such action. The Affected Member also is deemed to represent to CMESC that the Affected Member has reasonably determined that it will be able to meet its initial margin and other obligations on all positions in its Member Account following completion of the transfer of positions to such Account covered by the request, and that its exercise of its rights under the Contractual Terms and Rule 316 is consistent with, and does not and will not cause the Affected Member to be in violation of, its obligations to the Affected User under applicable law.

It is important that CMESC be protected in the event a dispute arises between an Affected Member and Affected User when CMESC acts upon the Affected Member's request given that CMESC is adopting Rule 316 to facilitate a Member's rights under Contractual Terms between the Affected Member and Affected User to which CMESC is not a party. Indeed, the Contractual Terms may well govern aspects of the relationship between a Member and a User beyond the Member's authorization of the User or even extend to relationships with or among their respective affiliates. Thus, proposed Rule 316(e) sets out that CMESC has no liability to the Affected Member or the Affected User for any loss or costs that they may incur in connection with the transfer of any positions from the Affected User Account to the Account of the Affected Member pursuant to the proposed Rule. Proposed Rule 316(e) also provides that the Affected Member will indemnify CMESC and its affiliates and their respective officers, employees and agents against any and all losses, liabilities, damages, claims, costs or expenses they may suffer

or incur arising out of or in connection with any dispute between the Affected Member and Affected User regarding any action taken or not taken pursuant to proposed Rule 316.

As noted, as an alternative to the transfer of all the positions in Eligible Securities Transactions in the Affected User Account, CMESC also proposes changes to Rule 602 to facilitate a Member's ability to liquidate an authorized User's transactions pursuant to its contractual termination rights by submitting liquidating transactions for the authorized User's Account associated with the Member's authorization. Specifically, CMESC is proposing to add a new sentence to existing Rule 602 to provide that transaction data may be submitted by a Member for the Account of a User that it authorizes, provided that the User is not in Default. CMESC believes it is beneficial to clarify explicitly in Rule 602 that a Member may submit transaction data for the Account of a User that it authorizes only when the User is not in Default. This is consistent with proposed Rule 316(c), which provides that CMESC will not effect any transfer of positions in the Affected User's Account to the Affected Member's Account if the Affected User is subject to a Default under the Rules. CMESC believes that if an authorized User is in Default, no transaction data should be submitted to the Defaulting User's Account and the Rules regarding default management, *e.g.*, Rule 405(c) and 1507(b), should apply to facilitate the prompt close-out (*e.g.*, liquidation) of the Defaulting User Positions, as described below.

In addition, a Member could submit transactions on behalf of an authorized User either as a routine matter or in connection with contractual termination rights pursuant to the proposed changes to Rule 602. To assure the Member has the authority to submit transactions for the User's Account, proposed changes to Rule 602 set out that, when the Member submits transaction data for an authorized User, the Member is deemed to

represent that it has the authority to do so. As the Member's authority to submit transactions for a User it authorizes is a matter between the Member and authorized User, the proposed changes to Rule 602 further provide that the Member indemnifies CMESC and its affiliates and their respective officers, employees and agents against any and all losses, liabilities, damages, claims, costs or expenses they may suffer or incur arising out of or in connection with any dispute between the Member and User regarding such action taken by the Member.

2. Proposed Changes Relating to a Member's Subordinate Security Interest in User Collateral

This section describes CMESC's proposed modifications to its Rules with respect to a Member's rights to margin or other funds posted to the User Account of a User it has authorized. The purpose of the proposed changes is to establish explicit structures whereby the authorizing Member will have a claim to the return of any excess margin of the User associated with the Member's authorization that remain following CMESC's default management process for a Defaulting User or following the termination of a Member's authorization of a User and satisfaction of the User's obligations to CMESC. The legal approach differs for a Supported User and an Independent User, each of which is discussed below.

First, CMESC is proposing modifications to Rule 513, which governs the treatment of margin deposited with CMESC for Supported User Accounts, to add new paragraph (c) to provide explicitly that CMESC will maintain a Supported User Account as a "securities account" under Article 8 of the New York Uniform Commercial Code (proposed Rule 513(c) uses the defined term "NY UCC") and that CMESC is the securities intermediary

in relation to the Member that establishes the Supported User Account in its name for the benefit of the Supported User of the Member.

As explained above, the authorizing Member for a Supported User is responsible for posting initial margin (and Outstanding Exposure Settlement) for the Account of the Supported User. Thus, as set out in existing Rule 513, CMESC will establish within its books and records a Supported User Account for each Supported User of the authorizing Member, in the name of the Member for the benefit of the Supported User.[41] Under existing Rule 504 (Corporation Lien), each Member and each User grants to CMESC to secure its obligations to CMESC a first priority and unencumbered security interest and lien against any property, cash, securities, or collateral deposited with, held by, pledged to, or otherwise available to, CMESC by such Member or User, and thus, CMESC has a first priority and unencumbered security interest in and lien against the initial margin and other funds deposited in the Supported User Account. By providing that CMESC will maintain a Supported User Account as a "securities account" under Article 8 of the NY UCC and that CMESC is the securities intermediary in relation to the Member that establishes the Supported User Account for the benefit of the Supported User, the Member will be the entitlement holder for the Supported User Account and be entitled to the return of any excess margin or other funds remaining following CMESC's default management process and termination of the Member's authorization of the Supported User and satisfaction of CMESC's first priority claim.

[41] *See* Rule 513(b)(i). If the authorizing Member is a broker-dealer, CMESC will also maintain a master grouping of the Supported User Accounts designated as a "Special Account for the Exclusive Benefit of the Supported Users as Customers of [name of broker-dealer Member]." *See* Rule 513(b)(iv).

Proposed Rule 513(c) also clarifies that all margin, whether in the form of cash or Qualified Margin Securities, or other funds credited to the Supported User Account for the benefit of a Supported User of the Member are treated as "financial assets" within the meaning of Article 8 of the NY UCC, that New York is the "securities intermediary's jurisdiction" for purposes of the NY UCC, and that New York law will govern all issues specified in Article 2(1) of the Hague Securities Convention (which if not overridden means the Hague Securities Convention would determine the law applicable to such issues).[42] As a related change, CMESC is proposing to add a definition to Rule 101 of the term "NY UCC," which is used in proposed new paragraph (c) of Rule 513. As defined, the term means "the Uniform Commercial Code enacted by the State of New York as in effect from time to time."

A different approach is taken with respect to Independent Users, as they will establish Accounts in their own name with CMESC and are responsible for posting initial margin (and Outstanding Exposure Settlement) directly to CMESC. Thus, CMESC is proposing new Rule 317 under which CMESC will recognize and accommodate the grant of a second priority security interest to a Member by an authorized Independent User in initial margin or other funds credited to the User's Independent User Account.

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[42] Article 2(1) of the Hague Securities Convention states:

> This Convention determines the law applicable to the following issues in respect of securities held with an intermediary – a) the legal nature and effects against the intermediary and third parties of the rights resulting from a credit of securities to a securities account; b) the legal nature and effects against the intermediary and third parties of a disposition of securities held with an intermediary; c) the requirements, if any, for perfection of a disposition of securities held with an intermediary; d) whether a person's interest in securities held with an intermediary extinguishes or has priority over another person's interest; e) the duties, if any, of an intermediary to a person other than the account holder who asserts in competition with the account holder or another person an interest in securities held with that intermediary; f) the requirements, if any, for the realisation of an interest in securities held with an intermediary; g) whether a disposition of securities held with an intermediary extends to entitlements to dividends, income, or other distributions, or to redemption, sale or other proceeds.

Under proposed Rule 317, a Member and an Independent User authorized by the Member may enter into an Authorization Agreement or other appropriate related agreement (such as a control agreement) that contains a provision whereby the authorized Independent User grants the Member a second priority security interest and lien against any initial margin or other funds credited to the relevant Independent User Account. For purposes of proposed Rule 317, such credited initial margin or other funds are referred to as the "Independent User Funds." As provided in proposed Rule 317(a), the agreement under which the security interest is granted must contain certain minimum terms described below to assure that the agreement does not contain terms that conflict with CMESC's first priority security interest in and lien against such funds or CMESC's application of such funds in connection with the management of any Default of the Independent User.

First, in order for CMESC to recognize the Member's second priority security interest in the Independent User Funds, the agreement between the Member and authorized Independent User must contain the Member's acknowledgment of CMESC's first priority and unencumbered security interest in and lien against property, cash, securities, or collateral deposited with, held by, pledged to, or otherwise available to CMESC to secure the Independent User's obligations to CMESC created under Rule 504 (Corporation Lien). This acknowledgement reinforces CMESC's priority claim to Independent User Funds ahead of the authorizing Member under the Rules and is intended to avoid competing claims to Independent User Funds between CMESC and the authorizing Member.

Second, consistent with the Member's required acknowledgment of CMESC's first priority and unencumbered security interest and lien described above and again in the context of CMESC recognizing a Member's second priority security interest, the

agreement between the Member and authorized Independent User must provide that the Member will "exercise control over the Independent User Funds only following (A) the occurrence of a User Default of the Independent User and subject to the condition that the Member will refrain from taking any action that could interfere with the Corporation's management of such User Default (it being understood that the Member's election to participate in the management of the User Default pursuant to and in accordance with Rule 405(c) and Rule 1507(b) does not constitute interference) or (B) following the effective date of termination of the Authorization Agreement between the Member and the Independent User and satisfaction of all obligations owing to the Corporation relating to the Independent User's Account associated with the Member's authorization of the Independent User and subject to the condition that the Independent User is not in Default." (As explained in the following section, CMESC is proposing revisions to Rules 405(c) and 1507(b).) These are important contractual terms that reinforce CMESC's priority claim to apply Independent User Funds under the Rules and are intended to avoid competing claims to Independent User Funds between CMESC and the authorizing Member.

Third, the agreement must provide that "the Member will assert its security interest and lien only over those Independent User Funds that may remain following, as applicable, (A) completion of the Corporation's management of the Independent User's User Default or (B) closing of the Independent User's Account associated with the Member's authorization of the Independent User and satisfaction of all obligations related thereto, and (C) the Corporation's exercise in either case of its rights pursuant to its security interest and lien created under Rule 504." As with the other minimum required terms, these are important contractual terms that reinforce CMESC's priority claim to apply Independent

User Funds under the Rules and are intended to avoid competing claims to Independent User Funds between CMESC and the authorizing Member.

For clarity, CMESC is including paragraph (b) in proposed Rule 317 to reaffirm that an Independent User may not grant any party a security interest in or lien against the initial margin or other funds credited to its User Account to any person other than CMESC or its authorizing Member associated with the User Account, and may only grant the lien to the authorizing Member in accordance with Rule 317.

Finally, paragraph (c) of proposed Rule 317 provides that CMESC will "cooperate with the Member and Independent User to execute such documents as the Member may reasonably request to perfect its security interest and enforce its lien, provided, however, that any such documentation and the terms thereof must be acceptable to the Corporation in its sole discretion." This provision recognizes that CMESC may have to execute documentation (such as a control agreement) to enable the Member to perfect its secondary security interest in and have an enforceable lien against the Independent User Funds (subordinate to CMESC's) and confirms that CMESC will cooperate with the Member to give effect to the purpose of proposed Rule 317, provided the terms of the documentation are acceptable to CMESC, *e.g.*, that they are consistent with (or as appropriate contain) the minimum required terms described above.

3. Proposed Changes Relating to a Member's Rights to Participate in the Liquidation of an Authorized User's Positions in the Event of the User's Default

CMESC is proposing changes to three Rules to further delineate and clarify a Member's right to participate in the close-out of an authorized User's positions in the event of the User's Default: (i) changes to Rule 405(c) (User Default); (ii) related conforming

and clarifying changes to Rule 1507(b); and (iii) changes to the definition of the term "close-out" in Rule 101.

Rules 405 and 1507 together address the process that CMESC will follow in the event of the Default of a Member or User. CMESC is proposing changes to Rule 405 and related changes to Rule 1507(b) to set out explicitly that CMESC will promptly provide an authorizing Member the opportunity to participate in the close-out of the Defaulting User's positions on CMESC's behalf and to provide more detail with respect to how the Member may participate and the Member's obligations if it elects to participate. CMESC believes there are benefits both to CMESC and to the Member for the Member of an authorizing User to have the opportunity to participate in the close-out of the positions of a Defaulting User it has authorized, given the Member's obligation under Rule 406(b)(iii) to cover any losses that exceed the Defaulting User's initial margin and other assets available to CMESC and the incentive that creates for the Member to seek to minimize losses in closing out the Defaulting User's positions on CMESC's behalf.

Also, a core objective in managing the Default of a User is that the Defaulting User's positions be closed out promptly. Although this is implicit in Rule 405, to provide clarity and certainty, CMESC proposes to set out explicitly in Rule 405(c) that when the authorizing Member declines to close out the positions, CMESC will liquidate them promptly in accordance with the Rule. The proposed changes to Rule 1507(b) reiterate the prompt liquidation standard, both when CMESC is responsible for closing out the positions and when the authorizing Member participates in the close-out.

CMESC is proposing numerous changes in Rule 405(c), which governs a User Default. CMESC is proposing to modify subparagraph (c)(i) to set out explicitly that

CMESC will, pursuant to Rule 1507(b), promptly notify each authorizing Member of a Defaulting User that the Member may participate in the close-out of the positions in each User Account associated with the Member's authorization. Proposed Rule 405(c)(i) refers to the positions of a Defaulting User in each User Account associated with the Member's authorization as the "Defaulting User Positions." CMESC also proposes changes to clarify that after CMESC notifies a Member of its opportunity to participate in closing out the Defaulting User Positions on behalf of CMESC, the Member should promptly respond within the period CMESC prescribes and will be deemed to decline the opportunity to participate if the Member has not responded within such time.

CMESC is also proposing to delete the last sentence in Rule 405(c)(i), which sets out that a Member that agrees to liquidate the Defaulting User's portfolio on behalf of CMESC "will be directly and primarily responsible for meeting the financial and settlement obligations of the Corporation with respect to open positions of the Defaulting User authorized by that Member." Upon further consideration, CMESC believes that this sentence may create ambiguity in relation to a Member's potential obligation under Rule 406(b)(iii) to cover any losses that exceed the Defaulting User's initial margin and other assets available to CMESC, which is the operative standard, in the event of the Default of a User it has authorized. This sentence also becomes unnecessary in light of the other proposed changes to Rule 405, explained below.

CMESC proposes adding new subparagraph (ii) to Rule 405(c) to provide additional detail regarding how a Member may participate in the close-out of the Defaulting User Positions if it elects to do so. As set forth in proposed Rule 405(c)(ii), the Member may participate in the manner established in this part of the Rule (*i.e.*, Rule 405(c)(ii) and

its subparts) or in another manner, both of which would be determined in consultation with CMESC. Proposed Rule 405(c)(ii) sets out two manners for a Member to participate in the close-out of the Defaulting User Positions. As provided in subparagraph (A), the Defaulting User Positions could be liquidated promptly in the Defaulting User's Account and reestablished in the Member's Account, whereby positions equivalent to the liquidated Defaulting User Positions (*i.e.*, equivalent to the cleared positions in the Defaulting User's Account) are novated to the Member and established as cleared positions booked to the Member's Account. Under this approach, the following conditions must be met.

- First, because the Member will be party to the positions reestablished in the Member's Account (*i.e.*, positions equivalent to those that were cleared in the Defaulting User's Account), the Member must represent to CMESC that the Member will be able to meet its initial margin and settlement obligations on all positions in its Member Account following reestablishment of the Defaulting User Position in its Member Account under proposed Rule 405(c)(ii)(A)I.
- Second, proposed Rule 405(c)(ii)(A)II. sets out that the Member, acting in a commercially reasonable manner and consistent with market convention, is responsible for determining the liquidation value of the portfolio of the Defaulting User Positions as of the date the positions are liquidated and reestablished in the Member's Account as equivalent cleared positions, which date is referred to for purposes of Rule 405(c)(ii) as the "Liquidation Date." Promptly following the Liquidation Date, the Member must provide a detailed written statement to CMESC, with supporting documentation, of the Member's calculation of such liquidation value, which must be satisfactory to CMESC.

As between the Defaulting User and CMESC, if as of the Liquidation Date the liquidation value is less than the value of the portfolio of positions that are reestablished in the Member's Account (which as noted are reestablished as positions equivalent to those that were cleared in the Defaulting User's Account), the difference is fixed as the amount of the losses on such positions and if such liquidation value is greater than the value of the portfolio of positions reestablished in the Member's Account as of the Liquidation Date, the difference is fixed as the amount of gains on such positions.

- Finally, consistent with CMESC's rights under Rule 406(b)(ii) and other Rules to apply initial margin and other assets held by CMESC to losses associated with a User's Default, proposed Rule 405(c)(ii)(A)III. sets out that CMESC will credit the Member for the amount of any losses fixed pursuant to Rule 405(c)(ii)(A)II., with such amount credited using and limited to the Defaulting User's initial margin and other assets CMESC holds in respect of the Defaulting User's Account associated with the Member's authorization. If the amount to be credited to the Member exceeds the Defaulting User's margin and other assets held by CMESC in respect of the Defaulting User's Account, then the Member would incur such loss in acquiring the positions, but that would be consistent with the Member's obligation under Rule 406(b)(iii) to cover the losses that exceed the Defaulting User's initial margin and other assets available to CMESC. Conversely, CMESC will debit the Member for the amount of any gains fixed pursuant to Rule 405(c)(ii)(A)II. After the Liquidation Date, any gains or losses on the Defaulting User Positions that are liquidated in the

Defaulting User's Account and reestablished in the Member's Account will belong to the Member, as provided in proposed Rule 405(c)(ii)(A)III.

As provided in proposed Rule 405(c)(ii)(B), the second manner in which CMESC proposes to allow a Member to participate in the close-out of the Defaulting User Positions is specific to the liquidation of any Defaulting User Position that is a Repo Transaction for which the Member is the contra party on the original transaction (*i.e.*, a "done-with" Repo Transaction). In this scenario, the Member may agree to terminate the position by accelerating the Off-Leg Settlement Date to a new Off-Leg Settlement Date that is on or before a date that CMESC specifies, consistent with the core objective that the Defaulting User Positions be liquidated promptly. Similar to the process in proposed Rule 405(c)(ii)(A) described above, the Member must determine the liquidation value of the original (*i.e.*, pre-accelerated) Defaulting User Position as of the accelerated Off-Leg Settlement Date, which is used as the Liquidation Date, in the same manner as it would calculate the liquidation value for positions reestablished in its Account pursuant to Rule 405(c)(ii)(A)II. This liquidation value will be used to fix the loss or gain on the position as between CMESC and the Defaulting User and if multiple Repo Transactions between the Member and Defaulting User are accelerated pursuant to proposed Rule 405(c)(ii)(B), the losses or gains will be determined on an aggregate basis for such positions. CMESC will credit or debit the Member for the losses or gains fixed pursuant to this Rule 405(c)(ii)(B) in the manner provided in Rule 405(c)(ii)(A)III. CMESC believes a Member may find the approach outlined in proposed Rule 405(c)(ii)(B) an effective way to reduce losses realized upon the close-out of any Defaulting User Positions that are "done-with" Repo Transactions with the Member and is including this approach to provide additional

flexibility to determine (in consultation with CMESC) the appropriate mean(s) for the Member to participate in the close-out of the Defaulting User Positions.

The proposed changes described above to elaborate on how a Member may participate in closing out the Defaulting User Positions do not change the Member's obligation under Rule 406(b)(iii) to cover any losses that exceed the Defaulting User's initial margin and other assets available to CMESC. Therefore, CMESC proposes adding a new subparagraph (iii) under Rule 405(c) to clarify that the Member's obligation under Rule 406(b)(iii) to fully discharge the losses and liabilities to CMESC associated with the User's Default in each User Account associated with the Member's authorization, once such losses and liabilities are finalized, remains in effect, notwithstanding the Member's decision to participate in the close-out of the Defaulting User Positions. As noted above, Rule 406(b)(iii) is the operative provision that governs the Member's potential liability in relation to the Default of a User it has authorized.

CMESC also proposes changes to existing subparagraph (ii) of Rule 405(c), which is proposed to be renumbered as Rule 405(c)(iv), to align with the revised provisions discussed above regarding the actions that CMESC will take to close-out, including liquidation of, the Defaulting User Positions in relation to any authorizing Member that declines to participate in the close-out of the Defaulting User Positions associated with the Member's authorization. CMESC proposes to clarify that CMESC will *promptly* initiate the close-out process described in the Rules for the User Account of the Defaulting User associated with the Member's authorization. CMESC also proposes to delete the last sentence, which is a "for avoidance of doubt" provision that is adequately explained in Rule 406(b)(iii), as described above.

CMESC also proposes changes to existing subparagraph (iii) of Rule 405(c), which is proposed to be renumbered as Rule 405(c)(v), to set out more directly that CMESC will apply the financial resources described in Rule 406(b), in the order provided in and subject to Rule 406(b), to the Defaulting User's obligations owed to CMESC, regardless whether the authorizing Member elects to participate in the close-out of the Defaulting User Positions pursuant to Rule 405(c).

As a result of the proposed changes to Rule 405 described above, CMESC is proposing conforming and clarifying changes to Rule 1507(b). First, existing Rule 1507(b) provides that in the case of a User Default, before CMESC takes any of the actions described in Rule 1507(e), CMESC will notify the Defaulting User's authorizing Member(s) that the Member may "terminate the Defaulting User's obligations to the Corporation by satisfying them in full," but subject to the qualification "if time permits." CMESC proposes to delete "if time permits" and "terminate the Defaulting User's obligations to the Corporation by satisfying them in full," and to add new text to Rule 1507(b) to specify that CMESC will promptly notify the authorizing Member(s) of the Member's right to close-out the Defaulting User's positions pursuant to and in accordance with Rule 405(c), noting parenthetically that the Member and CMESC will act promptly to effect the close-out.

Finally, CMESC is proposing clarifying changes to the definition of "close-out" in Rule 101. The current definition covers extinguishing a Member's or User's cash receipt entitlement in relation to the sale of Eligible Securities under a Repo Transaction. The term is used in the proposed changes to Rule 405(c) and 1507(b) in the broader sense of liquidating or terminating any cleared Eligible Securities Transaction. Thus, CMESC

proposes to modify the definition of the term "close-out" to mean the liquidation or termination of a cleared Eligible Securities Transaction. This definition is consistent with how the term is used in other CMESC Rules.

2. Statutory Basis

For the reasons set forth below, CMESC believes the proposed rule change is consistent with Section 17A of the Act[43], SEC Rule 17ad-22(e)(13),[44] SEC Rule 17ad-22(e)(18),[45] SEC Rule 17ad-22(e)(19),[46] and SEC Rule 17ad-22(e)(21)(i).[47]

Consistency with Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.[48] CMESC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act because it will further support Members' management of risks associated with authorizing persons as Users and enhance Members' ability to authorize Users by addressing potential constraints imposed by bank regulatory capital requirements and enhancing Members' abilities to enforce contractual termination rights and secondary lien rights against authorized Users' margin or other funds held by CMESC that Members may have under their contractual arrangements with their authorized Users. The proposed rule change will also further strengthen and clarify a

[43] 15 U.S.C. § 78q-1(b)(3)(F).
[44] 17 C.F.R. § 240.17ad-22(e)(13).
[45] 17 C.F.R. § 240.17ad-22(e)(18).
[46] 17 C.F.R. § 240.17ad-22(e)(19).
[47] 17 C.F.R. § 240.17ad-22(e)(21)(i).
[48] 15 U.S.C. §78q-1(b)(3)(F).

Member's ability to participate in the liquidation of an authorized User's positions in the event of the User's Default. These modifications will thus support Members' ability to participate in and authorize Users in CMESC's Clearing Services, which will promote the prompt and accurate clearance and settlement of transactions in or involving U.S. Treasury securities (including eligible secondary market securities transactions that market participants may be required to centrally clear pursuant to the rules of a covered clearing agency adopted pursuant to SEC Rule 17ad-22(e)(18)(iv)[49]).

Consistency with Rule 17ad-22(e)(13)

SEC Rule 17ad-22(e)(13) requires, in part, that the rules of a covered clearing agency be reasonably designed to ensure the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations. CMESC believes that the proposed rule change is consistent with Rule 17ad-22(e)(13) because the proposed changes to Rule 405(c) and Rule 1507(b) are designed to achieve the core objective in default management that the Defaulting User's positions be closed out promptly to minimize losses and liquidity demands and continue to meet CMESC's settlement obligations. The requirement to take prompt action to close-out, including liquidate, the Defaulting User's positions is reflected in multiple places in the proposed rule change. Specifically, proposed Rule 405(c) provides that CMESC will promptly notify each authorizing Member of a Defaulting User that the Member may participate in closing out the positions in each User Account associated with the Member's authorization. CMESC also proposes changes to clarify that, after CMESC notifies a Member of its opportunity to participate in closing out the Defaulting User

[49] 17 C.F.R. § 240.17ad-22(e)(18)(iv).

Positions, the Member should promptly respond within the period CMESC prescribes and will be deemed to decline the opportunity if the Member has not responded within such time. In addition, proposed Rule 405(c)(ii) provides two non-exclusive manners in which authorizing Members may participate in closing out positions of Defaulting Users they authorize, both requiring that the Defaulting User Positions be closed out promptly and that the Member provide a detailed written statement of its calculation of the liquidation value promptly following the Liquidation Date. Similarly, if the authorizing Member declines to participate in the close-out of the Defaulting User's positions associated with the Member's authorization, proposed Rule 405(d)(iv) requires CMESC to promptly initiate the close-out process described in the Rules for the User Account of the Defaulting User. Finally, proposed changes to Rule 1507(b) specify that CMESC will "promptly" notify the authorizing Member of the Member's right to close-out the Defaulting User's positions and make clear that the Member and CMESC will act promptly to effect the close-out pursuant to and in accordance with proposed changes to Rule 405(c).

All of the above proposed changes are reasonably designed to ensure that CMESC will have the authority and operational capacity to take timely action to promptly close-out a Defaulting User's positions. In addition, as described in detail above, by proposing changes to Rule 405(c) to provide the authorizing Member the opportunity to participate in a prompt close-out of the User's positions, CMESC believes that the proposed changes to Rule 405(c) will help minimize losses from the User Default and, thus, contain losses and liquidity demands, enabling CMESC to continue to meet its obligations. Therefore, CMESC believes that the proposed rule change is consistent with SEC Rule 17ad-2(e)(13).

Consistency with Rule 17ad-22(e)(18)(iv)(C)

CMESC believes that the proposed rule change is consistent with SEC Rule 17ad-22(e)(18)(iv)(C), which requires, in part, a covered clearing agency that provides central counterparty services for transactions in U.S. Treasury securities to ensure that it has appropriate means to facilitate access to clearance and settlement services for eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants such as Independent Users and Supported Users. As detailed above, the proposed rule change consists of (i) proposed new Rule 316 and proposed changes to Rule 602 designed to support Members' risk management and enhance their ability and capacity to authorize persons as Users, by providing Members the clear means to enforce contractual termination rights under their contractual arrangements with authorized Users in circumstances when the authorized Users are not in Default under CMESC's Rules; (ii) proposed changes to Rule 513 to create a legal structure to provide an authorizing Member with a securities entitlement under the NY UCC to excess assets in the Supported User Account associated with such Member's authorization and proposed new Rule 317 to provide a Member the means to obtain and perfect a secondary security interest in and lien against Independent User Funds held by CMESC for the Independent User Account associated with the Member's authorization, while affirming CMESC's first priority and unencumbered security interest in and lien against the Independent User funds; and (iii) proposed changes to Rules 405(c) and 1507(b) designed to strengthen and clarify Members' abilities to participate in the close-out of positions of Users they authorize in the event of an authorized User's Default. These proposed changes are designed to enhance the ability and capacity of Members to authorize Users, which will support CMESC's efforts to attract and to on-board Members and Users prior to CMESC commencing

operations of its Clearing Services and on an ongoing basis thereafter and enhance access to CMESC's Clearing Services for prospective Members and Users. As such, CMESC believes that the proposed rule change is reasonably designed to provide appropriate means to facilitate access to clearance and settlement services for eligible secondary market transactions in U.S. Treasury securities, including those of indirect participants, consistent with Rule 17ad-22(e)(18)(iv)(C).

Consistency with Rule 17ad-22(e)(19)

SEC Rule 17ad-22(e)(19) requires that the rules of a covered clearing agency identify, monitor and manage material risks to the clearing agency arising from arrangements that indirect participants have with direct participants to access the clearing agency's clearing and settlement services. The existing Rules define a Member's rights and obligations with respect to any User it authorizes while at the same time recognizing (in Rule 306(c)) that a Member and an authorized User may enter into separate commercial terms between them. Those features are unchanged. Rather, the proposed rule change provides a means for a Member to enforce contractual liquidation rights and any secondary rights to User collateral it may negotiate with an authorized User, subject to terms that protect CMESC's ability to manage risk pursuant to its Rules. In this respect, as conditions to liquidate an authorized User's positions under proposed Rule 316 or under Rule 602 as proposed to be revised, a Member represents that it has the contractual authority to do so and indemnifies CMESC and related parties against any losses, liabilities, damages, claims or expenses they may incur arising out of any dispute between the Member and its authorized User or in the case of action under proposed Rule 316 regarding any action taken or not taken pursuant to that Rule. With respect to a Member's rights to collateral of

an authorized User, the proposed rule change establishes structures whereby the Member's claim is *secondary* to CMESC's rights as explained above. In this respect, a Member's claim to such collateral is limited to the return of any excess margin or other funds remaining following CMESC's default management process if the User is in Default or following termination of the Member's authorization of the User and satisfaction of the User's obligations to CMESC. For these reasons, CMESC believes that the proposed rule change is appropriate to manage potential risks to CMESC arising from arrangements that its Users have with Members and is consistent with SEC Rule 27ad-22(e)(19).

Consistency with Rule 17ad-22(e)(21)(i)

SEC Rule 27ad-22(e)(21)(i) requires that a covered clearing agency have clearing and settlement arrangements that are efficient and effective in meeting the requirements of its participants and the markets the clearing agency services. CMESC believes the proposed rule change is consistent with Rule 27ad-22(e)(21)(i), meeting the needs of Members and Users, in that it will enhance Members' ability to authorize Users by addressing potential constraints imposed by bank regulatory capital requirements and will further support the enforceability of certain contractual terms that are separately negotiated between a Member and an authorized User.

B. CMESC's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[50] requires that the rules of a clearing agency not impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. CMESC believes that the proposed rule change would not impose a burden on competition that is not necessary or appropriate in furtherance of the purposes

[50] 15 U.S.C. 78q-1(b)(3)(I).

of the Act. CMESC believes that the proposed rule change may enhance competition because, as detailed above, the proposed rule change would further support Members' risk management of Users they authorize and enhance Members' ability and capacity to authorize Users, thereby facilitating access to CMESC's Clearing Services for eligible secondary market transactions in U.S. Treasury securities. CMESC also believes that the proposed rule change would indirectly benefit Users and prospective Users by enhancing their abilities to access CMESC by supporting Members' capabilities to authorize Users.

CMESC recognizes that various Members may perceive varying degrees of benefits of the proposed rule change conferred on them, depending on each Member's regulatory status and its entity type. CMESC believes that the effect of the proposed rule change on competition is distributed equally among all types of prospective Members because it will apply to all Member types and would not disadvantage or favor any particular type of Member in relationship to the other types of potential Members. As such, CMESC believes that the proposed rule change would promote competition and does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. CMESC's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

CMESC currently does not have any Members or Users and has not received nor solicited any written comments from others related to this proposal. CMESC has not received any unsolicited written comments from any interested parties. If any written comments are received, 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. CMESC reserves the right to not respond to any 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 (https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-CMESC-2026-004 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-CMESC-2026-004. This file number should be included on the subject line if e-mail 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 (https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking). Copies of the filing also will be available for inspection and copying at the principal office of CMESC and on CMESC's website (https://www.cmegroup.com/market-regulation/rule-filings.html). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-CMESC-2026-004

and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[51]

[NAME]
[Secretary]

[51] 17 CFR §200.30-3(a)(12).

EXHIBIT 5

Underlining and strikethroughs are marked against the existing provisions wherever feasible. Text taken from existing provisions of the Rules or Procedures is marked as entirely new where it (i) is derived from multiple existing sources or (ii) results from relocating an existing Rule or Procedure into a newly proposed Rule.

Underlined text indicates new text

~~Strikethrough~~ text indicates deleted text

Rule 101. Definitions

* * * *

The term "close-out" means ~~in relation to a Repo Transaction the sale of Eligible Securities by a Member or User to extinguish the cash receipt entitlement obligation of such Member or User.~~ the liquidation or termination of a cleared Eligible Securities Transaction.

* * * *

The term "NY UCC" means the Uniform Commercial Code enacted by the State of New York as in effect from time to time.

* * * *

Rule 316. Member Exercise of Contractual Rights Against an Authorized User

(a) This Rule 316 applies to the circumstance when a User (an "Affected User") is in default to its authorizing Member, or subject to a termination event, under the terms of one or more binding agreements (the "Contractual Terms") between the authorizing Member (the "Affected Member") and Affected User. As used in this Rule, the term "Affected User Account" means:

(i) in relation to an Affected User that is a Supported User, the Supported User Account maintained by the Corporation in the name of the Affected Member for the exclusive benefit of the Affected Supported User; and

(ii) in relation to an Affected User that is an Independent User, the Independent User Account maintained by the Corporation for the Affected Independent User that is associated with the Affected Member's authorization of the User.

(b) Subject to the conditions of this Rule, and consistent with transfers the Corporation may permit pursuant to Rule 609, the Corporation will, at the written request of an Affected Member (which must be in such form as the Corporation may prescribe), promptly transfer all the positions in Eligible Securities Transactions, and if requested by the Affected Member all initial margin or other funds, in the Affected User Account, to the Affected Member's Account. Each Eligible Securities Transaction that is transferred is novated to the Affected Member, such that the transaction is terminated in the Affected User's Account and an equivalent position is established as a cleared position booked to the Affected Member's Account with the Affected Member substituted for the Affected User as the party to the Eligible Securities Transaction.

(c) The Corporation will not effect any transfer pursuant to this Rule if the Affected Member or Affected User is subject to a Default under the Rules at the time the Affected Member submits its written request to the Corporation or at the time when the transfer is to be effected. If the Affected User is subject to a Default under the Rules at the time the Affected Member submits its written request to the Corporation or when the transfer is to be effected, the Affected Member may close-out the Affected User's positions as may be permitted under and pursuant to and in accordance with Rule 405(c) and Rule 1507(b).

(d) When an Affected Member submits a written request to the Corporation to effect a transfer pursuant to this Rule, (i) the Corporation deems such request to constitute notice by the Member of its election to terminate the Authorization Agreement with the Affected User under and subject to Rule 311(d) with immediate effectiveness (notwithstanding any longer notice period provided in Rule 311(d)) and (ii) the Affected Member is deemed to represent, warrant and covenant to the Corporation that (A) the Affected User is in default to the Affected Member, or subject to a termination event, under the Contractual Terms, (B) the Affected Member has reasonably determined that it will be able to meet its initial margin and other obligations on all positions in its Member Account following completion of the transfer of positions to such Account covered by the request, (C) the Affected Member has the authority under the Contractual Terms

to request the Corporation to take such action, and (D) the Affected Member's exercise of its rights under the Contractual Terms and this Rule is consistent with, and does not and will not cause the Affected Member to be in violation of, its obligations to the User under applicable law.

(e) The Corporation shall have no liability to the Affected Member or the Affected User for any loss or costs that they may incur in connection with the transfer of any positions from the Affected User Account to the Affected Member Account pursuant to this Rule. The Affected Member shall indemnify the Corporation and its affiliates and their respective officers, employees and agents against any and all losses, liabilities, damages, claims, costs or expenses they may suffer or incur arising out of or in connection with any dispute between the Affected Member and Affected User regarding any action taken or not taken pursuant to this Rule.

Rule 317. Member Second Priority Lien Against Independent User Margin

(a) The Authorization Agreement or an appropriate related agreement (such as a control agreement) between a Member and an authorized Independent User of the Member may contain a provision whereby the User grants the Member a second priority security interest and lien against any initial margin or other funds credited to the relevant User Account of the User (as used in this Rule, the "Independent User Funds"), provided, however, that the agreement must contain terms at a minimum providing that:

(i) The Member acknowledges the Corporation's first priority and unencumbered security interest in and lien against property, cash, securities, or collateral deposited with, held by, pledged to, or otherwise available to the Corporation to secure the Independent User's obligations to the Corporation created under Rule 504;

(ii) The Member will exercise control over the Independent User Funds only following (A) the occurrence of a User Default of the Independent User and subject to the condition that the Member will refrain from taking any action that could interfere with the Corporation's management of such User Default (it being understood that the Member's election to participate in the management of the User Default pursuant to and in accordance with Rule 405(c) and Rule 1507(b) does not constitute interference) or (B) following the effective date of termination of the Authorization Agreement between the Member and the Independent User and satisfaction of all obligations owing to the Corporation relating to the Independent User's Account associated with the Member's authorization of the Independent User and subject to the condition that the Independent User is not in Default; and

(iii) The Member will assert its security interest and lien only over those Independent User Funds that may remain following, as applicable, (A) completion of the Corporation's management of the Independent User's User Default or (B) closing of the Independent User's Account associated with the Member's authorization of the Independent User and satisfaction of all obligations related thereto, and (C) the Corporation's exercise in either case of its rights pursuant to its security interest and lien created under Rule 504.

(b) An Independent User may not grant any party a security interest in or lien against the initial margin or other funds credited to its User Account to any person other than the Corporation or the authorizing Member associated with the User Account, and in the latter case only in accordance with this Rule.

(c) The Corporation will cooperate with the Member and Independent User to execute such documents as the Member may reasonably request to perfect its security interest and enforce its

lien, provided, however, that any such documentation and the terms thereof must be acceptable to the Corporation in its sole discretion.

Rule 405. Default Management Process

* * * *

(c) User Default.

(i) Pursuant to Rule 1507(b), in the event of a User Default, the Corporation will promptly notify ~~any~~ each authorizing Member~~s~~ of such User ~~to provide those Member(s)~~ that it has the opportunity to ~~manage the User Default by satisfying its obligations in full, including by liquidating its portfolio~~ close-out the positions in each User Account associated with the Member's authorization (the "Defaulting User Positions") on behalf of the Corporation. Each ~~The~~ Member~~s~~ so notified should promptly respond to the Corporation within the period prescribed by the Corporation. Any Member that does not respond within the prescribed period is ~~would be~~ deemed to have declined to participate in managing the given User Default. ~~If a Member(s) agrees to liquidate the Defaulting User's portfolio of on behalf of the Corporation, such Member(s) will be directly and primarily responsible for meeting the financial and settlement obligations to the Corporation with respect to. open positions of the Defaulting User authorized by that Member.~~

(ii) If the Member elects to participate in the close-out of the Defaulting User Positions on the Corporation's behalf pursuant to Rule 405(c)(i), subject to applicable law, the Member may participate in the manner established in this Rule 405(c)(ii) or in another manner, both of which would be determined in consultation with the Corporation.

(A) The Defaulting User Positions may be promptly liquidated in the Defaulting User's Account and reestablished in the Member's Account, whereby positions equivalent to the liquidated Defaulting User Positions are novated to the Member and established as cleared positions booked to the Member's Account, subject to the following:

I. The Member must represent to the Corporation that it will be able to meet its initial margin and settlement obligations on all positions in its Member Account following reestablishment of the Defaulting User Position in its Member Account.

II. The Member, acting in a commercially reasonable manner and consistent with market convention, must determine the liquidation value of the portfolio of the Defaulting User Positions that are liquidated in the Defaulting User's Account and reestablished in its Account as equivalent cleared positions as of the date thereof (for purposes of this Rule 405(c)(ii) the "Liquidation Date") and promptly following the Liquidation Date must provide to the Corporation a detailed written statement, with supporting documentation, of its calculation of the liquidation value, which must be satisfactory to the Corporation. As

between the Defaulting User and the Corporation, if such liquidation value is less than the value of the portfolio of positions reestablished in the Member's Account as of the Liquidation Date, the difference is fixed as the amount of the losses on such positions and if such liquidation value is greater than the value of the portfolio of positions reestablished in the Member's Account as of the Liquidation Date, the difference is fixed as the amount of gains on such positions.

III. Consistent with its rights under these Rules to apply initial margin of the Defaulting User to losses associated with the User's Default, the Corporation will credit the Member for the amount of any losses fixed pursuant to Rule 405(c)(ii)(A)II. and such amount will be credited using and limited to the initial margin or other funds the Corporation holds in respect of the Defaulting User's Account associated with the Member's authorization. Conversely, the Corporation will debit the Member for the amount of any gains fixed pursuant to Rule 405(c)(ii)(A)II. Any gains or losses on the Defaulting User Positions that are liquidated in the Defaulting User's Account and reestablished in the Member's Account belong to the Member following the Liquidation Date.

(B) For any Defaulting User Position that is a Repo Transaction for which the Member is the contra party on the original transaction, the Member may agree to terminate the position by accelerating the Off-Leg Settlement Date to a new Off-Leg Settlement Date that is on or before a date specified by the Corporation. The Member shall determine the liquidation value of the original (pre-accelerated) Defaulting User Position as of the accelerated Off-Leg Settlement Date (which shall be the Liquidation Date) in the same manner as it calculates the liquidation value for positions reestablished in its Account pursuant to Rule 405(c)(ii)(A)II., which liquidation value will be used to fix the loss or gain on the position as between the Corporation and the Defaulting User. If multiple Repo Transactions between the Member and Defaulting User are accelerated pursuant to this Rule 405(c)(ii)(B), the losses or gains will be determined on an aggregate basis for such positions. The Corporation will credit or debit the Member for the losses or gains fixed pursuant to this Rule 405(c)(ii)(B) in the manner provided in Rule 405(c)(ii)(A)III.

(iii) Notwithstanding a Member's decision to participate in the close-out of the Defaulting User Positions, the Member's obligation under Rule 406(b)(iii) to fully discharge the losses and liabilities to the Corporation associated with the User's Default in each User Account associated with the Member's authorization, once such losses and liabilities are finalized, remains in effect.

(~~ii~~iv) For any Member that ~~If the Members (or a subset of those Members)~~ declines, or is ~~are~~ deemed to have declined, to participate in the close-out, including liquidation, of

~~managing~~ the Defaulting User Positions, ~~User Default,~~ the Corporation will promptly initiate the close-out process described in the Corporation's Rules for the User Account of the Defaulting User associated with the Member's authorization. Eligible Securities Transactions of the Defaulting User, inclusive of Cash Treasury Transactions and Repo Transactions, across all authorizing Members of a Defaulting User that have elected not to participate in managing the default of such User, may be aggregated, in the Corporation's sole discretion, for default management purposes. ~~For avoidance of doubt, notwithstanding a Member's decision to participate in managing the User Default, the Member's guarantee of the User's financial performance to the Corporation remains in effect until finalization and discharge of all losses associated with the User Default.~~

(~~iii~~v) Regardless of whether a Member elects to participate in the close-out of the Defaulting User Positions pursuant to this Rule 405(c), the ~~The~~ Corporation will apply` the financial resources described in Rule 406(b), in the order provided in and subject to Rule 406(b), to the Defaulting User's obligations owed to the Corporation.

* * * *

Rule 513. Margin Deposited for Supported Users Using the Repo or Cash Treasury Clearing Services

(a) The amount of margin that the Corporation requires to meet initial margin obligations for Eligible Securities Transactions submitted for novation, clearance and settlement for the Supported User Accounts of Supported Users authorized by a Member will be delivered from the relevant Bank account maintained by the authorizing Member to the relevant Bank account of the Corporation in the manner prescribed in the Rules. The collateral posted to the Corporation to satisfy initial margin obligations of Supported Users may be in the form of Supported User Margin and/or Funded Supported User Margin. A broker-dealer Member may deliver U.S. Treasury securities or other Qualified Margin Securities that it owns to be characterized as Supported User Margin on a temporary basis in compliance with the conditions of Section (b)(1)(iii) of Note H to Rule 15c3-3a under the Exchange Act.

(b) For each Member that authorizes one or more Supported Users, the Corporation shall, within its books and records:

(i) Establish and maintain a separate Supported User Account for each Supported User of the Member, in the name of the Member for the benefit of the Supported User;

(ii) Treat each Supported User Account as legally segregated from any other Supported User Account of the authorizing Member, from any Member Account of the authorizing Member, and from any other accounts established and maintained by the Corporation for Members or Users;

(iii) Hold Supported User Margin and Funded Supported User Margin received from the Member in the relevant Supported User Account, treat all such margin held in the Supported User Account (regardless of characterization) as assets of the Supported User, and use such assets exclusively to clear, settle, novate and margin positions of the Supported User in its Supported User Account(s);

(iv) If the Member is a broker-dealer, the Corporation shall:

(A) Maintain a master account grouping of the Supported User Accounts designated as a "Special Clearing Account for the Exclusive Benefit of the Supported Users as Customers of [name of broker-dealer Member]";

(B) Provide a written notice to the broker-dealer Member for its retention confirming that the cash and securities in the Special Clearing Account for the Exclusive Benefit of the Supported Users as Customers of [name of broker-dealer Member] is held by the Corporation for the

exclusive benefit of the Supported Users (as customers) of the broker-dealer Member in accordance with the regulations of the SEC and are kept separate from any other Accounts maintained by the broker-dealer Member or any other Member or User of the Corporation; and

(C) Agree contractually with the Member that the cash and securities in the Special Clearing Account for the Exclusive Benefit of the Supported Users as Customers of [name of broker-dealer Member] are not available to cover claims arising from the Member or any other Member or User defaulting on an obligation to the Corporation or subject to any other right, charge, security interest, lien, or claim of any kind in favor of the Corporation or any person claiming through the Corporation, except a right, charge, security interest, lien, or claim resulting from a cleared Eligible Securities Transaction of a Supported User of the broker-dealer Member effected in the account.

(c) In relation to the Member that establishes the Supported User Account in its name for the benefit of the Supported User, the Corporation maintains each Supported User Account as a securities account within the meaning of the NY UCC, in the Corporation's capacity as securities intermediary as such term is used in the NY UCC, for the benefit of the Supported User of the Member. All margin, whether in the form of cash or Qualified Margin Securities or other funds credited to the Supported User Account for the benefit of a Supported User of the Member shall be treated as "financial assets" within the meaning of Article 8 of the NY UCC. For purposes of the NY UCC, New York is the "securities intermediary's jurisdiction." In addition, New York law will govern all issues specified in Article 2(1) of the Hague Securities Convention.

~~(c)~~(d) The Corporation shall hold initial margin for Supported User Accounts at the Bank in omnibus accounts as provided in paragraph (a) of Rule 507. In addition, for any omnibus account holding initial margin assets for Supported Users of Members that are broker-dealers, such account shall be:

(i) Segregated from any other account of the Corporation or any other person at the Bank and used exclusively to hold cash and securities to meet current margin requirements of the Corporation resulting from positions in Eligible Securities Transactions of Supported Users of the broker-dealer Members of the Corporation;

(ii) Subject to a written notice from the Bank provided to and retained by Corporation that the cash and securities in the account are being held by the Bank pursuant to Rule 15c3-3 and are being kept separate from any other accounts maintained by the Corporation or any other person at the Bank; and

(iii) Subject to a written contract between the Corporation and the Bank that provides that the cash, U.S. Treasury securities, and qualified customer securities in the

account are subject to no right, charge, security interest, lien, or claim of any kind in favor of the Bank or any person claiming through the Bank.

~~(d)~~(e) The Corporation shall limit investments of cash delivered by a Member as Supported User Margin or Funded Supported User Margin, including cash realized through using U.S. Treasury securities delivered by the broker-dealer Member for such purposes, only in U.S. Treasury securities with a maturity of one year or less.

Rule 602. Submission of Transaction Data

(a) Transaction Data. Transaction data must be submitted to the Corporation in such form and at such time as the Corporation may specify in these Rules or an Advisory. Transaction data may be submitted by a Member for the Account of a User that it authorizes, provided that the User is not in Default, and provided further that when the Member submits transaction data for the User the Member is deemed to represent that it has the authority to do so and shall indemnify the Corporation and its affiliates and their respective officers, employees and agents against any and all losses, liabilities, damages, claims, costs or expenses they may suffer or incur arising out of or in connection with any dispute between the Member and User regarding such action taken by the Member.

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Rule 1507. Default Management

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(b) The Corporation will notify all Members and, as appropriate, Users upon the occurrence of a Member Default or a User Default. In case of a Defaulting User, ~~if time permits~~ before the Corporation takes the actions described in Rule 1507(e), the Corporation will promptly notify the authorizing Member(s) of the Defaulting User that the Member(s) may close-out the Eligible Securities Positions of the Defaulting User in each User Account associated with the Member's authorization, pursuant to and in accordance with Rule 405(c) (it being understood that the Member and Corporation will act to promptly to close-out, including, but not limited, to liquidate, such positions)~~terminate the Defaulting User's obligations to the Corporation by satisfying them in full~~. The Member must notify its intent to do so within a period of time prescribed by the Corporation.